NORTH CAROLINA REGISTER

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July 15, 2022

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2022 – December 2022

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270th 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.

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-21.3A(c)(2)g. that the HHS - Division of Health Service Regulation intends to readopt with substantive changes the rules cited as 10A NCAC 14C .1102, .2001, .2003, .2801, .2803, .3801, .3803, .4001 and .4003.*

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

Proposed Effective Date: *January 1, 2023*

Public Hearing:
Date: *September 6, 2022*
Time: *1:00 p.m.*
Location: *Dorothea Dix Park, Brown Building, Room 104, 801 Biggs Drive, Raleigh, NC 27603*

Reason for Proposed Action:
Pursuant to G.S. 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 Subchapter 10A NCAC 14C, Certificate of Need Regulations, these nine proposed rules for readoption were part of the 39 rules determined as "Necessary With Substantive Public Interest," requiring readoption.
Substantive changes have been made to these proposed rules to revise and update terms and definitions that apply to Certificate of Need (CON) application performance standards for nursing facility or adult care home services, home health services, rehabilitation services, acute care hospital beds, and hospice inpatient facilities and hospice residential care facilities.
Substantive changes have been made to these proposed rules to revise, condense, clarify, and remove unnecessary text in the CON applicant performance standards criteria for the development of nursing facility or adult care home services, a new Medicare-certified home health agency, rehab beds, new acute care hospital beds, and Hospice inpatient facility (HI) beds pursuant to a need determination in the State Medical Facilities Plan in effect as of the first day of the review period. In addition, substantive changes have been made to revise, condense, clarify, and remove unnecessary text in the performance standards criteria to develop new Hospice residential facility (HR) beds.

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: *September 13, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.
☒ **State funds affected**
☒ **Local funds affected**
☐ **Substantial economic impact (>= $1,000,000)**
☒ **Approved by OSBM**
☐ **No fiscal note required**

CHAPTER 14 - DIRECTOR, DIVISION OF HEALTH SERVICE REGULATION

SUBCHAPTER 14C – CERTIFICATE OF NEED REGULATIONS

SECTION .1100 – CRITERIA AND STANDARDS FOR NURSING FACILITY OR ADULT CARE HOME SERVICES

10A NCAC 14C .1102 PERFORMANCE STANDARDS
~~(a) An applicant proposing to add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed nursing facility beds within the facility in which the new beds are to be operated was at least 90 percent.~~
~~(b) An applicant proposing to establish a new nursing facility or add nursing facility beds to an existing facility, except an applicant proposing to transfer existing certified nursing facility beds from a State Psychiatric Hospital to a community facility, shall not be approved unless occupancy is projected to be at least 90 percent for the total number of nursing facility beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific~~

~~methodologies by which occupancies are projected, shall be clearly stated.~~

~~(c) An applicant proposing to add adult care home beds to an existing facility shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed adult care home beds within the facility in which the new beds are to be operated was at least 85 percent.~~

~~(d) An applicant proposing to establish a new adult care home facility or add adult care home beds to an existing facility shall not be approved unless occupancy is projected to be at least 85 percent for the total number of adult care home beds proposed to be operated, no later than two years following the completion of the proposed project. All assumptions, including the specific methodologies by which occupancies are projected, shall be stated.~~

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

(1) "Approved beds" means nursing home or adult care home beds that were issued a certificate of need but are not being used to provide services as of the application deadline for the review period.

(2) "Existing beds" means nursing home or adult care home beds that are being used to provide services as of the application deadline for the review period.

(3) "Maximum capacity" means the total number of existing, approved, and proposed nursing home or adult care home beds times 365 days.

(4) "Occupancy rate" means the total number of patient days of care provided in the nursing home or adult care home beds during a full fiscal year of operation divided by maximum capacity expressed as a percentage.

(5) "Proposed beds" means the nursing home or adult care home beds proposed in the application under review.

(b) An applicant proposing to develop nursing home beds pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

(1) provide projected utilization of the existing, approved, and proposed beds during each of the first three full fiscal years of operation following completion of the project;

(2) project an occupancy rate for the existing, approved, and proposed beds of at least 90 percent of maximum capacity during the third full fiscal year of operation following completion of the project; and

(3) provide the assumptions and methodology used to project the utilization and occupancy rate required by Subparagraphs (1) and (2) of this Paragraph.

(c) An applicant proposing to develop adult care home beds pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

(1) provide projected utilization of the existing, approved, and proposed beds during each of the first three full fiscal years of operation following completion of the project;

(2) project an occupancy rate for the existing, approved, and proposed beds of at least 85 percent of maximum capacity during the third full fiscal year of operation following completion of the project; and

(3) provide the assumptions and methodology used to project the utilization and occupancy rate required by Subparagraphs (1) and (2) of this Paragraph.

Authority G.S. ~~131E-175; 131E-176;~~ 131E-177(1); 131E-183(b). ~~S.L. 2001, c. 234.~~

SECTION .2000 – CRITERIA AND STANDARDS FOR HOME HEALTH SERVICES

10A NCAC 14C .2001 DEFINITIONS

~~The following definitions in this Rule shall apply to all rules in this Section:~~

~~(1) "Home Health Agency" shall have the same meaning as defined in G.S. 131E-176(12).~~

~~(2) "Home Health Services" shall have the same meaning as defined in G.S. 131E-176(12).~~

The following definitions shall apply to this Section:

(1) "Home health agency" shall have the same meaning as defined in G.S. 131E-176(12).

(2) "Service area" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.

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

10A NCAC 14C .2003 PERFORMANCE STANDARDS

~~An applicant shall project, in the third year of operation, an annual unduplicated patient caseload for the county in which the facility will be located that meets or exceeds the minimum need used in the applicable State Medical Facilities Plan to justify the establishment of a new home health agency office in that county. An applicant shall not be required to meet this performance standard if the home health agency office need determination in the applicable State Medical Facilities Plan was not based on application of the standard methodology for a Medicare-certified home health agency office.~~

An applicant proposing to develop a new Medicare-certified home health agency pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

(1) provide projected utilization for each of the first three full fiscal years of operation following completion of the project;

(2) project to serve at least 325 residents of the proposed service area during the third full fiscal year of operation following completion of the project; and

(3) provide the assumptions and methodology used to provide the projected utilization required in Item (1) of this Rule.

