

NORTH CAROLINA REGISTER

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March 15, 2022

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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

William W. Peaslee, Commission Counsel

bill.peaslee@oah.nc.gov

984-236-1939

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

contact: Amy Bason

919-715-2893

amy.bason@ncacc.org

NC League of Municipalities

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

919-715-2925

mjackson@nclm.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.



State of North Carolina

ROY COOPER
GOVERNOR

January 19, 2022

EXECUTIVE ORDER NO. 248

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 1.

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

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

Section 2.

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

Section 3.

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

Section 4.

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

Section 5.

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

Section 6.

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

Pursuant to N.C. Gen. Stat. § 166A-19.70(g) DPS shall temporarily suspend weighing vehicles used to transport livestock, poultry or crops ready to be harvested in the emergency area. This suspension does not permit the gross weight of any vehicle or combination to exceed the safe load carrying capacity established by DOT on any bridge pursuant to N.C. Gen. Stat. § 136-72, or to permit the operation of a vehicle when a law enforcement officer has probable cause to believe the vehicle is creating an imminent hazard to public safety.

Section 7.

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

Section 8.

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

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (“GVWR”) or 90,000 pounds gross weight, whichever is less.
- b. When the vehicle weight exceeds a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
- c. When the vehicle consists of a five (5) or more axle combination vehicle that exceeds a single-axle weight of 26,000 pounds, a tandem-axle weight of 42,000 pounds and a gross weight 90,000 pounds, with a length of at least forty-eight (48) feet between the center of axle one and the center of the last axle of the vehicle and a minimum of eleven (11) feet between the center of axle one and the center of axle two of the vehicle.
- d. When the vehicle consists of a two-axle vehicle that exceeds a gross weight of 37,000 pounds and a single-axle weight of no more than 27,000 pounds, with a length of at least fourteen (14) feet between the center of axle one and the center of axle two of the vehicle.

- e. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
- f. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (A) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (B) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet six (6) inches in width.
- g. Commercial vehicles operating outside the normal weight, height, and length restrictions under the authority of this State of Emergency shall be issued permits by DOT. Said vehicles shall be subject to any special conditions DOT and DPS may list on applicable permits. Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, nor shall anything in this Executive Order be construed to relieve compliance with restrictions other than those specified in this Executive Order or from any statute, rule, order, or other legal requirement not specifically waived herein.
- h. Oversize permits may be issued by the DOT, Oversize/Overweight Unit, during normal business hours, Monday through Friday by calling 1-888-221-8166 or contacting them through the online portal at <https://connect.ncdot.gov/business/trucking/Pages/overpermits.aspx>.

Section 9.

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

- a. The requirement to obtain a temporary trip permit and payment of the associated \$50.00 fee listed in N.C. Gen. Stat. § 105-449.49.
- b. The requirement of filing a quarterly fuel tax return as the exemption in N.C. Gen. Stat. § 105-449.45 (b)(1) applies.
- c. The registration requirements under N.C. Gen. Stat. §§ 20-382.1 and 20-382 concerning interstate for-hire authority; however, vehicles shall maintain the required limits of insurance as required.
- d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified by this Executive Order.

Section 10.

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

Section 11.

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

Section 12.

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

Section 13.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are for use in (1) providing direct assistance supporting emergency relief efforts including transporting essential fuels, food, water, medical supplies, feed for livestock and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to the winter storm.

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

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

Section 14.

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

Section 15.

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

Section 16.


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

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 19th day of January in the year of our Lord two thousand and twenty-two.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

February 15, 2022

EXECUTIVE ORDER NO. 249

**ESTABLISHING THE NORTH CAROLINA
LONGITUDINAL DATA SYSTEM GOVERNANCE BOARD**

WHEREAS, North Carolina has been, and continues to be, a national leader in using longitudinal education data to inform decision-making; and

WHEREAS, North Carolina has three existing education longitudinal data systems: the Common Follow-Up System, NC SchoolWorks, and the Early Childhood Integrated Data System; and

WHEREAS, in 1992, the North Carolina Department of Commerce ("NCDOC"), the University of North Carolina System ("UNCISO"), the North Carolina Community College System ("NCCCS"), the North Carolina Department of Public Instruction ("NCDPI"), the North Carolina Department of Public Safety ("NCDPS"), and the North Carolina Department of Health and Human Services ("NCDHHS") formed the Common Follow-Up System ("CFS"), a collaborative data system to provide information on the educational and employment outcomes of participants in publicly supported educational, employment, and training programs; and

WHEREAS, in 2009, NCDPI, UNCISO, NCCCS, the North Carolina Independent Colleges and Universities ("NCICU"), NCDHHS, and NCDOC began developing the North Carolina P-20W Statewide Longitudinal Data System, now called NC SchoolWorks; and

WHEREAS, in 2011, NCDHHS and NCDPI began developing the Early Childhood Integrated Data System ("ECIDS"), which includes data on early childhood education, health, and social services; and

WHEREAS, all three systems support data-informed decision-making to improve educational services and outcomes for North Carolinians; and

WHEREAS, the North Carolina Education Cabinet ("Education Cabinet") is statutorily charged with developing and maintaining a strategic design for a continuum of education programs, from early childhood into the workforce; and

WHEREAS, in 2017, Governor Cooper charged the Education Cabinet with increasing data sharing across the education and workforce continuum; and

WHEREAS, this charge led to the Education Cabinet working to strengthen the State's existing education longitudinal data systems through a "system of systems" framework that would better leverage North Carolina's education data resources to make data-driven decisions across the early childhood-to-education-to-workforce continuum; and

WHEREAS, in 2016, the Government Data Analytics Center (“GDAC”), within the North Carolina Department of Information Technology (“NCDIT”), was directed by statute to “provide general oversight and direction” to the North Carolina Longitudinal Data System (“NCLDS”), among other duties; and

WHEREAS, GDAC, pursuant to Chapter 116E of the North Carolina General Statutes, adopted rules governing data sharing and data requests for the NCLDS; and

WHEREAS, GDAC is defined under 09 N.C. Admin. Code 06D. 0101 as the entity with the “authority to operate and oversee the NCLDS”; and

WHEREAS, in February 2021, GDAC, NCDPI, UNCISO, NCCCS, NCDHHS, NCDOC, and NCICU (collectively known as “NCLDS data contributors”) entered into a memorandum of understanding (“MOU”) governing how the NCLDS data contributors will share data through the NCLDS and acknowledging that the integrated “system of systems” framework will form the foundation of the NCLDS as it moves forward; and

WHEREAS, GDAC, in collaboration with the Education Cabinet, contracted with a team from the University of North Carolina at Chapel Hill to conduct a study evaluating how to modernize and increase interoperability of the three existing education longitudinal data systems; and

WHEREAS, the University of North Carolina at Chapel Hill team conducted over forty (40) interviews with stakeholders to understand their vision for an integrated state longitudinal data system and the opportunities and challenges it would present; and

WHEREAS, the team also interviewed longitudinal data users and managers from other states to learn about their systems and processes; and

WHEREAS, the study resulted in eight (8) recommendations to strengthen the existing education longitudinal data systems in order to link data from across agencies and over time to support evidence-based policy, performance management, and continuous improvement; and

WHEREAS, the third recommendation in the study is to establish NCLDS governance and organizational structures, including establishing an Executive Board comprised of senior leaders or their designees from each contributing agency; and

WHEREAS, the third recommendation also suggests hiring an NCLDS Executive Director to oversee the NCLDS implementation and operation and act as a liaison between the Executive Board and other NCLDS committees; and

WHEREAS, this Executive Order is intended to accomplish the above-referenced third recommendation from the study; and

WHEREAS, the undersigned intends that the North Carolina Longitudinal Data System Governance Board, established herein, work to provide guidance and advice to GDAC in its oversight of the NCLDS, consistent with applicable law and administrative rules, as well as the MOU entered into among the NCLDS data contributors; and

WHEREAS, no provision of this Executive Order is intended to conflict with North Carolina General Statute Chapter 116E or the rules governing the administration of the NCLDS; and

WHEREAS, NCDIT, NCDPI, UNCISO, NCCCS, NCICU, NCDHHS, and NCDOC support creation of the North Carolina Longitudinal Data System Governance Board as set forth herein; and

WHEREAS, Article III, Sections 1 and 5(4) of the North Carolina State Constitution vest the Governor with the executive power of the State, and obliges the Governor to take care that the laws be faithfully executed.

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

Section 1. Establishment

The North Carolina Longitudinal Data System Governance Board (“Board”) is hereby established.

Section 2. Membership

1. The Board shall be comprised of the following members:
 - a. Secretary of the North Carolina Department of Information Technology
 - b. Superintendent of Public Instruction
 - c. President of the University of North Carolina System
 - d. President of the North Carolina Community College System
 - e. President of the North Carolina Independent Colleges and Universities
 - f. Secretary of the North Carolina Department of Health and Human Services
 - g. Secretary of the North Carolina Department of Commerce
 - h. Governor’s designee
2. Board members may appoint a designee to serve on the Board in their place. Designees are authorized to fully participate and vote during meetings.
3. The Secretary of NCDIT, or their designee, and the Governor’s designee shall serve as non-voting members of the Board.
4. Each Board member, or their designee, shall serve a one-year rotating term as Vice Chair followed by a one-year rotating term as Chair. The Governor, in consultation with the Board members, will appoint the Board’s initial Chair and Vice Chair.
5. The Board may appoint additional voting members as needed. New voting members shall be nominated by Board members during a regular meeting of the Board. A unanimous vote of the Board shall be required to approve the appointment of a new voting member.
6. The Board may appoint advisory members to serve as non-voting members of the Board. Advisory members shall be nominated by Board members during a regular meeting of the Board. A simple majority vote of the Board shall be sufficient to approve the appointment of advisory members.
7. The Board shall establish an advisory committee on data quality and an advisory committee on data governance to advise the Board. The Board shall name representatives of the NCLDS data contributors to serve on the committees.

Section 3. Meetings

1. The Board shall meet at least two times per year and at other times at the call of the Chair.
2. The Board may adopt bylaws to govern its meetings and the conduct of its duties, as well as to govern the meetings and duties of the advisory committees.
3. A simple majority of the Board members shall constitute a quorum for the purpose of transacting the business of the Board.