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

SECTION .2800 - CRITERIA AND STANDARDS FOR REHABILITATION SERVICES

10A NCAC 14C .2801 DEFINITIONS

~~The definitions in this Rule will apply to all rules in this Section.~~

~~(1) "Rehabilitation Facility" means a facility as defined in G.S. 131E-176.~~

~~(2) "Rehabilitation" means the process to maintain, restore or increase the function of disabled individuals so that an individual can live in the least restrictive environment, consistent with his or her objective.~~

~~(3) "Outpatient Rehabilitation Clinic" is defined as a program of coordinated and integrated outpatient services, evaluation, or treatment with emphasis on improving the functional level of the person in coordination with the patient's family.~~

~~(4) "Rehabilitation Beds" means inpatient beds for which a need determination is set forth in the current State Medical Facilities Plan and which are located in a hospital licensed pursuant to G.S. 131E-77.~~

~~(5) "Traumatic Brain Injury" is defined as an insult to the brain that may produce a diminished or altered state of consciousness which results in impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychological maladjustment.~~

~~(6) "Stroke" (cerebral infarction, hemorrhage) is defined as the sudden onset of a focal neurologic deficit due to a local disturbance in the blood supply to the brain.~~

~~(7) "Spinal Cord Injury" is defined as an injury to the spinal cord that results in the loss of motor or sensory function.~~

~~(8) "Pediatric Rehabilitation" is defined as inpatient rehabilitation services provided to persons 14 years of age or younger.~~

The following definitions shall apply to this Section:

(1) "Approved rehabilitation (rehab) beds" means rehab beds that were issued a certificate of need but are not licensed as rehab beds as of the application deadline for the review period.

(2) "Average daily census (ADC)" means the total number of inpatient rehab days of care provided during a full fiscal year of operation divided by 365 days.

(3) "Existing rehab beds" means rehab beds that are licensed as rehab beds as of the application deadline for the review period.

(4) "Occupancy rate" means the ADC divided by the total number of existing, approved, and proposed rehab beds expressed as a percentage.

(5) "Proposed rehab beds" means the rehab beds proposed in the application under review.

Authority G.S. 131E-177; 131E-183(b).

10A NCAC 14C .2803 PERFORMANCE STANDARDS

~~(a) An applicant proposing to establish new rehabilitation beds shall not be approved unless the average occupancy, over the nine months immediately preceding the submittal of the application, of the total number of licensed rehabilitation beds within the facility in which the new beds are to be operated was at least 80 percent.~~

~~(b) An applicant proposing to establish new rehabilitation beds shall not be approved unless occupancy is projected to be 80 percent for the total number of rehabilitation beds to be operated in the facility no later than two years following completion of the proposed project.~~

An applicant proposing to develop rehab beds pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

(1) provide projected utilization of all existing, approved, and proposed rehab beds on the hospital license during each of the first three full fiscal years of operation following completion of the project;

(2) document that the occupancy rate for all existing, approved, and proposed rehab beds on the hospital license shall be at least 70 percent during the third full fiscal year of operation following completion of the project; and

(3) provide the assumptions and methodology used to provide the projected utilization and occupancy rate required in Items (1) and (2) of this Rule.

Authority G.S. 131E-177; ~~131E-183;~~ 131E-183(b).

SECTION .3800 - CRITERIA AND STANDARDS FOR ACUTE CARE HOSPITAL BEDS

10A NCAC 14C .3801 DEFINITIONS

~~The following definitions shall apply to all Rules in this Section:~~

~~(1) "Acute care beds" means acute care beds licensed by the Division of Health Service Regulation in accordance with standards in 10A NCAC 13B .6200, and located in hospitals licensed pursuant to G.S. 131E-79.~~

~~(2) "Average daily census" means the number of days of inpatient acute care provided in licensed acute care beds in a given year divided by 365 days.~~

~~(3) "Campus" shall have the same meaning as defined in G.S. 131E-176(2c).~~

~~(4) "Service Area" means the single or multi-county area as used in the development of the acute care bed need determination in the applicable State Medical Facilities Plan.~~

The following definitions shall apply to this Section:

(1) "Applicant hospital" means the hospital where the applicant proposes to develop the new acute care beds and includes all campuses on one license.

(2) "Approved beds" means acute care beds in a hospital that were issued a certificate of need but are not licensed as of the application deadline for the review period.

(3) "Average daily census (ADC)" means the total number of acute care days of care provided during a full fiscal year of operation divided by 365 days.

(4) "Existing beds" means acute care beds in a hospital that are licensed as of the application deadline for the review period.

(5) "Hospital system" means all hospitals in the proposed service area owned or operated by the applicant or a related entity.

(6) "Occupancy rate" means the ADC divided by the total number of existing, approved and proposed acute care hospital beds.

(7) "Proposed beds" means the acute care beds proposed to be developed in a hospital in the application under review.

(8) "Qualified applicant" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.

(9) "Service area" shall have the same meaning as defined in the annual State Medical Facilities Plan in effect as of the first day of the review period.

(10) "Target occupancy percentage" means:

(a) 66.7 percent if the ADC is less than 100;

(b) 71.4 percent if the ADC is 100 to 200;

(c) 75.2 percent if the ADC is 201 to 399; or

(d) 78.0 percent if the ADC is greater than 400.

Authority G.S. 131E-177(1); ~~131E-183;~~ 131E-183(b).

10A NCAC 14C .3803 PERFORMANCE STANDARDS

~~(a) An applicant proposing to develop new acute care beds shall demonstrate that the projected average daily census (ADC) of the total number of licensed acute care beds proposed to be licensed within the service area, under common ownership with the applicant, divided by the total number of those licensed acute care beds is reasonably projected to be at least 66.7 percent when the projected ADC is less than 100 patients, 71.4 percent when the projected ADC is 100 to 200 patients, and 75.2 percent when the projected ADC is greater than 200 patients, in the third operating year following completion of the proposed project or in the year for which the need determination is identified in the State Medical Facilities Plan, whichever is later.~~

~~(b) An applicant proposing to develop new acute care beds shall provide all assumptions and data used to develop the projections required in this rule and demonstrate that they support the projected inpatient utilization and average daily census.~~

An applicant proposing to develop new acute care beds in a hospital pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

(1) document that it is a qualified applicant;

(2) provide projected utilization of the existing, approved, and proposed acute care beds for the applicant hospital during each of the first three full fiscal years of operation following completion of the project;

(3) project an occupancy rate of the existing, approved, and proposed acute care beds for the applicant hospital during the third full fiscal year of operation following completion of the project that equals or exceeds the target occupancy percentage;

(4) provide projected utilization of the existing, approved, and proposed acute care beds for the hospital system during each of the first three full fiscal years of operation following completion of the project;

(5) project an average occupancy rate of the existing, approved, and proposed acute care beds for the hospital system during the third full fiscal year of operation following completion of the project that equals or exceeds the target occupancy percentage; and

(6) provide the assumptions and methodology used to project the utilization and occupancy rates required in Items (2), (3), (4), and (5) of this Rule.

Authority G.S. 131E-177(1); ~~131E-183;~~ 131E-183(b).

SECTION .4000 - CRITERIA AND STANDARDS FOR HOSPICE INPATIENT FACILITIES AND HOSPICE RESIDENTIAL CARE FACILITIES

10A NCAC 14C .4001 DEFINITIONS

~~The following definitions shall apply to all rules in this Section:~~

~~(1) "Bereavement counseling" means counseling provided to a hospice patient's family or significant others to assist them in dealing with issues of grief and loss.~~

~~(2) "Caregiver" means the person whom the patient designates to provide the patient with emotional support, physical care, or both.~~

~~(3) "Care plan" means a plan as defined in 10A NCAC 13K .0102 of the Hospice Licensing Rules.~~

~~(4) "Home-like" means furnishings of a hospice inpatient facility or a hospice residential care~~

~~facility as defined in 10A NCAC 13K .1110 or .1204 of the Hospice Licensing Rules.~~

~~(5) "Hospice" means any coordinated program of home care as defined in G.S. 131E-176(13a).~~

~~(6) "Hospice inpatient facility" means a facility as defined in G.S. 131E-176(13b).~~

~~(7) "Hospice residential care facility" means a facility as defined in G.S. 131E-176(13c).~~

~~(8) "Hospice service area" means for residential care facilities, the county in which the hospice residential care facility will be located and the contiguous counties for which the hospice residential care facility will provide services.~~

~~(9) "Hospice services" means services as defined in G.S. 131E-201(5b).~~

~~(10) "Hospice staff" means personnel as defined in 10A NCAC 13K .0102 of the Hospice Licensing Rules.~~

The following definitions shall apply to this Section:

(1) "Approved beds" means HI or HR beds that were issued a certificate of need but are not licensed as of the application deadline for the review period.

(2) "Average daily census (ADC)" means the total number of days of care provided in the HI or HR beds during a full fiscal year of operation divided by 365 days.

(3) "Existing beds" means HI or HR beds that are licensed as of the application deadline for the review period.

(4) "Hospice inpatient facility (HI) beds" means HI beds licensed to provide palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients in an inpatient setting.

(5) "Hospice residential facility (HR) beds" means HR beds licensed to provide palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients in a group residential setting.

(6) "Occupancy rate" means the ADC divided by the total number of existing, approved, and proposed HI or HR beds expressed as a percentage.

(7) "Proposed beds" means the HI or HR beds proposed in the application under review.

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

10A NCAC 14C .4003 PERFORMANCE STANDARDS

~~(a) An applicant proposing to develop hospice inpatient facility beds or hospice residential care facility beds shall demonstrate that:~~

~~(1) the average occupancy rate of the licensed hospice beds, for each level of care, in the facility is projected to be at least 50 percent for the last six months of the first operating year following completion of the project;~~

~~(2) the average occupancy rate for the licensed hospice beds, for each level of care, in the facility is projected to be at least 65 percent for the second operating year following completion of the project; and~~

~~(3) if the application is submitted to address the need for hospice residential care beds, each existing hospice residential care facility which is located in the hospice service area operated at an occupancy rate of at least 65 percent for the 12 month period reported on that facility's most recent Licensure Renewal Application Form.~~

~~(b) An applicant proposing to add hospice inpatient facility beds to an existing hospice inpatient facility shall document that the average occupancy of the licensed hospice inpatient facility beds in its existing facility was at least 65 percent for the nine months immediately preceding the submittal of the proposal.~~

~~(c) An applicant proposing to add residential care beds to an existing hospice residential care facility shall document that the average occupancy of the licensed hospice residential care beds in its existing facility was at least 65 percent for the nine months immediately preceding the submittal of the proposal.~~

(a) An applicant proposing to develop new HI beds pursuant to a need determination in the annual State Medical Facilities Plan in effect as of the first day of the review period shall:

(1) provide projected utilization of all existing approved, and proposed HI beds on the license during each of the first three full fiscal years of operation following completion of the project;

(2) document that the occupancy rate for all existing, approved, and proposed HI beds on the license shall be at least 65 percent during the third full fiscal year of operation following completion of the project; and

(3) provide the assumptions and methodology used to provide the projected utilization and occupancy rate required by Subparagraphs (1) and (2) of this Paragraph.

(b) An applicant proposing to develop new HR beds shall:

(1) provide projected utilization of all existing, approved, and proposed HR beds on the license during each of the first three full fiscal years of operation following completion of the project;

(2) document that the occupancy rate for all existing, approved, and proposed HR beds on the license shall be at least 65 percent during the third full fiscal year of operation following completion of the project; and

(3) provide the assumptions and methodology used to provide the projected utilization and occupancy rate required by Subparagraphs (1) and (2) of this Paragraph.

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

TITLE 12 – DEPARTMENT OF JUSTICE

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Sheriffs' Education and Training Standards Commission intends to adopt the rule cited as 12 NCAC 10B .0714 and amend the rules cited as 12 NCAC 10B .0304, .0402-.0404, .0503, .0601-.0607, .0702-.0705, .0713, .0802, .0803, .0901, .0903, .0906, .0910-.0912, .1302 and .1303.*

Link to agency website pursuant to G.S. 150B-19.1(c): *https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/*

Proposed Effective Date: *November 1, 2022*

Public Hearing:
Date: *August 2, 2022*
Time: *09:00 a.m.*
Location: *1700 Tryon Park Drive, Raleigh, NC 27610*

Reason for Proposed Action:
Rule 0714: allows for pilot authority with development of the existing detention officer or telecommunicator certification courses. This stand alone rule requires an amendment of Rules .0601 and .1302.
Rule 0603: To provide certified deputies and law enforcement with an option to complete a limited detention officer certification training course to become dually certified officers. These certified officers refer to those that have completed Basic Law Enforcement Training Course. Changes require amendments to Rules .0604 to .0607, .0304, .0702. to .0705, .0713(b)(e), .0802, .0803(a), .0901, .0910, .0911, .0912.
Justice officers must complete the basic training requirement prior to the issuance of probationary certification. The following rules are affected: Rules .0402 to .0404, .0503, .0602, and .1303.

Comments may be submitted to: *Sirena Jones, 1700 Tryon Park Drive, Raleigh, NC 27610*

Comment period ends: *September 13, 2022*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

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

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

CHAPTER 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0300 – MINIMUM STANDARDS FOR EMPLOYMENT AND CERTIFICATION AS A JUSTICE OFFICER

12 NCAC 10B .0304 MEDICAL EXAMINATION

(a) Each applicant for certification or enrollee in a Commission-certified basic training course shall complete, sign, and date the Commission's Medical History Statement Form (F-1) and shall be examined by a either a physician, surgeon, physician's assistant, nurse practitioner, or other licensed independent practitioner who is licensed in North Carolina or who is authorized to practice medicine in accordance with the rules and regulations of the United States Armed Forces to help determine his or her fitness to carry out the physical requirements of the position of justice officer. Effective January 1, 2018, Telecommunicators who have not previously held certification with this Commission, but who have been continuously employed by an entity other than a Sheriff's Office, and who have previously provided a valid Medical History Statement (F-1) and Medical Examination Report (F-2) for admission into a Commission accredited Telecommunicator Certification Course shall not be required to submit additional F-1 and F-2 forms for the purpose of obtaining certification.