Section 4. Duties

1. The Board shall provide guidance and advice to GDAC on:
 - a. Setting NCLDS goals and priorities.
 - b. Establishing a policy and research agenda for the NCLDS.
 - c. Developing an implementation plan, including specific actions, timelines, and responsible parties, to phase in the recommendations of the NCLDS interoperability and modernization study.

- d. Developing and approving data governance, data security, and data privacy policies for the NCLDS.
 - e. Approving new data partners for the NCLDS.
 - f. Ensuring coordination among agencies and the NCLDS.
 - g. Reviewing research requirements, protocols, and guidelines regarding the approval of data requests from state and local agencies, the General Assembly, and the public.
2. The data governance and data quality committees shall advise the Board on developing appropriate data governance, data security, and data privacy policies for the NCLDS and shall identify and escalate data quality and data governance issues to the Board as necessary.

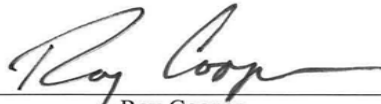
Section 5. Administration

- 1. GDAC shall provide staff and administrative support services, including an Executive Director, for the Board and the advisory committees.
- 2. Members shall serve without compensation but may receive necessary travel and subsistence expenses in accordance with state law and the policies and rules of the Office of State Budget and Management.

Section 6. Duration

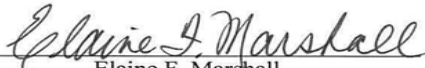
This Executive Order is effective immediately. This Executive Order shall remain in effect until December 31, 2029, pursuant to N.C. Gen. Stat. § 147-16.2(a), or until earlier rescinded or replaced.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 15th day of February, in the year of our Lord two thousand twenty-two.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

February 18, 2022

EXECUTIVE ORDER NO. 250

ALBEMARLE-PAMLICO NATIONAL ESTUARY PARTNERSHIP

WHEREAS, the Albemarle-Pamlico Estuary comprises one of the nation's largest estuaries, is distinguished by its remarkable biodiversity, natural resources, and history, and provides extensive benefits to North Carolina's economy; and

WHEREAS, the United States Congress designated the Albemarle-Pamlico Sounds as an "estuary of national significance" in 1987; and

WHEREAS, the protection and restoration of the Albemarle-Pamlico estuarine system supports its ecological integrity, the regional economy, and local communities, and plays an important role in increasing the resilience of coastal communities to the impacts of climate change; and

WHEREAS, the Albemarle-Pamlico National Estuary Partnership ("APNEP") excels as a science-based cooperative among the State of North Carolina, the Commonwealth of Virginia, the United States Environmental Protection Agency ("EPA"), and many other federal, state, and local agencies and organizations; and

WHEREAS, APNEP has a thirty-four year legacy of supporting and synthesizing scientific research and monitoring, and continues to provide extensive information that addresses natural resource and environmental issues; and

WHEREAS, the mission of APNEP is to identify, protect, and restore the significant natural resources of the Albemarle-Pamlico estuarine system; and

WHEREAS, scientific information from the Albemarle-Pamlico Estuarine Study (1987-1994) was combined with extraordinary citizen involvement to develop a Comprehensive Conservation and Management Plan ("CCMP") that was first adopted in 1994 and revised in 2012; and

WHEREAS, APNEP solicits and fosters meaningful community involvement to implement the CCMP, which guides efforts to identify, protect, and restore the region's significant resources; and

WHEREAS, the State of North Carolina is committed to protecting and restoring its natural resources and supports APNEP's mission by encouraging and supporting cooperation and collaborative partnerships among diverse stakeholders; and

WHEREAS, the impacts of climate change threaten North Carolina communities, especially coastal communities, and the Climate Risk Assessment and Resilience Plan, which was issued as required by Executive Order No. 80 (“North Carolina’s Commitment to Address Climate Change and Transition to a Clean Energy Economy”) recommends protecting, restoring, and properly managing estuaries as an important way to mitigate the risk of severe floods; and

WHEREAS, APNEP requires a legal framework specifying its governance structure and organizational processes; and

WHEREAS, an APNEP Office (“Office”) is necessary to coordinate and facilitate CCMP implementation and support APNEP’s mission; and

WHEREAS, on November 9, 2017, in Exec. Order No. 26, 32 N.C. Reg. 1172-1175 (Dec.15, 2017), the undersigned established the Office to facilitate CCMP implementation and support APNEP’s mission; and

WHEREAS, Executive Order No. 26 requires amending and restating to further align with the actions of the APNEP and to reflect current standards and procedures of the National Estuary Program.

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

Section 1. Introduction

This Executive Order amends and restates Executive Order No. 26, which established the Office and the Management Conference. Specifically, this Executive Order makes changes to the structure of the Leadership Council to streamline efforts to fulfill APNEP’s mission and collaborate with natural resource and environmental policymakers in the APNEP region. In addition, this Executive Order changes the “Implementation Advisory Committee” to the “Citizens Advisory Committee” to be consistent with other National Estuary Programs.

Section 2. Office and Host

The Office shall be located in the North Carolina Department of Environmental Quality (“Department”) to coordinate and facilitate CCMP implementation and support APNEP’s mission. The Office shall serve as a conduit for information, collaboration, and coordination among the state and federal agencies, local governments, tribes, academia, and the public.

The Office shall consist of the Director of the Office (“Director”) along with the requisite staff necessary to meet the needs identified by the Management Conference, which is described in Section 3 of this Executive Order.

The Department shall serve as the host for the Office, and the Office will be housed within the Department’s Office of the Secretary. The Department shall efficiently assist in the operation and support of the Management Conference. The Department shall only be responsible for assisting with administrative and fiscal management of the APNEP-EPA cooperative agreement, which provides federal funds for APNEP, and for assisting with the management of other funding sources.

Section 3. Management Conference

A. Purpose

1. A Management Conference consistent with Section 320 of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 – 1376, shall be established to advise, support, and guide CCMP implementation, and to assist the Office in

fulfilling its mission.

2. The Management Conference shall advise APNEP on APNEP's overall policy, budget, and community engagement direction.
3. The Management Conference shall review and revise the CCMP as necessary in response to changes in the environment or resource management actions.

B. Membership

1. The Management Conference shall consist of diverse stakeholders with interests in the Albemarle-Pamlico watershed and shall utilize a collaborative, consensus-building approach to implement the CCMP.
2. The Management Conference shall consist of three standing committees: a Leadership Council, a Citizen Advisory Committee, and a Science and Technical Advisory Committee.
3. The Director shall appoint the initial membership of the Management Conference and, to the greatest extent possible, shall ensure geographic and demographic diversity within the membership, as well as its members' willingness to serve.
4. Each standing committee shall establish bylaws, operating procedures, and leadership.
5. Membership additions and replacement to the Leadership Council and each of the advisory committees shall be determined under each entity's individual bylaws.

C. Leadership Council

1. Purpose

The Leadership Council shall work with the Office, advisory committees, and other groups to advise, support, evaluate, update, advocate for, and guide CCMP implementation. The Leadership Council is the primary guidance body for the Office.

2. Membership

- a. The Leadership Council shall include the following voting members:
 - i. The Secretary of the Department or the Secretary's designee;
 - ii. The Secretary of the North Carolina Department of Natural and Cultural Resources or the Secretary's designee;
 - iii. Director of North Carolina Sea Grant or the Director's designee;
 - iv. Two members of the Citizen Advisory Committee (Section 3.D);
 - v. Two members of the Science and Technical Advisory Committee (Section 3.E);
 - vi. A representative of a local government or regional Council of Governments;
 - vii. An at-large member with vested interests in the region; and
 - viii. A representative of a local, state, or national conservation

organization.

- b. The Secretary of Natural Resources of the Commonwealth of Virginia, or the Secretary's designee, shall be invited to participate as a voting member.
- c. A representative of the EPA's National Estuary Program shall be invited to participate as a non-voting, ex-officio member.
- d. The Leadership Council may expand its membership, as it deems necessary, upon a two-thirds affirmative vote.

D. Citizen Advisory Committee

1. Purpose

The Citizen Advisory Committee shall work with the Leadership Council on CCMP implementation and meaningful community engagement activities. Committee members shall serve as liaisons to citizens, agencies, tribes, and relevant parties regarding environmental and natural resource management relevant to CCMP implementation. The Committee shall work to engage diverse communities and populations in its decisions and represent diverse perspectives within the Management Conference.

2. Membership

The membership of the Citizen Advisory Committee shall be broad-based and may include the following natural resource management interests within the Albemarle-Pamlico estuarine system: local governments; local or regional planning; environmental equity; commerce and industry; education; recreation; tourism; fishing or seafood industry; agriculture; forestry; military; tribal organizations; local, state, or national conservation organizations; soil and water conservation districts; finance; communications and media; local and state agencies; and federal agencies.

E. Science and Technical Advisory Committee

1. Purpose

The Science and Technical Advisory Committee shall provide independent advice to the Leadership Council and the Citizen Advisory Committee on scientific and technical issues, including ecosystem assessment and monitoring in support of CCMP implementation.

2. Membership

- a. The membership of the Science and Technical Advisory Committee shall be broad-based and may include scientists and technologists from local colleges, universities, and research institutes as well as technical staff from federal and local agencies, industry, and environmental organizations, with expertise in science and technology relevant to environment and natural resource management in the Albemarle-Pamlico estuarine system.
- b. Each member shall have substantive and extensive expertise in one or more scientific and technical fields germane to APNEP's mission and relevant to environment and natural resource management, including, but not limited to, landscape ecology, terrestrial ecology, wetlands ecology, submerged aquatic ecology, marine biology, fisheries and

wildlife science, hydrology, remote sensing, ecological assessment, engineering, agricultural technologies, forest technologies, soil conservation, water quality modeling, environmental policy, economics, public policy, planning, spatial statistics, education, and law.

F. Administration and Expenses

1. Each standing body within the Management Conference shall be responsible for determining its own meeting schedules, rules of order, terms of service, bylaws, chairmanship, attendance requirements, ad hoc committees, and other matters of protocol.
2. Members shall serve voluntarily and without compensation or per diems. Extraordinary expenses may be reimbursed subject to approval by the Director and in accordance with EPA cooperative agreement requirements, the Department's travel policies, state law, and the policies and regulations of the Office of State Budget and Management.