(b) Prior to conducting the examination, the physician, surgeon, physician's assistant, nurse practitioner, or other licensed independent practitioner shall:

(1) read the "Medical Screening Guidelines Implementation Manual for Certification of Justice Officers" in the State of North Carolina as published by the North Carolina Department of Justice. Copies of this publication may be obtained at no cost by contacting the North Carolina Department of Justice, Sheriffs' Standards Division, PO Box 629, Raleigh, North Carolina 27602;

(2) read, sign, and date the Medical History Statement Form (F-1); and

(3) read the F-2A Form attached to the Medical Examination Report Form (F-2).

(c) The examining physician, surgeon, physician's assistant, nurse practitioner, or other licensed independent practitioner shall record the results of the examination on the Medical Examination Report Form (F-2) and shall sign and date the form.

(d) The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) shall be valid one year after the date the examination was conducted and shall be completed prior to:

(1) the applicant's beginning ~~the~~ any Detention Officer Certification Course, the Basic Law Enforcement Training Course, or the Telecommunicator Certification Course; and

(2) the applicant's applying to the Commission for Certification.

Authority G.S. 17E-7.

SECTION .0400 - CERTIFICATION OF JUSTICE OFFICERS

12 NCAC 10B .0402 PROBATIONARY CERTIFICATION

All justice officers, except those transferred or reinstated pursuant to Rule .0406 of this Section shall serve a probationary certification period of one year; provided that the one year probationary period has not been extended for cause pursuant to 12 NCAC 10B .0303(c); .0503(a); or .0602(a) or .1303(a). For certification as a deputy sheriff the probationary period begins on the date the officer took the Oath of ~~Office.~~ Office after completion of Basic Law Enforcement Training. For certification as a detention officer or telecommunicator, the probationary period begins on the date the person was ~~appointed.~~ appointed after the completion of the Detention Officer Certification Course or Telecommunicator Certification Course, as applicable.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0403 PROBATIONARY CERTIFICATION REQUIREMENT

(a) For certification as a ~~justice officer,~~ deputy sheriff, the applicant must successfully complete Basic Law Enforcement Training, and a Report of Appointment (Form F-4T) must be submitted to the Division. ~~Report of Appointment forms must be submitted to the Division by the sheriff's office no later than 10 days after the deputy sheriff has taken the Oath of Office, or the detention officer or telecommunicator has been appointed. The Division shall forward the justice officer's certification to the appointing agency.~~

(b) For certification as a detention officer, the applicant must successfully complete the Detention Officer Certification Course, and a Report of Appointment (Form F-4T) must be submitted to the Division.

(c) For certification as a telecommunication officer, the applicant must successfully complete the Telecommunicator Certification Course, and a Report of Appointment (Form F-4T) must be submitted to the Division.

(d) Report of Appointment forms must be submitted to the Division by the employing agency no later than 10 days after the deputy sheriff has taken the Oath of Office, or the detention officer or the telecommunicator has been appointed.

(e) The Division shall forward the justice officer's certification to the appointing agency.

~~(b)~~(f) No deputy sheriff or detention officer probationary certification shall be issued by the Division prior to the applicant meeting the conditions set forth in this Paragraph. As an additional requirement for probationary certification, the applicant shall meet the following requirements:

(1) If the applicant for probationary certification is authorized to carry a firearm pursuant to the provisions of 12 NCAC 10B .2104, the employing agency shall submit evidence of satisfactory completion of the employing agency's in-service firearms training and requalification program pursuant to 12 NCAC 10B .2000 and .2100; or

(2) If the applicant for probationary certification is not authorized to carry a firearm pursuant to the provisions of 12 NCAC 10B .2104, the employing agency shall notify the Division, in writing, that the applicant is not authorized to carry a firearm.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0404 GENERAL CERTIFICATION

(a) The Commission shall grant an officer general certification if evidence is received by the Division that the officer has:

(1) complied with all of the requirements of 12 NCAC 10B .0300; and

(2) successfully completed the required ~~training within the~~ probationary period.

(b) General certification is continuous from the date of issuance if:

(1) The certified officer remains continuously employed or appointed as an officer in good standing with an agency and the certification has not been terminated for cause; or

(2) The certified officer, having separated in good standing from an agency, is reemployed or reappointed as a justice officer within one year, and the certification has not been terminated for cause.

Authority G.S. 17E-4; 17E-7.

SECTION .0500 - MINIMUM STANDARDS OF TRAINING FOR DEPUTY SHERIFFS

12 NCAC 10B .0503 TIME REQ/COMPLETION/BASIC LAW ENFORCEMENT TRAINING COURSE

(a) Each deputy sheriff shall have completed with passing scores the accredited basic training course as prescribed in 12 NCAC 09B .0205 prior to obtaining probationary certification. ~~holding temporary or probationary certification shall complete a Commission-certified basic training course pursuant to 12 NCAC 09B .0405, within one year from the date of his or her Oath of Office.~~ Any deputy sheriff who does not comply with this Rule or other training provisions of this Chapter shall not exercise the powers of a deputy sheriff, including the power of arrest. ~~If, however, an officer has enrolled in a Commission-certified basic law enforcement training program that concludes later than the end of the officer's probationary period, the Commission may~~

~~extend the probationary period for a period not to exceed 12 months. In determining whether to grant an extension, the Commission shall consider the circumstances that created the need for the extension.~~

(b) Any person who has completed a Commission-certified basic law enforcement training program, but has not been duly appointed and certified in a sworn law enforcement position within one year of completion of the course, shall complete a subsequent Commission-certified basic recruit training program and pass the State Comprehensive Examination within the 12 month probationary period. The Director shall waive this requirement and accept a course that was completed outside of the one year time period as set forth in Paragraph (a) of this Rule unless he or she determines that a delay in applying for certification was due to negligence on the part of the applicant or employing agency. The extension of the one year period shall not exceed 30 days from the expiration date of a commission-certified basic training program.

Authority G.S. 17E-4; 17E-7.

SECTION .0600 - MINIMUM STANDARDS OF TRAINING FOR DETENTION OFFICERS

12 NCAC 10B .0601 DETENTION OFFICER CERTIFICATION COURSE

(a) This Section establishes the current standard by which Sheriffs' Office and district confinement personnel shall receive detention officer ~~training.~~ training except as provided by 12 NCAC 10B .0603. The Detention Officer Certification Course shall consist of a minimum of 174 hours of instruction designed to provide the trainee with the skills and knowledge necessary to perform those tasks considered essential to the administration and operation of a confinement facility.