Section 4. State Programmatic Support

1. Executive Branch agencies of the State of North Carolina shall work cooperatively with the Management Conference and the Office on actions to implement the CCMP.
2. Council of State agencies of the State of North Carolina and the North Carolina Wildlife Resources Commission are invited to work cooperatively with the Management Conference and the Office on CCMP implementation.
3. Campuses and institutes of the University of North Carolina system are invited to work cooperatively with the Management Conference and the Office on CCMP implementation.

Section 5. Effect and Duration

This Executive Order amends and restates Executive Order No. 26 and supersedes and rescinds any other previous executive orders to the extent that they conflict with this Executive Order. This Executive Order is effective immediately and shall remain in effect until November 9, 2025 unless earlier rescinded or replaced.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 18th day of February in the year of our Lord two thousand and twenty-two.



 Roy Cooper
 Governor

ATTEST:



 Elaine F. Marshall
 Secretary of State



PUBLIC NOTICE
STATE OF NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

The Division of Energy, Mineral, and Land Resources (DEMLR) invites public comment on, or objections to, the following individual statewide NPDES Municipal Separate Storm Sewer System Permit to be revised and re-issued. The public comment period begins at 9:00 am on 03/15/2022 and ends at 5:00 pm on 04/14/2022. Persons wishing to comment on or object may submit written comments to the address below during the public comment period. All comments received during the public comment period will be considered in the final determinations regarding permit issuance. Public comments may result in changes to the proposed permitting actions. All comments should reference the specific permit number NCS000250 for the North Carolina Department of Transportation, proposed issuance date 05/02/2022. The Draft Permit may be viewed at: <https://deq.nc.gov/about/divisions/energy-mineral-and-landresources/stormwater/stormwater-program/stormwater-public>. Please direct comments or questions to: Jeanette Powell, Stormwater Program, NC Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612 or jeanette.powell@ncdenr.gov.

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 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Medical Care Commission intends to amend the rules cited as 10A NCAC 13F .0504, .0508, .0905, .1207, repeal the rule cited as 10A NCAC 13F .0502, readopt with substantive changes the rules cited as 10A NCAC 13F .0404, .0407, .0501; 13G .0404, .0406, .0501, .0504, .0507, .0905, readopt without substantive changes the rules cited as 10A NCAC 13F .0503, .1006, .1008, .1010; 13G .0503, .0508, .0903, .1005, .1006, .1208, repeal through readoption the rule cited as 10A NCAC 13G .0502.

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

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://info.ncdhhs.gov/dhsr/ruleactions.html>

Proposed Effective Date: October 1, 2022

Public Hearing:

Date: April 28, 2022

Time: 10:00 a.m.

Location: Being held by teleconference call using the following: Telephone number: 1-877-848-7030; Access code: 5133201

Reason for Proposed Action: Pursuant to GS 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years, or they shall expire. As a result of the periodic review of Subchapters 10A NCAC 13F, Licensing of Adult Care Homes of Seven or More Beds, and 10A NCAC 13G, Licensing of Family Care Homes, these 20 proposed readoption rules were part of the 97 total rules determined as “Necessary With Substantive Public Interest,” requiring readoption. With input from stakeholders, substantive changes are proposed to nine rules for readoption, 10 rules are proposed without substantive changes for readoption, and one rule is proposed for readoption as a repeal. In addition, four rules are proposed for amendment, and one rule is proposed for repeal for the regulation of licensed Adult Care Homes and Family Care Homes in N.C. The secondary intent of the proposed rules is to make the rules of these two types of assisted living residences comparable, if not the

same, for regulatory efficiency since they both house the same type of residents as permitted by law.

The proposed rules for Adult Care Homes and Family Care Homes add the requirement for the results of the examination and screening for controlled substances for each staff person. The rules require completion of and list requirements for the facility staff personal care training and competency program curriculum, require documentation of training and competency in the facility, and list and update training requirement exemptions. The rules update the educational requirements and the exemptions for completion of the basic activity director course for the activity director in an adult care and family care home. The proposed rules allow an immunizing pharmacist to validate staff competency for specific personal care tasks. The rules remove the staff CPR training exemption and add an equipment requirement in the facility for CPR trained staff for resuscitation use. Proposed Rules 10A NCAC 13F .0502 and 10A NCAC 13G .0502 are not necessary because the requirements from these rules for personal care training and competency were moved to other rules within the Subchapters, therefore these rules are proposed for repeal and proposed for readoption as a repeal, respectively. In addition, the proposed rules update standards, update and correct repealed and recodified statutes, clarify rule text, remove unnecessary text, make technical changes, and remove unnecessary and outdated requirements.

Comments may be submitted to: Nadine Pfeiffer, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, NC 27699-2701; email DHSR.RulesCoordinator@dhhs.nc.gov

Comment period ends: May 16, 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

assistant in accordance with G.S. 90, Article 18D; or
 (d) be certified as an Activity Director by the National Certification Council for Activity Professionals.

CHAPTER 13 - NC MEDICAL CARE COMMISSION

SUBCHAPTER 13F – LICENSING OF ADULT CARE HOMES OF SEVEN OR MORE BEDS

SECTION .0400 - STAFF QUALIFICATIONS

10A NCAC 13F .0404 QUALIFICATIONS OF ACTIVITY DIRECTOR

~~There shall be a designated adult~~ Adult care home homes shall have an activity director who meets the following qualifications:

- (1) The activity director ~~(employed hired on or after August 1, 1994)~~ September 30, 2022 shall meet a minimum educational requirement by being ~~at least~~ a high school graduate or certified under the GED Program ~~or by passing an alternative examination established by the Department of Health & Human Services Program.~~
- (2) The activity director hired on or after ~~July 1, 2005~~ September 30, 2022 shall ~~have completed or~~ complete, within nine months of employment or assignment to this position, the basic activity course for assisted living activity directors offered by community colleges or a comparable activity course as determined by the Department based on instructional hours and content. ~~A person with a degree in recreation administration or therapeutic recreation or who is state or nationally certified as a Therapeutic Recreation Specialist or certified by the National Certification Council for Activity Professionals meets this requirement as does a person who completed the activity coordinator course of 48 hours or more through a community college before July 1, 2005. An activity director shall be exempt from the required basic activity course if one or more of the following applies:~~

- (a) be a licensed recreational therapist or be eligible for certification as a therapeutic recreation specialist as defined by the North Carolina Recreational Therapy Licensure Act in accordance with G.S. 90C;
- (b) have two years of experience working in a social or recreation program within the last five years, one year of which was full-time in a patient activities program in a health care setting;
- (c) be a licensed occupational therapist or licensed occupational therapy

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

10A NCAC 13F .0407 OTHER STAFF QUALIFICATIONS

- (a) Each staff person at an adult care home shall:
 - (1) have a job description that reflects ~~actual the~~ positions, duties and responsibilities and is signed by the administrator and the employee;
 - (2) be able to ~~apply~~ implement all of the adult care home's accident, fire ~~safety~~ safety, and emergency procedures for the protection of the residents;
 - (3) be informed of the confidential nature of resident information and shall protect and preserve ~~such the~~ the information from unauthorized use and ~~disclosure.~~ disclosure, in accordance with
~~Note: G.S. 131D 2(b)(4), 131D 21(6), G.S. 131D-21(6) and 131D 21.1 govern the disclosure of such information; 131D 21.1;~~
 - (4) not hinder or interfere with the exercise of the rights guaranteed under the Declaration of Residents' Rights in G.S. 131D-21;
 - (5) have no substantiated findings listed on the North Carolina Health Care Personnel Registry according to G.S. 131E-256;
 - (6) have documented annual immunization against influenza virus according to G.S. 131D-9, except as documented otherwise according to exceptions in this law;
 - (7) have a criminal background check in accordance with G.S. ~~114-19.10 and~~ 131D-40;
 - (8) have results of the examination and screening for the presence of controlled substances in accordance with G.S. 131D-45;
 - ~~(8)(9)~~ (9)(10) maintain a valid current driver's license if responsible for transportation of residents; and be willing to ~~work~~ cooperate with ~~bona fide state and local~~ inspectors and the monitoring and licensing agencies toward meeting and maintaining when determining and maintaining compliance with the rules of this Subchapter.
- (b) ~~Any~~ At all times, there shall be at least one staff ~~member left person in the facility left~~ in charge of the resident care of residents who shall be 18 years or older.
- (c) If licensed practical nurses are employed by the facility and practicing in their licensed capacity as governed by ~~their practice act and occupational licensing laws,~~ the North Carolina Board of Nursing, there shall be ~~continuous availability of~~ a registered nurse ~~eonsistent~~ available in accordance with the rules set forth in ~~Rules 21 NCAC 36 .0224(i) .0224 and 21 NCAC 36 .0225. .0225,~~ which are hereby incorporated by reference including subsequent amendments.

Note: ~~The practice of licensed practical nurses is governed by their occupational licensing laws.~~

Authority G.S. 131D-2.16; ~~131D-4.5~~; 131D 4.5(4); 143B-165.

SECTION .0500 - STAFF ORIENTATION, TRAINING, COMPETENCY AND CONTINUING EDUCATION

10A NCAC 13F .0501 PERSONAL CARE TRAINING AND COMPETENCY

(a) ~~An adult care home~~ The facility shall assure that staff who provide or directly supervise staff who provide personal care to residents ~~successfully~~ complete an 80-hour personal care training and competency evaluation program established or approved by the Department. For the purpose of this Rule, Directly supervise "Directly supervise" means being on duty in the facility to oversee or direct the performance of staff duties. Copies A copy of the 80-hour training and competency evaluation program are is available at the cost of printing and mailing by contacting the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708, online at <https://info.ncdhhs.gov/dhsr/acls/training/PCA-trainingmanual.html>, at no cost. The 80-hour personal care training and competency evaluation program curriculum shall include:

- (1) observation and documentation skills;
- (2) basic nursing skills, including special health-related tasks;
- (3) activities of daily living and personal care skills;
- (4) cognitive, behavioral, and social care;
- (5) basic restorative services; and
- (6) residents' rights as established by G.S. 131D-21.

(b) The facility shall assure that training specified in Paragraph (a) of this Rule is ~~successfully~~ completed within six months after hiring for staff hired after ~~September 1, 2003~~. October 1, 2022. Documentation of the successful completion of the 80-hour training and competency evaluation program shall be maintained in the facility and available for ~~review~~. review by the Division of Health Service Regulation and the county department of social services.

(c) The facility shall assure that staff who perform or directly supervise staff who perform personal care receive training and supervision on the performance of individual job assignments prior to meeting the training and competency requirements of this Rule. Documentation of training shall be maintained in the facility and available for review by the Division of Health Service Regulation and the county department of social services.

~~(d)~~ The Department shall exempt staff from the 80-hour training and competency evaluation program who are:

- (1) licensed health professionals;
- (2) listed on the Nurse Aide Registry; or
- (3) documented as having ~~successfully~~ completed a ~~40-45 or 75-80 hour training program or competency evaluation program approved by the Department since January 1, 1996 according to Rule .0502 of this Section.~~ one of

the following previously approved training programs:

- (A) a 40-hour or 75-hour training and competency evaluation program prior to July 1, 2000; or
- (B) a 45-hour or 80-hour training and competency evaluation program for training exemption from July 1, 2000 through August 31, 2003.

~~(d) The facility shall assure that staff who perform or directly supervise staff who perform personal care receive on-the-job training and supervision as necessary for the performance of individual job assignments prior to meeting the training and competency requirements of this Rule. Documentation of the on-the-job training shall be maintained in the facility and available for review.~~

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165.

10A NCAC 13F .0502 PERSONAL CARE TRAINING CONTENT AND INSTRUCTORS

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165.

10A NCAC 13F .0503 MEDICATION ADMINISTRATION COMPETENCY (READOPTED WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13F .0504 COMPETENCY VALIDATION FOR LICENSED HEALTH PROFESSIONAL SUPPORT TASKS

(a) ~~An adult care home~~ The facility shall assure that ~~non-licensed personnel and licensed personnel~~ non-licensed staff and licensed staff not practicing in their licensed capacity ~~as governed by their practice act and in accordance with~~ occupational licensing laws are competency validated by return demonstration for any personal care task specified in Subparagraph (a)(1) through (28) of Rule .0903 of this ~~Subchapter~~ Subchapter. The facility shall assure the competency validation occurs prior to staff performing the task and ~~that their~~ ongoing competency is assured through facility staff oversight and supervision.

(b) Competency validation shall be performed by the following licensed health professionals:

- (1) A registered nurse shall validate the competency of staff who perform any of the personal care tasks specified in Subparagraphs (a)(1) through (28) of Rule .0903 of this Subchapter.
- (2) In lieu of a registered nurse, a licensed respiratory care practitioner ~~licensed under G.S. 90, Article 38,~~ may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(6), (a)(11), (a)(16), (a)(18), ~~(a)(19)~~(a)(19), and (a)(21) of Rule .0903 of this Subchapter.
- (3) In lieu of a registered nurse, a ~~registered~~ licensed pharmacist may validate the competency of staff who perform the personal care ~~task~~ tasks specified in Subparagraph (a)(8)

and (a)(11) of Rule .0903 of this Subchapter. An immunizing pharmacist may validate the competency of staff who perform the personal care task specified in Subparagraph (a)(15) of Rule .0903 of this Subchapter.

- (4) In lieu of a registered nurse, an occupational therapist or physical therapist may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(17) and (a)(22) through (27) of Rule .0903 of this Subchapter.

(c) Competency validation of staff, according to Paragraph (a) of this Rule, for the licensed health professional support tasks specified in Paragraph (a) of Rule .0903 of this Subchapter and the performance of these tasks is limited exclusively to these tasks except in those cases in which a physician acting under the authority of G.S. 131D-2.2(a) certifies that non-licensed personnel can be competency validated to perform other tasks on a temporary basis to meet the resident's needs and prevent unnecessary ~~relocation~~ relocation of the resident.

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

10A NCAC 13F .0508 ASSESSMENT TRAINING

The person or persons designated by the administrator to perform resident assessments as required by Rule .0801 of this Subchapter shall ~~successfully~~ complete training on resident assessment established by the Department before performing the required assessments. Registered nurses are exempt from the assessment training. The Resident Assessment Self-Instructional Manual for Adult Care Homes herein incorporated by reference including subsequent amendments and editions. The instruction manual on resident assessment is available on the internet Adult Care Licensure website, <http://facility-services.state.nc.us/gepage.htm>, or it is available at the cost of printing and mailing from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708. <https://info.ncdhhs.gov/dhsr/acls/pdf/assessmentmanual.pdf>, at no cost.

Authority G.S. 131D-2.15; 131D-2.16; 131D-4.5; 143B-165.

SECTION .0900 – RESIDENT CARE AND SERVICES

10A NCAC 13F .0905 ACTIVITIES PROGRAM

(a) Each adult care home shall develop a program of activities designed to promote the residents' active involvement with each other, their families, and the community.

(b) The program shall be designed to promote active involvement by all residents but is not to require any individual to participate in any activity against his or her will. If there is a question about a resident's ability to participate in an activity, the resident's physician shall be consulted to obtain a statement regarding the resident's capabilities.

(c) The activity director, as required in Rule .0404 of this Subchapter, shall:

- (1) use information on the residents' interests and capabilities as documented upon admission and updated as needed to arrange for or provide

planned individual and group activities for the residents, taking into account the varied interests, ~~capabilities~~ capabilities, and possible cultural differences of the residents;

- (2) prepare a monthly calendar of planned group activities which shall be ~~easily~~ large print, to residents within the community, posted in a ~~prominent~~ prominent location accessible to residents by the first day of each month, and updated when there are any changes;
- (3) involve community resources, such as recreational, volunteer, ~~religious, aging and developmentally disabled associated agencies,~~ and religious organizations, to enhance the activities available to residents;
- (4) evaluate and document the overall effectiveness of the activities program at least every six months with input from the residents to determine what have been the most valued activities and to elicit suggestions of ways to enhance the program;
- (5) encourage residents to participate in activities; and
- (6) assure there are ~~adequate supplies,~~ supplies necessary for planned activities, supervision supervision, and assistance to enable each resident to participate. Aides and other facility staff may be used to assist with activities.

(d) There shall be a minimum of 14 hours of a variety of planned group activities per week that include activities that promote socialization, physical interaction, group accomplishment, creative expression, increased ~~knowledge~~ knowledge, and learning of new skills. ~~Homes that care exclusively for residents with HIV disease are exempt from this requirement as long as the facility can demonstrate planning for each resident's involvement in a variety of activities. Examples of group activities are group singing, dancing, games, exercise classes, seasonal parties, discussion groups, drama, resident council meetings, book reviews, music appreciation, review of current events and spelling bees.~~

(e) Residents shall have the opportunity to participate in activities involving one to one interaction and activity by oneself that promote enjoyment, a sense of accomplishment, increased knowledge, learning of new skills, and creative expression. ~~Examples of these activities are crafts, painting, reading, creative writing, buddy walks, card playing, and nature walks.~~

(f) Each resident shall have the opportunity to participate in at least one outing every other month. Residents interested in being involved in the community more frequently shall be encouraged to do so.

(g) ~~Each resident~~ Residents shall have the opportunity to participate in ~~meaningful work type and~~ volunteer service activities in the ~~home~~ facility or in the ~~community, but participation shall be on an entirely voluntary basis, never forced upon residents and not assigned in place of staff.~~ community. Participation in volunteer activities shall not be required of residents and shall not involve duties that are typically performed by facility staff.

Authority G.S. 131D-2.16; ~~131D-4.5; 143B-165; 131D-4.1; 131D-4.3.~~

SECTION .1000 - MEDICATIONS

10A NCAC 13F .1006 MEDICATION STORAGE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13F .1008 CONTROLLED SUBSTANCES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13F .1010 PHARMACEUTICAL SERVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1200 – POLICIES, RECORDS AND REPORTS

10A NCAC 13F .1207 FACILITIES TO REPORT RESIDENT DEATHS

For purposes of this Section, facilities licensed in accordance with G.S. 131D-2 The facility shall report resident deaths to the Division of Health Service Regulation. Regulation in accordance with G.S. 131D-34.1.

Authority G.S. 131D-2.4; 131D-2.16; ~~131D-2.4; 131D-34.1; 143B-165.~~

SUBCHAPTER 13G – LICENSING OF FAMILY CARE HOMES

SECTION .0400 – STAFF QUALIFICATIONS

10A NCAC 13G .0404 QUALIFICATIONS OF ACTIVITY DIRECTOR

~~There shall be a designated family Adult care home homes shall have an activity director who meets the following qualifications: qualifications set forth in this Rule.~~

- (1) The activity director (~~employed hired~~ on or after ~~August 1, 1994~~) September 30, 2022 shall meet a minimum educational requirement by being at least a high school graduate or certified under the GED Program or by passing an alternative examination established by the Department of Health & Human Services Program.
(2) The activity director hired on or after ~~July 1, 2005~~ September 30, 2022 shall have ~~completed~~ or complete, within nine months of employment or assignment to this position, the basic activity course for assisted living activity directors offered by community colleges or a comparable activity course as determined by the Department based on instructional hours and content. A ~~person with a degree in recreation administration or therapeutic recreation or who is state or nationally certified as a Therapeutic Recreation Specialist or certified by the National Certification Council for Activity Professional meets this requirement as does a person who completed~~

~~the activity coordinator course of 48 hours or more through a community college before July 1, 2005. An activity director shall be exempt from the required basic activity course if one or more of the following applies:~~

- (a) be a licensed recreational therapist or be eligible for certification as a therapeutic recreation specialist as defined by the North Carolina Recreational Therapy Licensure Act in accordance with G.S. 90C;
(b) have two years of experience working in a social or recreation program within the last five years, one year of which was full-time in a patient activities program in a health care setting;
(c) be a licensed occupational therapist or licensed occupational therapy assistant in accordance with G.S. 90, Article 18D; or
(d) be certified as an Activity Director by the National Certification Council for Activity Professionals.