(b) Each Detention Officer Certification Course shall include the following identified topic areas and minimum instructional hours for each area:

(1)	LEGAL UNIT		
	(A)	Orientation	3 hours
	(B)	Criminal Justice Systems	2 hours
	(C)	Legal Aspects of Management and Supervision	14 hours
	(D)	Introduction to Rules and Regulations	2 hours
	(E)	Ethics	3 hours
	UNIT TOTAL		24 Hours
(2)	PHYSICAL UNIT		
	(A)	Contraband/Searches	6 hours
	(B)	Patrol and Security Function of the Jail	5 hours
	(C)	Key and Tool Control	2 hours
	(D)	Investigative Process in the Jail	8 hours
	(E)	Transportation of Inmates	7 hours
	(F)	Prison Rape Elimination Act	2 hours
	UNIT TOTAL		30 Hours
(3)	PRACTICAL APPLICATION UNIT		
	(A)	Processing Inmates	8 hours
	(B)	Supervision and Management of Inmates	5 hours
	(C)	Suicides and Crisis Management	5 hours
	(D)	Aspects of Mental Illness	6 hours
	(E)	Fire Emergencies	4 hours
	(F)	Notetaking and Report Writing	6 hours
	(G)	Communication Skills	5 hours
	UNIT TOTAL		39 hours
(4)	MEDICAL UNIT		
	(A)	First Aid and CPR	8 hours
	(B)	Medical Care in the Jail	6 hours
	(C)	Stress	3 hours
	(D)	Subject Control Techniques	32 hours
	(E)	Physical Fitness for Detention Officers	22 hours
	UNIT TOTAL		71 hours
(5)	REVIEW AND TESTING		7 hours
(6)	STATE EXAM		3 hours
	TOTAL HOURS		174 HOURS

~~(c) Consistent with the curriculum development policy of the Commission as published in the "Detention Officer Certification Course Management Guide," the Commission shall designate the developer of the Detention Officer Certification Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Detention Officer Certification Courses. Individuals who complete such a pilot Detention Officer Certification Course offering shall be deemed to have complied with and satisfied the minimum training requirement.~~

~~(d)~~(c) The "Detention Officer Certification Training Manual" published by the North Carolina Justice Academy shall be used as the basic curriculum for the Detention Officer Certification Course. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099. The cost of this manual, CD, indexes and binder is fifty-one dollars and seventy-five cents ($51.75) at the time this Rule was last amended.

~~(e)~~(d) The "Detention Officer Certification Course Management Guide" published by the North Carolina Justice Academy is hereby incorporated by reference, including subsequent amendments and editions, and shall be used by school directors in planning, implementing, and delivering basic detention officer training. The standards and requirements established by the "Detention Officer Certification Course Management Guide" shall be adhered to by the school director. The Justice Academy shall issue to each certified school director a copy of the guide at the time of certification at no cost to the certified school.

Authority G.S. 17E-4(a).

12 NCAC 10B .0602 TIME REQ/COMPLETION//DETENTION OFFICER CERT TRAINING COURSE

(a) Each individual employed by a sheriff's office or a district confinement facility as a detention officer shall have completed with passing scores the accredited Detention Officer Certification

Course as prescribed in 12 NCAC 10B .0601 prior to obtaining probationary certification. ~~holding probationary certification shall satisfactorily complete a commission-accredited detention officer training course. The individual shall complete such course within one year from the date of his original appointment as a detention officer as determined by the date of the probationary certification.~~ Any individual employed as a detention officer who does not comply with this Rule or other training provisions of this Chapter shall not be authorized to exercise the powers of a detention officer. ~~If, however, an individual has enrolled in a commission-accredited detention officer course that concludes later than the end of the individual's probationary period, the Commission may extend the probationary period for a period not to exceed six months.~~

(b) Persons having completed a commission-accredited detention officer training course and not having been duly appointed and certified as a detention officer within one year of completion of the course shall complete a subsequent commission-accredited detention officer training course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0602(a), unless the Director determines that a delay in applying for certification was due to simple negligence on the part of the applicant or employing agency, in which case the Director may accept the commission-accredited detention officer training program which is over one year old. Such extension of the one year period shall not exceed 30 days from the expiration date of a commission-accredited ~~detention officer training program.~~ Detention Officer Certification Course.

Authority G.S. 17E-4.

12 NCAC 10B .0603 EVALUATION FOR TRAINING WAIVER

(a) ~~Only applicants~~ Applicants for detention officer certification with prior detention or correctional officer experience who have been employed and certified as a detention or correctional officer may seek a training waiver evaluation pursuant to this ~~Rule.~~ Section.

(b) The Division shall use the following to evaluate a detention officer's training and experience to grant a waiver:

(1) Persons who separated from a detention officer position during the probationary period after completion of a commission-certified ~~detention officer training course~~ Detention Officer Certification Course and who have been separated from a detention officer position for more than one year shall complete a subsequent commission-certified ~~detention officer training course~~ Detention Officer Certification Course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as set forth in Rule .0602(a) of this Section.

(2) Persons who separated from a detention officer position during their probationary period after completion of a commission-certified ~~detention officer training course~~ Detention Officer Certification Course and who have been separated from a detention officer position for one year or less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b), but need not complete an additional training program.

(3) Persons who separated from a detention officer position during the probationary period without completion of a commission-certified ~~detention officer training course~~ Detention Officer Certification Course, or whose certification was suspended pursuant to Rule .0204(b)(1) of this Subchapter and who have remained separated or suspended for over one year shall complete a commission-certified ~~detention officer training course~~ Detention Officer Certification Course in its entirety and pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in Rule .0602(a) of this Section.

(4) Persons holding General Detention Officer Certification who completed a commission-certified Detention Officer Certification Course ~~detention officer training course~~ and who separated from a detention officer position for more than one year shall complete a subsequent commission-certified Detention Officer Certification Course ~~detention officer training course~~ in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in Rule .0602(a) of this Section.

(5) Persons holding Grandfather Detention Officer Certification who separate from a detention officer position and remain separated from a detention officer position for more than one year shall complete a commission-certified Detention Officer Certification Course ~~detention officer training program~~ in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in Rule .0602(a) of this Section.

(6) Persons transferring to a sheriff's office from another law enforcement agency who hold a detention officer certification issued by the North Carolina Criminal Justice Education and Training Standards Commission are subject to evaluation of their prior training and experience on an individual basis. The Division shall review the training received against the training required by Rule .0601 of this Section and determine whether that training is comparable to the requirements set out in Rule .0601 based upon topics covered and determine what additional training, if any is required under Rule .0601.

(c) The Division shall use the following ~~to evaluate~~ evaluation ~~a correction officer who holds a general certification as a correctional officer training and experience~~ to grant a waiver if the individual has general certification as a correctional officer

issued by the North Carolina Criminal Justice Education and Training Standards ~~Commission;~~ Commission

~~(1)~~ and completed training as a correctional officer between January 1, 1981 and August 1, ~~2002;~~ 2002:

(1)~~(2)~~ ~~transfer~~ transfers to a sheriff's office or a district confinement facility in a detention officer position; and

(2)~~(3)~~ has ~~have~~ had less than a one year break in service shall:

(A) serve a 12-month probationary period as set forth in Rule .0602(a) of this Section; and

(B) take and successfully complete the State Comprehensive Examination ~~state examination~~ in its entirety during that probationary period after completing the following topic areas in a commission-certified Detention Officer Certification Course: ~~detention officer certification course:~~

Orientation	3 hours
Legal Aspects of Management & Supervision	14 hours
Medical Care in the Jail	6 hours
Investigative Process in the Jail	8 hours
Criminal Justice System	2 hours
Introduction to Rules and Regulations Governing Jails	2 hours
Subject Control Techniques	32 hours
TOTAL HOURS	67 hours