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

10A NCAC 13G .0406 OTHER STAFF QUALIFICATIONS

- (a) Each staff person of a family care home shall:
(1) have a job description that reflects ~~actual the~~ positions, duties duties, and responsibilities and is signed by the administrator and the employee;
(2) be able to ~~apply~~ implement all of the family care home's accident, fire ~~safety safety~~, and emergency procedures for the protection of the residents;
(3) be informed of the confidential nature of resident information and shall protect and preserve ~~such the~~ such the information from unauthorized use and ~~disclosure; disclosure, in accordance with~~ Note: G.S. 131D-2(b)(4), G.S. 131D-21(6), and G.S. 131D-21.1 govern the disclosure of such the information; G.S. 131D-21.1;
(4) not hinder or interfere with the exercise of the rights guaranteed under the Declaration of Residents' Rights in G.S. 131D-21;
(5) have no substantiated findings listed on the North Carolina Health Care Personnel Registry according to G.S. 131E-256;
(6) have documented annual immunization against influenza virus according to G.S. 131D-9, except as documented otherwise according to exceptions in this law.
(7) have a criminal background check in accordance with ~~G.S. 114-19.10 and G.S. 131D-40;~~

(8) have results of the examination and screening for the presence of controlled substances in accordance with G.S. 131D-45;

~~(8)(9)~~ maintain a valid current driver's license if responsible for transportation of residents; and
~~(9)(10)~~ be willing to work cooperate with bona fide state and local inspectors and the monitoring and licensing agencies toward meeting and maintaining when determining and maintaining compliance with the rules of this Subchapter.

(b) ~~Any~~ At all times, there shall be at least one staff member person in the facility left in charge of the resident care of residents who shall be 18 years or older.

(c) ~~If licensed practical nurses are employed by the facility and practicing in their licensed capacity as governed by their practice act and occupational licensing laws, the North Carolina Board of Nursing, there shall be continuous availability of a registered nurse consistent available in accordance with the rules set forth in Rules 21 NCAC 36 .0224(i) .0224 and 21 NCAC 36 .0225. .0225, which are hereby incorporated by reference including subsequent amendments.~~

~~Note: The practice of licensed practical nurses is governed by their occupational licensing laws.~~

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

SECTION .0500 – STAFF ORIENTATION, TRAINING, COMPETENCY AND CONTINUING EDUCATION

10A NCAC 13G .0501 PERSONAL CARE TRAINING AND COMPETENCY

(a) ~~The facility shall assure that personal care staff and those who directly supervise them in facilities without heavy care residents successfully complete a 25 hour training program, including competency evaluation, approved by the Department according to Rule .0502 of this Section. For the purposes of this Subchapter, heavy care residents are those for whom the facility is providing personal care tasks listed in Paragraph (i) of this Rule. Directly supervise means being on duty in the facility to oversee or direct the performance of staff duties.~~

(b) ~~The facility shall assure that staff who perform or directly supervise staff who perform personal care tasks listed in Paragraph (i) of this Rule in facilities with heavy care residents successfully complete an 80 hour training program, including competency evaluation, approved by the Department according to Rule .0502 of this Section and comparable to the State approved Nurse Aide I training.~~

(c) ~~The facility shall assure that training specified in Paragraphs (a) and (b) of this Rule is successfully completed six months after hiring for staff hired after July 1, 2000. Staff hired prior to July 1, 2000, shall have completed at least a 20 hour training program for the performance or supervision of tasks listed in Paragraph (i) of this Rule or a 75-hour training program for the performance or supervision of tasks listed in Paragraph (j) of this Rule. The 20 and 75-hour training shall meet all the requirements of this Rule except for the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule, within six months after hiring.~~

(d) ~~The Department shall have the authority to extend the six-month time frame specified in Paragraph (c) of this Rule up to six~~

~~additional months for a maximum allowance of 12 months for completion of training upon submittal of documentation to the Department by the facility showing good cause for not meeting the six month time frame.~~

(e) ~~Exemptions from the training requirements of this Rule are as follows:~~

(1) ~~The Department shall exempt staff from the 25-hour training requirement upon successful completion of a competency evaluation approved by the Department according to Rule .0502 of this Section if staff have been employed to perform or directly supervise personal care tasks listed in Paragraph (h) and the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule in a comparable long term care setting for a total of at least 12 months during the three years prior to January 1, 1996, or the date they are hired, whichever is later.~~

(2) ~~The Department shall exempt staff from the 80-hour training requirement upon successful completion of a 15 hour refresher training and competency evaluation program or a competency evaluation program approved by the Department according to Rule .0502 of this Section if staff have been employed to perform or directly supervise personal care tasks listed in Paragraph (i) and the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule in a comparable long term care setting for a total of at least 12 months during the three years prior to January 1, 1996, or the date they are hired, whichever is later.~~

(3) ~~The Department shall exempt staff from the 25 and 80-hour training and competency evaluation who are or have been licensed health professionals or Certified Nursing Assistants.~~

(f) ~~The facility shall maintain documentation of the training and competency evaluations of staff required by the rules of this Subchapter. The documentation shall be filed in an orderly manner and made available for review by representatives of the Department.~~

(g) ~~The facility shall assure that staff who perform or directly supervise staff who perform personal care tasks listed in Paragraphs (h) and (i), and the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule receive on-the-job training and supervision as necessary for the performance of individual job assignments prior to meeting the training and competency requirements of this Rule.~~

(h) ~~For the purposes of this Rule, personal care tasks which require a 25-hour training program include, but are not limited to the following:~~

- (1) ~~assist residents with toileting and maintaining bowel and bladder continence;~~
- (2) ~~assist residents with mobility and transferring;~~
- (3) ~~provide care for normal, unbroken skin;~~
- (4) ~~assist with personal hygiene to include mouth care, hair and scalp grooming, care of~~

PROPOSED RULES

- ~~finger nails, and bathing in shower, tub, bed basin;~~
- ~~(5) trim hair;~~
- ~~(6) shave resident;~~
- ~~(7) provide basic first aid;~~
- ~~(8) assist residents with dressing;~~
- ~~(9) assist with feeding residents with special conditions but no swallowing difficulties;~~
- ~~(10) assist and encourage physical activity;~~
- ~~(11) take and record temperature, pulse, respiration, routine height and weight;~~
- ~~(12) trim toenails for residents without diabetes or peripheral vascular disease;~~
- ~~(13) perineal care;~~
- ~~(14) apply condom catheters;~~
- ~~(15) turn and position;~~
- ~~(16) collect urine or fecal specimens;~~
- ~~(17) take and record blood pressure if a registered nurse has determined and documented staff to be competent to perform this task;~~
- ~~(18) apply and remove or assist with applying and removing prosthetic devices for stable residents if a registered nurse, licensed physical therapist or licensed occupational therapist has determined and documented staff to be competent to perform the task; and~~
- ~~(19) apply or assist with applying ace bandages, TED's and binders for stable residents if a registered nurse has determined and documented staff to be competent to perform the task.~~

~~(i) For the purposes of this Rule, personal care tasks which require a 80-hour training program are as follows:~~

- ~~(1) assist with feeding residents with swallowing difficulty;~~
- ~~(2) assist with gait training using assistive devices;~~
- ~~(3) assist with or perform range of motion exercises;~~
- ~~(4) empty and record drainage of catheter bag;~~
- ~~(5) administer enemas;~~
- ~~(6) bowel and bladder retraining to regain continence;~~
- ~~(7) test urine or fecal specimens;~~
- ~~(8) use of physical or mechanical devices attached to or adjacent to the resident which restrict movement or access to one's own body used to restrict movement or enable or enhance functional abilities;~~
- ~~(9) non-sterile dressing procedures;~~
- ~~(10) force and restrict fluids;~~
- ~~(11) apply prescribed heat therapy;~~
- ~~(12) care for non-infected pressure ulcers; and~~
- ~~(13) vaginal douches.~~

~~(j) For purposes of this Rule, the interpersonal skills and behavioral interventions include, but are not limited to the following:~~

- ~~(1) recognition of residents' usual patterns of responding to other people;~~

- ~~(2) individualization of appropriate interpersonal interactions with residents;~~
- ~~(3) interpersonal distress and behavior problems;~~
- ~~(4) knowledge of and use of techniques, as alternatives to the use of restraints, to decrease residents' intrapersonal and interpersonal distress and behavior problems; and~~
- ~~(5) knowledge of procedures for obtaining consultation and assistance regarding safe, humane management of residents' behavioral problems.~~

(a) The facility shall assure that staff who provide or directly supervise staff who provide personal care to residents complete an 80-hour personal care training and competency evaluation program established by the Department. For the purpose of this Rule, "Directly supervise" means being on duty in the facility to oversee or direct the performance of staff duties. A copy of the 80-hour training and competency evaluation program is available online at <https://info.ncdhhs.gov/dhsr/acls/training/PCA-trainingmanual.html>, at no cost. The 80-hour personal care training and competency evaluation program curriculum shall include:

- (1) observation and documentation skills;
- (2) basic nursing skills, including special health-related tasks;
- (3) activities of daily living and personal care skills;
- (4) cognitive, behavioral, and social care;
- (5) basic restorative services; and
- (6) residents' rights as established by G.S. 131D-21.

(b) The facility shall assure that training specified in Paragraph (a) of this Rule is completed within six months after hiring for staff hired after October 1, 2022. Documentation of the successful completion of the 80-hour training and competency evaluation program shall be maintained in the facility and available for review by the Division of Health Service Regulation and the county department of social services.

(c) The facility shall assure that staff who perform or directly supervise staff who perform personal care receive training and supervision for the performance of individual job assignments prior to meeting the training and competency requirements of this Rule. Documentation of training shall be maintained in the facility and available for review by the Division of Health Service Regulation and the county department of social services.

(d) The Department shall exempt staff from the 80-hour training and competency evaluation program who are:

- (1) licensed health professionals;
- (2) listed on the Nurse Aide Registry; or
- (3) documented as having completed one of the following previously approved training programs:
 - (A) a 20-hour or 75-hour training and competency evaluation program prior to July 1, 2000; or
 - (B) a 25-hour or 80-hour training and competency evaluation program from July 1, 2000 through September 30, 2017.

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165.

10A NCAC 13G .0502 PERSONAL CARE TRAINING AND COMPETENCY PROGRAM APPROVAL

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165.

10A NCAC 13G .0503 MEDICATION ADMINISTRATION COMPETENCY EVALUATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13G .0504 COMPETENCY VALIDATION FOR LICENSED HEALTH PROFESSIONAL SUPPORT TASKS

(a) ~~A family care home~~ The facility shall assure that non-licensed personnel and licensed personnel non-licensed staff and licensed staff not practicing in their licensed capacity as governed by their practice act and in accordance with occupational licensing laws are competency validated by return demonstration for any personal care task specified in Subparagraph (a)(1) through (28) of Rule .0903 of this Subchapter Subchapter. The facility shall assure the competency validation occurs prior to staff performing the task and that their ongoing competency is assured through facility staff oversight and supervision.