(d) The Division shall use the following ~~to evaluate~~ evaluation ~~a correction officer who holds a general certification as a correctional officer training and experience~~ to grant a waiver if the individual has general certification as a correctional officer issued by the North Carolina Criminal Justice Education and Training Standards Commission ~~who:~~

~~(1)~~ and completed training as a correctional officer after August 1, ~~2002;~~ 2002:

~~(2)~~(1) ~~transfer~~ transfers to a sheriff's office or a district confinement facility in a detention officer position; and

~~(3)~~(2) ~~have~~ has had less than a one year break in service shall:

(A) submit documentation of the training completed as a correctional officer. The Division shall review the training received against the training required by Rule .0601 of this Section and determine whether that training is comparable to the requirements set out in Rule .0601 based upon topics covered and determine what additional training, if any is required under Rule .0601. The Division shall notify the employing agency of the resulting training requirements; and

(B) take and successfully complete the State Comprehensive Examination ~~state examination~~ in its entirety during the probationary period after completing the required training in a commission-certified Detention Officer Certification Course.

(e) Applicants for detention officer certification who hold probationary or general deputy sheriff certification with the North Carolina Sheriffs' Education and Training Standards Commission; or a law enforcement officer issued probationary or general certification by the Criminal Justice Education and Training Standards Commission, shall be granted a training waiver pursuant to this Section provided the individual:

(1) has successfully completed the NC Basic Law Enforcement Training Course;

(2) has had no break in service as a deputy sheriff or law enforcement officer exceeding one year.

(3) serve a 12-month probationary period as a detention officer, as set forth in Rule .0602(a) of this Section; and

(4) take and successfully complete the State Comprehensive Examination for the Detention Officer Certification Course in its entirety during that probationary period after:

(A) completing the following topic areas in a full delivery of a commission-certified Detention Officer Certification Course:

Course Orientation	3 hours
Ethics	3 hours
Fire Emergencies	4 hours
Aspects of Mental Illness	6 hours
Review and Testing	7 hours
Legal Aspects of Management and Supervision	14 hours
Contraband/Searches	6 hours
Medical Care in the Jail	6 hours
Patrol and Security Function of the Jail	5 hours
Key and Tool Control	2 hours
Supervision and Management of Inmates	5 hours
Suicides and Crisis Management	5 hours
Introduction to Rules and Regulations	2 hours
Stress	3 hours
Prison Rape Elimination Act	2 hours
TOTAL HOURS	73 hours

or

(B) completing a commission-certified truncated delivery of the Detention Officer Certification Course that covers the following topic areas:

Course Orientation	3 hours
Ethics	3 hours
Fire Emergencies	4 hours

Aspects of Mental Illness	6 hours
Review and Testing	7 hours
Legal Aspects of Management and Supervision	14 hours
Contraband/Searches	6 hours
Medical Care in the Jail	6 hours
Patrol and Security Function of the Jail	5 hours
Key and Tool Control	2 hours
Supervision and Management of Inmates	5 hours
Suicides and Crisis Management	5 hours
Introduction to Rules and Regulations	2 hours
Stress	3 hours
Prison Rape Elimination Act	2 hours
TOTAL HOURS	73 hours

(f) A truncated delivery of the Detention Officer Certification Course that only teaches blocks as specified in Paragraph (e) of this Rule is hereby authorized and shall comply with the following requirements:

(1) The "Detention Officer Certification Training Manual," including subsequent amendments and editions, shall be used as the basic curriculum for the specified topics covered in the truncated delivery.

(2) The "Truncated Detention Officer Certification Course Management Guide" published by the North Carolina Justice Academy is hereby incorporated by reference, including subsequent amendments and editions, and shall be used by school directors in planning, implementing, and delivering the truncated basic detention officer training.

(3) The standards and requirements established by the "Truncated Detention Officer Certification Course Management Guide" shall be adhered to by the school director. The Justice Academy shall issue to each certified school director a copy of the guide at the time of certification at no cost to the certified school.

(4) Each applicant shall complete form F-1 and pass the medical exam as required by 12 NCAC 10B .0304.

(5) Each executive officer or officers of the institution or agency sponsoring a truncated Detention Officer Certification Course shall comply with the provisions of 12 NCAC 10B .0703 except for Part .0703(c)(3)(D), as the truncated course does not require instruction in Subject Control Techniques because this is already provided in Basic Law Enforcement Training.

(6) Each school director shall submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) in compliance with 12 NCAC 10B .0704(8).

(7) Each school director shall not more than ten days after receiving from the Commission's representative the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B) in compliance with 12 NCAC 10B .0704(16).

(8) The delivering institution or agency must be certified to deliver the Detention Officer Certification Course under 12 NCAC 10B .0802.

(9) Each presentation of the truncated Detention Officer Certification Course shall be reported to the Commission in compliance with 12 NCAC 10B .0803.

(10) All instructors, school directors, executive officers, or lecturers involved in teaching and administering a truncated Detention Officer Certification Course shall hold the same certifications and qualifications required of instructors, school directors, executive officers, or lecturers in the full Detention Officer Certification Course.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0604 TRAINEE ATTENDANCE

(a) Each trainee enrolled in ~~an~~ any accredited ~~"Detention~~ Detention Officer Certification ~~Course"~~ Course shall attend all required class sessions. The sheriff shall be responsible for the trainee's regular attendance at all required sessions of the detention officer training course.

(b) The school director may recognize valid reasons for class absences and may excuse a trainee from attendance at specific class sessions. However, in no case may excused absences exceed ten percent of the total required class hours for the course offering.

(c) If the school director grants an excused absence from a class session, he shall schedule appropriate make-up work and ensure the satisfactory completion of such work during the current course presentation or in a subsequent course delivery as is permissible under 12 NCAC 10B .0605.

(d) A trainee shall not be eligible for administration of the State Comprehensive Examination nor certification for successful course completion if the cumulative total of class absences, with accepted make-up work, exceeds 10 percent of the total required class hours of the accredited course offering and shall be expediently terminated from further course participation by the school director at the time of such occurrence.

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

(f) Where a trainee is enrolled in a program as required in 12 NCAC 10B .0601, attendance shall be 100 percent in order to receive a successful course completion.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0605 COMPLETION OF DETENTION OFFICER CERTIFICATION COURSE

(a) Each trainee shall attend and satisfactorily complete a full course during a single scheduled delivery as set forth in Rule .0601 of this Section unless a waiver has been granted as set forth in Rule .0603 or .1901 of this Subchapter. Satisfactory completion is achieved by completion of the required topics, passing the end of block tests and passing the state examination as set out in Rule .0606 of this Section. The school director may develop supplemental rules as set forth in Rule .0704(a)(6) of this Subchapter, but may not add substantive courses, or change or expand the substance of the courses set forth in Rule .0601 of this ~~Section.~~ Section, except as provided by Rule .0603 of this Section. This Rule does not prevent the instruction on local agency rules or standards; however, such instruction shall not be considered or endorsed by the Commission for purposes of certification. The Director may issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the school director provides evidence that:

(1) The trainee attended and satisfactorily completed specified class hours and topics of the applicable ~~"Detention~~ Detention Officer Certification ~~Course"~~ Course but through extended absence occasioned by illness, accident, or emergency was absent for more than 10 percent of the total class hours of the course offering;

(2) The trainee was granted excused absences by the school director that did not exceed ten percent of the total class hours for the course offering and the school director could not schedule appropriate make-up work during the current course offering as specified in Rule .0604(c) of this Section; or

(3) The trainee participated in an offering of ~~the~~ any ~~"Detention~~ Detention Officer Certification ~~Course"~~ Course but had an identified deficiency in essential knowledge or skill in no more than three of the specified topic areas incorporated in the course content as set forth in Rule .0601(b) or .0603 of this Section.

(b) An authorization of limited enrollment in a subsequent course delivery may not be granted by the Director unless in addition to the evidence required by Paragraph (a) of this Rule:

(1) The trainee submits a written request to the Director, justifying the limited enrollment and certifying that the trainee's participation shall be accomplished pursuant to Paragraph (c) of this Rule; and

(2) The school director of the previous school offering submits to the director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment.

(c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of ~~the~~ any "Detention Officer Certification Course" commencing within 180 calendar days from the last date of trainee participation in prior course delivery, but only if the trainee's enrollment with active course participation can be accomplished within the period of the trainee's probationary certification:

(1) The trainee need attend and satisfactorily complete only those portions of the course which were missed or identified by the school director as areas of trainee deficiency in the initial course participation.

(2) Following authorized enrollment in the subsequent course offering, scheduled class attendance and active participation with satisfactory achievement in the course, the trainee shall be eligible for administration of the State Comprehensive Examination by the Commission.

(3) A trainee shall be enrolled as a limited enrollee in only one subsequent course offering within the 180 calendar days from the last date of trainee participation in prior course delivery. A trainee who fails to complete those limited portions of the course after one retest shall enroll in an entire delivery of the Detention Officer Certification Course.

(d) A trainee who is deficient in four or more subject-matter or topical areas at the conclusion of the course delivery shall complete a subsequent program in its entirety.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0606 COMP WRITTEN EXAM – DETENTION OFFICER CERTIFICATION COURSE

(a) At the conclusion of a school's offering of ~~the~~ any ~~"Detention~~ Detention Officer Certification ~~Course",~~ Course, an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the required course work. A trainee shall not be administered the comprehensive written examination until such time as all required course work is successfully completed.

(b) The examination shall be comprised of four units as specified in 12 NCAC 10B .0601(b). Each unit is designed to test the trainees' proficiency in that unit.

(c) The Commission's representative shall submit to the school director within 10 days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination upon achieving a minimum of 70 percent correct answers on each of the four units as prescribed in 12 NCAC 10B .0601(b).

(e) A trainee who has fully participated in a scheduled delivery of ~~a certified training course~~ any Detention Officer Certification Course and has demonstrated satisfactory competence in each required motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on any of the four units of the Commission's comprehensive written examination may request the Director to authorize a re-examination of the trainee in those units for which he or she has failed to make a passing score of 70 percent as follows:

(1) A trainee's request for re-examination shall be made in writing on the Commission's form

within 30 days after the original examination and shall be received by the Division before the expiration of the trainee's probationary certification as a detention officer.

(2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the trainee's ~~"Detention~~ Detention Officer Certification ~~Course".~~ Course.

(3) A trainee shall have only one opportunity for re-examination and shall satisfactorily complete the subsequent unit examination in its entirety within 90 days after the original examination.

(4) A trainee shall be assigned in writing by the Division a place, time, and date for re-examination.

(5) Should the trainee on re-examination not achieve the prescribed minimum score of 70 on the unit re-examination, the trainee shall not be given successful course completion and must enroll and successfully complete the unit(s) he or she failed upon re-examination in a subsequent course offering within 180 days of the second failure before further examination may be permitted.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0607 SATISFACTION OF MINIMUM TRAINING REQUIREMENTS

In order to satisfy the minimum training requirements for certification as a detention officer, a trainee shall:

(1) achieve a score of 70 percent correct answers on the Commission-administered comprehensive written examination;

(2) demonstrate successful completion of an accredited offering of ~~the~~ any ~~"Detention~~ Detention Officer Certification ~~Course"~~ Course as shown by the certification of the school director; and

(3) obtain the recommendation of the trainee's school director that the trainee possesses at least the minimum degree of general attributes, knowledge, and skill to function as an inexperienced detention officer.

Authority G.S. 17E-4; 17E-7.

SECTION .0700 - MINIMUM STANDARDS FOR JUSTICE OFFICER SCHOOLS AND TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 10B .0702 ADMINISTRATION OF JUSTICE OFFICER SCHOOLS

The rules covering the administration of Criminal Justice Schools and training programs or courses of instruction, codified as Title 12, Subchapter 9B, Section .0200 of the North Carolina Administrative Code, effective and previously adopted by the North Carolina Criminal Justice Education And Training Standards Commission are hereby incorporated by reference and shall automatically include any later amendments and editions of the incorporated material to apply to actions of the North Carolina Sheriffs' Education and Training Standards Commission with the exception of ~~the~~ any Detention Officer Certification Course and the Telecommunicator Certification Course. Copies of the incorporated materials may be obtained at no cost from the Criminal Justice Standards Division, North Carolina Department of Justice, 1700 Tryon Park Drive, Post Office Drawer 149, Raleigh, North Carolina 27692, or at http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Training-Certification-Programs.aspx.

Authority G.S. 17E-4.

12 NCAC 10B .0703 ADMINISTRATION OF DETENTION OFFICER CERTIFICATION COURSE

(a) The executive officer or officers of the institution or agency sponsoring ~~a~~ any Detention Officer Certification Course shall have primary responsibility for implementation of the rules in this Section and for administration of the school.

(b) The executive officers shall designate a compensated staff member who may apply to the Commission to be the school director. No more than two school directors shall be designated at each certified institution/agency to deliver ~~a~~ any Detention Officer Certification Course. The school director shall have administrative responsibility for planning scheduling, presenting, coordinating, reporting, and generally managing each sponsored detention officer certification course and shall be readily available at all times during course delivery as specified in 12 NCAC 10B .0704(b). The School Director may designate a Qualified Assistant to assist in the administration of the Detention Officer Certification Course, where the School Director has provided justification for the need including overlapping or simultaneous Commission-mandated courses, satellite delivery locations, or responsibility for multiple courses. This person must be selected by the School Director, who will forward identifying and contact information to the Division. Division staff will conduct a course orientation with the designated person. In order to retain the designation as a qualified assistant, the person must attend the Annual School Directors' Conference.