(b) Competency validation shall be performed by the following licensed health professionals:

- (1) A registered nurse shall validate the competency of staff who perform any of the personal care tasks specified in Subparagraphs (a)(1) through (28) of Rule .0903 of this Subchapter.
- (2) In lieu of a registered nurse, a licensed respiratory care practitioner licensed under G.S. 90, Article 38, may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(6), (11), (16), (18), (19)(19), and (21) of Rule .0903 of this Subchapter.
- (3) In lieu of a registered nurse, a registered licensed pharmacist may validate the competency of staff who perform the personal care task tasks specified in Subparagraph (a)(8) and (11) of Rule .0903 of this Subchapter. An immunizing pharmacist may validate the competency of staff who perform the personal care task specified in Subparagraph (a)(15) of Rule .0903 of this Subchapter.
- (4) In lieu of a registered nurse, an occupational therapist or physical therapist may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(17) and (a)(22) through (27) of Rule .0903 of this Subchapter.

(c) Competency validation of staff, according to Paragraph (a) of this Rule, for the licensed health professional support tasks specified in Paragraph (a) of Rule .0903 of this Subchapter and the performance of these tasks is limited exclusively to these tasks except in those cases in which a physician acting under the authority of G.S. ~~131D-2(a)~~ 131D-2.2(a) certifies that non-

licensed personnel can be competency validated to perform other tasks on a temporary basis to meet the resident's needs and prevent unnecessary ~~relocation.~~ relocation of the resident.

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

10A NCAC 13G .0507 TRAINING ON CARDIO-PULMONARY RESUSCITATION

Each family care home shall have ~~at least~~ one staff person on the premises at all times who has completed within the last 24 months a course on cardio-pulmonary resuscitation and choking management, including the Heimlich maneuver, provided by the American Heart Association, American Red Cross, National Safety Council, American Safety and Health Institute and Medic First Aid, or by a trainer with documented certification as a trainer on these procedures from one of these organizations. ~~If the only staff person on site has been deemed physically incapable of performing these procedures by a licensed physician, that person is exempt from the training.~~ The staff person trained according to this Rule shall have access at all times in the facility to a one-way valve pocket mask for use in performing cardio-pulmonary resuscitation.

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

10A NCAC 13G .0508 ASSESSMENT TRAINING (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0900 – RESIDENT CARE AND SERVICES

10A NCAC 13G .0903 LICENSED HEALTH PROFESSIONAL SUPPORT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13G .0905 ACTIVITIES PROGRAM

(a) Each family care home shall develop a program of activities designed to promote the residents' active involvement with each other, their families, and the community.

(b) The program shall be designed to promote active involvement by all residents but is not to require any individual to participate in any activity against his or her will. If there is a question about a resident's ability to participate in an activity, the resident's physician shall be consulted to obtain a statement regarding the resident's capabilities.

(c) The activity director, as required in Rule .0404 of this Subchapter, shall:

- (1) use information on the residents' interests and capabilities as documented upon admission and updated as needed to arrange for or provide planned individual and group activities for the residents, taking into account the varied interests, ~~capabilities~~ capabilities, and possible cultural differences of the residents;
- (2) prepare a monthly calendar of planned group activities which shall be ~~easily~~ readable with large print, to residents within the community, posted in a prominent location accessible to residents by the first day of each month, and updated when there are any changes;

- (3) involve community resources, such as recreational, volunteer, ~~religious, aging and developmentally disabled associated agencies, and religious organizations,~~ to enhance the activities available to residents;
- (4) evaluate and document the overall effectiveness of the activities program at least every six months with input from the residents to determine what have been the most valued activities and to elicit suggestions of ways to enhance the program;
- (5) encourage residents to participate in activities; and
- (6) assure there are ~~adequate supplies,~~ supplies necessary for planned activities, ~~supervision~~ supervision, and assistance to enable each resident to participate. Aides and other facility staff may be used to assist with activities.

(d) There shall be a minimum of 14 hours of a variety of planned group activities per week that include activities that promote socialization, physical interaction, group accomplishment, creative expression, increased ~~knowledge~~ knowledge, and learning of new skills. ~~Homes that care exclusively for residents with HIV disease are exempt from this requirement as long as the facility can demonstrate planning for each resident's involvement in a variety of activities. Examples of group activities are group singing, dancing, games, exercise classes, seasonal parties, discussion groups, drama, resident council meetings, book reviews, music appreciation, review of current events and spelling bees.~~

(e) Residents shall have the opportunity to participate in activities involving one to one interaction and activity by oneself that promote enjoyment, a sense of accomplishment, increased knowledge, learning of new skills, and creative expression. ~~Examples of these activities are crafts, painting, reading, creative writing, buddy walks, card playing, and nature walks.~~

(f) Each resident shall have the opportunity to participate in at least one outing every other month. Residents interested in being involved in the community more frequently shall be encouraged to do so.

(g) ~~Each resident~~ Residents shall have the opportunity to participate in ~~meaningful work type and~~ volunteer service activities in the home facility or in the ~~community,~~ but participation shall be on an entirely voluntary basis, never forced upon residents and not assigned in place of staff. community. Participation in volunteer activities shall not be required of residents and shall not involve duties that are typically performed by facility staff.

Authority G.S. 131D-2.16; ~~143B-165;~~ 131D-4.1; 131D-4.3.

SECTION .1000 – MEDICATIONS

10A NCAC 13G .1005 SELF-ADMINISTRATION OF MEDICATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 13G .1006 MEDICATION STORAGE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1200 – POLICIES, RECORDS AND REPORTS

10A NCAC 13G .1208 FACILITIES TO REPORT RESIDENT DEATHS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

Notice is hereby given in accordance with G.S. 150B-21.2 that the DHHS - Division of Health Benefits intends to adopt the rules cited as 10A NCAC 22Q .0101-.0106; and 22R .0101-.0105.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://medicaid.ncdhhs.gov/meetings-notice/rules-actions>

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: March 31, 2022

Time: 10:00 a.m.

Location: This remote hearing can be accessed by dialing (877) 336-1839 and entering access code 3956100.

Reason for Proposed Action: *The new rules under Subchapters 22Q and 22R will effectuate the directive from the General Assembly for the Department to create rules to implement G.S. 143C-9-9 ("Hospital Uncompensated Care Fund"). The purpose of these rules is to establish the sequence of allocations of federal disproportionate share adjustment receipts arising from certified public expenditures, define the hospitals eligible for participation in the distribution of these funds, and codify formulas for calculating the distributions using outpatient cost metrics. Most supplemental payments are not permitted in managed care, which launched on July 1, 2021. The process for certifying DSH and calculating distribution of those funds to qualifying hospitals is essential for ensuring maximum receipt of federal Medicaid funds.*

Comments may be submitted to: *Shazia A. Keller, NC DHHS Division of Health Benefits, 2501 Mail Service Center, Raleigh, NC 27699-2501; phone (919) 218-1372; email MedicaidRulesComments@dhs.nc.gov*

Comment period ends: May 17, 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 22 - MEDICAL ASSISTANCE ELIGIBILITY

SUBCHAPTER 22Q – DISTRIBUTION OF FEDERAL DISPROPORTIONATE SHARE ADJUSTMENT RECEIPTS ARISING FROM CERTIFIED PUBLIC EXPENDITURES

10A NCAC 22Q .0101 SCOPE

This Subchapter establishes the requirements for the distribution of federal disproportionate share adjustment receipts as established by 42 CFR 447.298 arising from certified public expenditures.

Authority G.S. 108A-54; 143C-9-9.

10A NCAC 22Q .0102 DEFINITIONS

(a) "Certifying Hospitals" means an institution that meets all of the following criteria:

- (1) meets the definition in G.S. 131E-176(13);
- (2) is licensed by the State of North Carolina; and
- (3) certifies as a public agency that its expenditures are eligible for Federal Financial Participation in accordance with 42 CFR 433.51(b), which is incorporated by reference, including subsequent amendments and editions. This document may be accessed at <https://www.ecfr.gov> at no charge.

(b) "Department" means the North Carolina Department of Health and Human Services.

(c) "Outpatient services" means those services as defined by 42 CFR 440.20(a), which is hereby incorporated by reference, including subsequent amendments and editions. This document can be accessed at <https://www.ecfr.gov> at no charge.

(d) "Uninsured patient" means medical care recipients who do not have health insurance, Medicaid or Medicare, or other third-party coverage. State or local government payments made to a hospital for services provided to indigent patients shall not be considered a source of third-party coverage.

(e) "Hospital Uncompensated Care Fund" means the fund established by G.S. 143C-9-9 and governed by 10A NCAC 22R.

(f) "Payment period" means the 12-month term ending September 30th of each year.

Authority G.S. 108A-54; 143C-9-9.

10A NCAC 22Q .0103 DISTRIBUTIONS

After distributions are made pursuant to an act appropriating funds for the operation of the North Carolina Medicaid Program and the "Basic Disproportionate Share Hospital (DSH) Payment" section of the North Carolina Medicaid State Plan, Attachment 4.19-A, which is incorporated by reference, including subsequent amendments and editions, and may be accessed free of charge at <https://medicaid.ncdhhs.gov/media/973/download?attachment>, the Department shall make distributions of the remaining DSH funds in the following order to:

- (1) Certifying hospitals; and
- (2) The Hospital Uncompensated Care Fund.

Authority G.S. 108A-54; 143C-9-9.

10A NCAC 22Q .0104 CERTIFYING HOSPITAL DISTRIBUTION

The Department shall distribute available funds to certifying hospitals in two parts:

- (1) An amount equal to 10 percent of expenditures certified by the hospital pursuant to 42 CFR 433.51; and
- (2) An amount equal to the hospital's proportionate share, calculated pursuant to Rule .0106 of this Section, of the available funds based on the hospital's share of outpatient costs for uninsured patients as a percentage of the Statewide aggregate of outpatient costs for uninsured patients. To be eligible for a proportionate share, a hospital shall file with the Department 90 days prior to the date of payment as determined by the Department, a form prescribed by the Department attesting to the hospital's:
 - (a) Qualification for disproportionate share status under the "Disproportionate Share Hospital (DSH) Payment" section of the North Carolina Medicaid State Plan, Attachment 4.19-A;
 - (b) Unreimbursed charges and payments for outpatient services provided to uninsured patients; and
 - (c) Aggregate Medicaid outpatient cost-to-charge ratio.

Authority G.S. 108A-54; 143C-9-9.

10A NCAC 22Q .0105 CERTIFYING HOSPITALS' OUTPATIENT COSTS

(a) A certifying hospital's outpatient costs for uninsured patients will be determined by multiplying the hospital's outpatient cost-to-charge ratio in Rule .0104(2)(c) of this Section by the hospital's outpatient charges for uninsured patients from Rule .0104(2)(b) of this Section.

(b) From the product calculated in Paragraph (a) of this Rule, the Department will then subtract payments that the hospital received from uninsured patients for outpatient services in Rule .0104(2)(b) of this Section.

(c) The Department will bring the uncompensated care cost data forward to the end of the payment period by applying the applicable Centers for Medicare and Medicaid Services' Prospective Payment System Hospital Input Price Indices, which are available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketData>.

Authority G.S. 108A-54; 143C-9-9.

10A NCAC 22Q .0106 CERTIFYING HOSPITAL'S PROPORTIONATE SHARE

The Department shall calculate the certifying hospital's proportionate share of outpatient costs as follows:

- (1) Adding the certifying hospitals' outpatient costs and each of the eligible hospitals' (as defined in 10A NCAC 22R .0103) eligible outpatient costs under 10A NCAC 22R .0104. The sum represents the total of the outpatient costs.
- (2) The sum of all certifying hospitals' outpatient costs under Rule .0105 of this Section shall be divided by the total outpatient costs in Item (1) of this Rule. The quotient represents the certifying hospitals' proportionate share, expressed as a decimal.
- (3) The amount of available funds shall be multiplied by the certifying hospitals' proportionate share in Item (2) of this Rule. The product represents the funds available for distribution to individual certifying hospitals.
- (4) A certifying hospital shall be eligible for a payment from funds available for distribution in Item (3) of this Rule. In each payment period, a certifying hospital shall receive a proportional payment of the available funds based on the certifying hospital's share of outpatient costs for uninsured patients as a percentage of the aggregate of outpatient costs for uninsured patients for certifying hospitals.
- (5) Hospitals receiving payments pursuant to this Subchapter shall be subject to the audit and reporting requirements of the North Carolina Medicaid State Plan, Attachment 4.19-A.

Authority G.S. 108A-54; 108A-55(c); 143C-9-9.

SUBCHAPTER 22R - DISTRIBUTION OF HOSPITAL UNCOMPENSATED CARE FUND

10A NCAC 22R .0101 SCOPE

This Subchapter establishes the requirements for the distribution of funds allocated to the Hospital Uncompensated Care Fund pursuant to G.S. 143C-9-9 after distributions of available funds have been made pursuant to 10A NCAC 22Q.

Authority G.S. 108A-54; 143C-9-9.

10A NCAC 22R .0102 DEFINITIONS

(a) "Department" means the North Carolina Department of Health and Human Services.

(b) "Eligible hospital" means an institution that meets the requirements of Rule .0103 of this Section.

(c) "Eligible hospital cost" means the values calculated pursuant to Rule .0104 of this Section.

(d) "Outpatient services" means the medical care and items as defined by 42 CFR 440.20(a), which is incorporated by reference in 10A NCAC 22Q .0102.

(e) "Uninsured patient" means a recipient of medical care who has no health insurance, Medicaid or Medicare, or other third-party coverage. State and local government payments made to a hospital for services provided to indigent patients shall not be considered third-party coverage.

(f) "Payment period" means the 12-month term ending September 30th of each year.

Authority G.S. 108A-54; 143C-9-9.

10A NCAC 22R .0103 ELIGIBLE HOSPITAL

An institution licensed by the State of North Carolina that meets the definition in G.S. 131E-176 (13) is eligible for reimbursement from the Hospital Uncompensated Care Fund if it:

- (1) is not a public agency qualified to certify expenditures in accordance 42 CFR 433.51(b), which is incorporated by reference in 10A NCAC 22Q .0102;
- (2) received payment for more than 50 percent of their Medicaid inpatient discharges under the North Carolina Medicaid State Plan, Attachment 4.19-A discharge Diagnosis Related Groups methodology for the most recent payment period;
- (3) files with the Department 90-days prior to the date of payment under this Subchapter forms prescribed by the Department attesting to the hospital's:
 - (a) qualification for disproportionate share status of the "Disproportionate Share Hospital (DSH) Payment" section of the North Carolina Medicaid State Plan, Attachment 4.19-A;
 - (b) unreimbursed charges and payments for outpatient services provided to uninsured patients; and
 - (c) aggregate Medicaid outpatient cost-to-charge.

Authority G.S. 108A-54; 143C-9-9.

10A NCAC 22R .0104 ELIGIBLE OUTPATIENT COSTS

(a) An eligible hospital's eligible outpatient costs for uninsured patients will be determined by multiplying the hospital's outpatient cost-to-charge ratio in Rule .0103(3)(c) of this Section by the hospital's outpatient charges for uninsured patients from Rule .0103(3)(b) of this Section.

(b) From the product calculated in Paragraph (a) of this Rule, the Department will then subtract payments that the hospital received from uninsured patients for outpatient services from Rule .0103(3)(b) of this Section.

(c) The Department will bring the uncompensated care cost data forward to the end of the payment period by applying the applicable Centers for Medicare and Medicaid Services' Prospective Payment System Hospital Input Price Indices, which are available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketData>.

Authority G.S. 108A-54; 143C-9-9.

10A NCAC 22R .0105 DISTRIBUTION OF AVAILABLE FUNDS

(a) An eligible hospital satisfying the requirements of Rule .0103 of this Section shall be eligible for a payment from funds available under this Subchapter. In a payment period, an eligible hospital shall receive a proportional payment of the available funds based on the eligible hospital's share of outpatient costs for uninsured patients as a percentage of the aggregate of outpatient costs for uninsured patients for all eligible hospitals.

(b) Based on the availability of funds, payments authorized by this Rule shall be made at least annually on a frequency determined by the Department in consultation with certifying hospitals.

(c) To confirm the hospital's eligibility to receive payments pursuant to this Subchapter and the accuracy of the hospital's attestation to unreimbursed charges for outpatient services provided to uninsured patients and the hospital's Medicaid outpatient cost-to-charge ratios, the Department may audit a hospital receiving more than two million dollars (\$2,000,000) for compliance with the requirements of this Subchapter. Upon completion of the audit, the following shall occur when applicable:

- (1) If a hospital received payments pursuant to Paragraph (a) of this Rule in excess of the percentage determined by the audit, the excess payments shall be refunded to the Department.
- (2) The Department shall distribute any refunded amounts to eligible hospitals within 12 months of receipt using the distribution method set forth Paragraph (a) of this Rule.
- (3) No additional payment shall be made to eligible hospitals in connection with the audit except for the redistribution of amounts refunded after an audit conducted by the Division of Health Benefits.

Authority G.S. 108A-54; 143C-9-9.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission February 7 and February 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
William W. Peaslee	984-236-1939

RULES REVIEW COMMISSION MEETING DATES

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

**RULES REVIEW COMMISSION SPECIAL MEETING
MINUTES
February 7, 2022**

The Rules Review Commission met for a Special Meeting on Monday, February 7, 2022, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The special meeting was called pursuant to G.S. 150B-21.1(b1), in order to review a response from the Criminal Justice Education Training and Standards Commission regarding temporary rules originally filed for and objected to at the January 20, 2022 RRC meeting.

Commissioners Andrew Atkins, Wayne R. Boyles III, and Jeanette Doran were present in the Commission Room. Commissioners present via WebEx were Bob Rucho and Paul Powell.

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

The meeting was called to order at 1:00 p.m. with Chair Doran presiding.

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

FOLLOW UP MATTERS

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the Commission approved 12 NCAC 09B .0101 and 09G .0205 by roll-call vote, ayes 4, noes 1 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Jeanette Doran, and Paul Powell – 4. Voting in the negative: Bob Rucho - 1.

Leslie Cooley-Dismukes, with the Attorney General's Office and representing the agency, addressed the Commission.

COMMISSION BUSINESS

The meeting adjourned at 1:57 p.m.

RULES REVIEW COMMISSION

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

Alexander Burgos, Paralegal

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

Rules Review Commission Special Meeting February 7, 2022
Held Via WebEx

Name	Agency
Andy Perrigo	
Helen Landi	DOT
Jeffrey Smythe	DOJ/CJETS

February 7, 2022

Rules Review Commission
Special Meeting
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Name	Agency
Charmineque Wilcox	CJETS
Erika N. Jones	NCDOS-CJETS
Lester Dismukes	CJETS

LIST OF APPROVED TEMPORARY RULES
February 07, 2022 Meeting

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

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

RULES REVIEW COMMISSION MEETING
MINUTES
February 17, 2022

The Rules Review Commission met on Thursday, February 17, 2022, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

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

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

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

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

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the February 7, 2022, special meeting. There were none and the minutes were approved as distributed.

Commissioners Margaret Currin, Barbara Jackson, and Randy Overton abstained from voting on the special meeting minutes.

Upon the call of the Chair, the special meeting minutes were approved by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, and Bob Rucho – 5. Voting in the negative: None.

The Chair asked for any discussion, comments, or corrections concerning the minutes of the January 20, 2022, meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow up matters for the Environmental Management Commission and Board of Pharmacy.

FOLLOW UP MATTERS

Soil and Water Conservation Commission

Upon the call of the chair, 02 NCAC 59A .0101, .0102, .0103, .0104, .0201, .0202, .0203, .0204, .0301, and .0302 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Criminal Justice Education and Training Standards Commission

12 NCAC 09B .0101; 09G .0205 – The rules were approved at the February 7, 2022 RRC special meeting. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02L .0202 - Upon the call of the Chair, the Commission waived Rule 26 NCAC 05 .0103 and allowed the submission of written comments received after the deadline by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Upon the call of the Chair, the Commission voted to approve the rule by roll-call vote, ayes 4, noes 5 as follows: Voting in the affirmative Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, and Barbara Jackson – 4. Voting in the negative: Margaret Currin, Jeanette Doran, Jeff Hyde, Randy Overton, and Bob Rucho – 5. The motion failed.

Upon the call of the Chair, the Commission objected to the rule by roll-call vote, ayes 5, noes 3 as follows: Voting in the affirmative: Wayne R. Boyles III, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 5. Voting in the negative: Andrew Atkins, Bobby Bryan, and Barbara Jackson – 3.

The Commission objected to Rule 15A NCAC 02L .0202 finding that the rule was not clear and unambiguous. Specifically, the Commission found the Rule was unclear and ambiguous as it lacked specific guidelines required by G.S. 150B-19(6) to waive or modify the practical quantitation limit requirement through the use of an Interim Maximum Allowable Concentration.

Chris Millis with the North Carolina Home Builders Association addressed the Commission.

Phillip Reynolds with the Department of Justice, and representing the agency, addressed the Commission.

Karen Higgins with the Division of Water Resources addressed the Commission.

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, and .0191 – The agency is addressing the technical change requests from the January meeting. No Action was required by the Commission.

Coastal Resources Commission

15A NCAC 07H .1101, .1102, .1103, .1104, .1105, .1801, .1802, .1803, .1804, and .1805 - The agency is addressing the technical change requests from the January meeting. No action was required by the Commission.

Board of Examiners of Electrical Contractors

21 NCAC 18B .0308 – The rule was returned at the request of the agency. No action was required by the Commission.

Board of Pharmacy

Upon the call of the Chair, the Commission waived Rules 26 NCAC 05 .0103 and 05 .0105 to allow the submission of written comments and requests to speak after the deadline by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Upon the call of the Chair, 21 NCAC 46 .1417 and .1816 were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Mark Boesen with Boesen and Snow, LLC, addressed the Commission.

Jay Campbell representing the agency, addressed the Commission.

Andy Ellen with the North Carolina Retail Merchants Association, addressed the Commission.

Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors

21 NCAC 50 .0415 - The rule was returned at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Department of Administration

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Department of Natural and Cultural Resources

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Private Protective Services Board

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Licensing Board for General Contractors

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Board of Cosmetic Art Examiners

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Board of Dental Examiners

Upon the call of the Chair, 21 NCAC 16U .0103 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Board of Hearing Aid Dealers and Fitters

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

Building Code Council

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho – 8. Voting in the negative: None.

COMMISSION BUSINESS

The Chair announced that starting with the March meeting, there will be changes to the posting of follow-up matters to the online agenda.

The meeting adjourned at 11:21 a.m.

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

Alexander Burgos, Paralegal

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

February 17, 2022

Rules Review Commission
Meeting
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Name	Agency
NATHAN CULLDS	DOJ - INS. SECTION; BUDGET COMMISSION
Phillip Reynolds	NC DOS
CHRIS MILLIS	NCHA
Bridget Shelton	NC DEQ
Jay Campbell	NC BOP
Karen Higgins	NC DEQ
Shanon Gerger	NCDOA
Andy Elk	NCHA
Christy Pinyan	Brookspierce

RULES REVIEW COMMISSION

Rules Review Commission Meeting February 21, 2022
Held Via WebEx

Name	Agency
Sarah Bales	brubakernc.com
Elizabeth Kountis	EMC
C Carroll	Honeycutt Corp.
Dan	Public
Susan Delmonico	Genoa healthcare
Susan Meadows	DENR
Kaitlin Rothecker	Brubakernc.com
Frank Wiesner	NCLBGC
D Hargrove	EMC
Grady McCallie	ncconservationnetwork.org
Juliane Bradshaw	DOJ
Donya Strong	DOA
Jessica Adama	telepharm.com
Christopher Ventaloro	DEQ
Dennis Seavers	Barbers Examiners
Jonathan Avery	DNCR
Jay Campbell	NCBOP
Mark Boesen	Boesen and Snow
Helen Landi	DOT
Vernon Cox	NCAGR
Caitlin Schwab-Falzone	NCHALB
Dale Masten	Genoa Healthcare
Bridget	Ashevilleenc.gov
Pearson Cost	UNC
Ademola Are	Pillpack.com
Joseph Lavino	CVS
Brenda Shafer	quarles.com
David Rittlinger	DOI
Hannah Jernigan	DOT
Laura Rowe	Treasurer
Liana Madison	DOA
Anna Hayworth	NCAGR
Catherine Blum	Marine Fisheries
Carl Martin	DOI
Dauna Bartley	Dental Examiners
Jeff Manning	DENR
Gina Cammarano	Industrial Commission
Kathy Capps	Parks
Lynda Elliott	Cosmetic Arts

LIST OF APPROVED PERMANENT RULES

February 17, 2022 Meeting

ADMINISTRATION, DEPARTMENT OF

<u>Definitions</u>	01 NCAC 05A	.0112
<u>Contracting Requirements</u>	01 NCAC 05B	.0301
<u>Solicitation Documents</u>	01 NCAC 05B	.0314
<u>Terms and Conditions</u>	01 NCAC 05B	.0318
<u>Contract Terms</u>	01 NCAC 05B	.0319
<u>Contract Extensions</u>	01 NCAC 05B	.0320
<u>Factors for Contract Extension or Renewal</u>	01 NCAC 05B	.0321
<u>General Delegations</u>	01 NCAC 05B	.1604

SOIL AND WATER CONSERVATION COMMISSION

<u>Objectives</u>	02 NCAC 59A	.0101
<u>Address</u>	02 NCAC 59A	.0102
<u>Definitions</u>	02 NCAC 59A	.0103
<u>Supervisor Vacancies</u>	02 NCAC 59A	.0104
<u>General</u>	02 NCAC 59A	.0201
<u>Required Basic Training</u>	02 NCAC 59A	.0202
<u>Continuing Training Requirements</u>	02 NCAC 59A	.0203
<u>Supervisor Training Credits</u>	02 NCAC 59A	.0204
<u>Supervisor Removal Procedures and Reporting</u>	02 NCAC 59A	.0301
<u>Inquiry Committee</u>	02 NCAC 59A	.0302

NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

<u>Definition of Terms</u>	07 NCAC 13B	.0101
<u>Permits</u>	07 NCAC 13B	.0104
<u>Rock Climbing</u>	07 NCAC 13B	.0204
<u>Bicycles</u>	07 NCAC 13B	.0507
<u>Camping</u>	07 NCAC 13B	.0602
<u>Sports and Games: When Permitted</u>	07 NCAC 13B	.0701
<u>Horses</u>	07 NCAC 13B	.0702
<u>Firearms: Weapons: Explosives</u>	07 NCAC 13B	.0901
<u>Smoking</u>	07 NCAC 13B	.0905
<u>Animals at Large</u>	07 NCAC 13B	.1004
<u>Commercial Enterprises</u>	07 NCAC 13B	.1101
<u>Commercial Photography, Filming and Recording</u>	07 NCAC 13B	.1102
<u>Public Assemblies and Meetings; Special Activity Permit</u>	07 NCAC 13B	.1105
<u>Closing and Opening Hours; Restricted Use Areas</u>	07 NCAC 13B	.1201
<u>Aviation</u>	07 NCAC 13B	.1204
<u>Reservations</u>	07 NCAC 13B	.1205

PRIVATE PROTECTIVE SERVICES BOARD

<u>Definitions</u>	14B NCAC 16	.0103
<u>Complaints</u>	14B NCAC 16	.0115

GENERAL CONTRACTORS, LICENSING BOARD FOR

<u>Assumed Name Application</u>	21 NCAC 12A	.0209
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<u>Building Projects</u>	21 NCAC 12A	.0210
<u>Application for Licensure</u>	21 NCAC 12A	.0303
<u>Reporting Criminal Convictions and Disciplinary Actions</u>	21 NCAC 12A	.0508
COSMETIC ART EXAMINERS, BOARD OF		
<u>Definitions</u>	21 NCAC 14A	.0101
<u>School Affiliation with Cosmetic Art Shops and Other Busi...</u>	21 NCAC 14G	.0114
<u>Failure to Comply with Rules</u>	21 NCAC 14G	.0115
<u>Equipment for Beginner Department</u>	21 NCAC 14J	.0106
<u>Live Model/Mannequin Performance Requirements</u>	21 NCAC 14J	.0207
<u>Internships</u>	21 NCAC 14J	.0208
<u>Equipment</u>	21 NCAC 14J	.0302
<u>Students' Personal Supplies</u>	21 NCAC 14J	.0303
<u>Course Work Requirements for Beginners and Advanced</u>	21 NCAC 14J	.0306
<u>Tests</u>	21 NCAC 14J	.0307
<u>Approval of Credit for Cosmetology Instruction/Another State</u>	21 NCAC 14J	.0501
<u>Application to Take Examination</u>	21 NCAC 14L	.0106
<u>Re-examination</u>	21 NCAC 14N	.0113
<u>New School Applications</u>	21 NCAC 14T	.0102
<u>All Cosmetic Art Schools</u>	21 NCAC 14T	.0201
<u>Equipment for All Cosmetic Art Schools</u>	21 NCAC 14T	.0301
<u>Instruction Guidelines</u>	21 NCAC 14T	.0612
<u>Teacher Trainees</u>	21 NCAC 14T	.0617
<u>School Operations/Licensure Maintenance</u>	21 NCAC 14T	.0701
<u>School Approval Changes and School Closing</u>	21 NCAC 14T	.0706
DENTAL EXAMINERS, BOARD OF		
<u>Reports from the Controlled Substance Reporting System</u>	21 NCAC 16U	.0103
HEARING AID DEALERS AND FITTERS BOARD		
<u>Definitions and Interpretations</u>	21 NCAC 22A	.0401
<u>Sponsors' Duties</u>	21 NCAC 22F	.0302
PHARMACY, BOARD OF		
<u>Remote Medication Order Processing Services</u>	21 NCAC 46	.1417
<u>Centralized Pharmacy Services</u>	21 NCAC 46	.1816
BUILDING CODE COUNCIL		
<u>2018 NC Administrative Code/Building Code Summary</u>	106.3.2	
<u>2018 NC Administrative Code/Information Required</u>	106.3.1	
<u>2018 NC Residential Code/Definitions</u>	R202	
<u>2018 NC Residential Code/Definitions</u>	R202	
<u>2018 NC Residential Code/Townhouse Automatic Fire Sprinkl...</u>	R313.1	
<u>2018 NC Residential Code/Townhouses</u>	R302.2	
<u>2018 NC Residential Code/Lofts</u>	R328	
<u>2018 NC Residential Code/Minimum Height</u>	R305.1	
<u>2018 NC Residential Code/Tiny Houses</u>	Appendix Q	
<u>2018 NC Residential Code/Fastener Corrosion Resistance</u>	R4606	