(c) The executive officers of the institution or agency sponsoring ~~the~~ any Detention Officer Certification Course shall:

(1) acquire and allocate sufficient financial resources to provide commission-certified instructors and to meet other necessary program expenses;

(2) provide adequate secretarial, clerical, and other supportive staff assistance as required by the school director;

(3) except as provided by 12 NCAC 10B .0603(e)(4)(B), provide or make available suitable facilities, equipment, materials, and supplies for comprehensive and qualitative course delivery, as required in the "Detention Officer Certification Course Management Guide" and specifically including the following:

(A) a comfortable, well-lighted and ventilated classroom with a seating capacity sufficient to accommodate all attending trainees;

(B) audio-visual equipment and other instructional devices and aids necessary and beneficial to the delivery of effective training;

(C) a library for trainees' use covering the subject matter areas relevant to the training course, maintained in current status and having sufficient copies for convenient trainee access; and

(D) an area designated for instruction of subject control techniques which enables the safe execution of the basic detention officer subject control techniques topic area, with the following specifications:

(i) 30 square feet of floor space per student during the practical exercise portion of this topic area and while testing trainees' proficiency in performing the required maneuvers;

(ii) one instructor for every 10 students during the practical exercise portion of this topic area and while testing trainees' proficiency in performing the required maneuvers;

(iii) restrooms and drinking water within 100 yards of the training site; and

(iv) telephone or radio communication immediately available on site.

(E) an area designated for use as a jail cell for performing the practical exercises in the topic area entitled "Contraband Searches". If a county jail cell is unavailable, a simulated jail cell is acceptable provided it is built to the same specifications required by the Department of Human Resources with regards to size;

(F) an area designated for fire emergencies instruction which enables the safe execution of the lesson plan as follows:

(i) a well-ventilated, open area which allows for the setting and putting out of a fire;

(ii) restrooms and drinking water within 100 yards of the training site; and

(iii) telephone or radio communication immediately available on site.

(G) an area designated for physical fitness for detention officer trainees to include:

(i) an area for running, weight lifting and other exercises performed during the physical fitness topic area which provides a minimum of 20 square feet per trainee during the performance of the exercises required in the physical fitness topic area;

(ii) restrooms and drinking water within 100 yards of the training site;

(iii) telephone or radio communication immediately available on site;

(iv) shower facilities, if physical fitness is performed prior to classroom training;

(v) one instructor for every 10 students during the physical assessment portion of this block of instruction; and

(vi) sufficient instructors as needed to maintain visual contact with students while performing any physical exercise.

(H) an area designated for instruction in first aid and CPR techniques which provides a minimum of 20 square feet per trainee during the practical exercise portion and testing for proficiency in administering CPR. There must also be one instructor for every 10 students during the practical exercise portion and proficiency testing in administering CPR.

(d) If an institution or agency does not own a facility as required in this Section, written agreements with other entities must be made to assure use of and timely access to the facilities. A copy of the agreement must accompany the originating institution or agency "Pre-Delivery Report" (Form F7-A) when submitted to the Division.

Authority G.S. 17E-4.

12 NCAC 10B .0704 RESPONSIBILITIES: SCHOOL DIRECTORS, DETENTION OFFICER ~~COURSE~~ COURSES

(a) In planning, developing, coordinating, and delivering ~~each~~ any commission-certified Detention Officer Certification ~~Course,~~ Courses, the school director shall:

(1) Formalize and schedule the course curriculum in accordance with the curriculum standards established by the rules in this Chapter.

(A) ~~The~~ Any Detention Officer Certification Course shall be presented with a minimum of 40 hours of instruction each week during consecutive calendar weeks until course requirements are completed, with the exception of weeks in which there are regularly scheduled holidays.

(B) In the event of exceptional or emergency circumstances, the Director shall, upon written finding of justification, grant a waiver of the minimum hours requirement.

(2) Select and schedule instructors who are properly certified by the Commission. The selecting and scheduling of instructors is subject to special requirements as follows:

(A) No single individual may be scheduled to instruct more than 35 percent of the total hours of the curriculum during any one delivery except as set forth in Part (a)(2)(B) of this Rule.

(B) Where the school director shows exceptional or emergency circumstances and the school director documents that an instructor is properly certified to instruct more than 35 percent of the total hours of the curriculum, the Director of the Division shall grant written approval for the expansion of the individual instructional limitation.

(C) The appropriate number of instructors for specific topic areas shall be scheduled as required in 12 NCAC 10B .0703.

(3) Provide each instructor with a commission-approved course outline and all necessary additional information concerning the instructor's duties and responsibilities.

(4) Review each instructor's lesson plans and other instructional materials for conformance to the rules in this Chapter and to minimize repetition and duplication of subject matter.

(5) Arrange for the timely availability of appropriate audiovisual aids and materials, publications, facilities and equipment for training in all topic areas as required in ~~the~~ any ~~"Detention~~ Detention Officer Certification Course Management ~~Guide".~~ Guide, except as provided in 12 NCAC 10B .0603.

(6) Develop, adopt, reproduce, and distribute any supplemental rules, regulations, and requirements determined by the school to be necessary or appropriate for:

(A) Effective course delivery;

(B) Establishing responsibilities and obligations of agencies or departments employing course trainees; and

(C) Regulating trainee participation and demeanor and ensuring trainee attendance and maintaining performance records.

A copy of such rules, regulations and requirements shall be submitted to the Director as an attachment to the Pre-Delivery Report of Training Course Presentation, Form F-7A. A copy of such rules shall also be given to each trainee and to the sheriff of each trainee's employing agency at the time the trainee enrolls in the course.

(7) If appropriate, recommend housing and dining facilities for trainees.

(8) Not less than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation (Form F-7A) along with the following attachments:

(A) A comprehensive course schedule showing arrangement of topical presentations and proposed instructional assignments;

(B) A copy of any rules, regulations, and requirements for the school and, when appropriate, completed applications for certification of instructors. The Director shall review the submitted Pre-Delivery Report together with all attachments to ensure that the school is in compliance with all commission rules; if school's rules are found to be in violation, the Director shall notify the school director of deficiency, and approval shall be withheld until all matters are in compliance with the Commissions' rules.

(9) Administer the course delivery in accordance with the rules in this Chapter and ensure that the training offered is as effective as possible.

(10) Monitor or designate a certified instructor to monitor the presentations of all probationary instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. A person holding General Instructor Certification under the Criminal Justice Education and Training Standards Commission may evaluate instructors teaching any lecture portion of the course. However, if a Limited Lecturer is evaluated during the practical portion of a block of instruction, he/she must be evaluated by either the School Director or another instructor holding the equivalent type of certification. These evaluations shall be prepared on commission forms and forwarded to the Division at the conclusion of each delivery. Based on this

evaluation the school director shall recommend approval or denial of requests for Detention Officer Instructor Certification, Limited Lecturer Certification or Professional Lecturer Certification. The observations shall be of sufficient duration to ensure the instructor is using the Instructional System Development model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor.

(11) Monitor or designate a certified instructor to monitor the presentations of all other instructors during course delivery and prepare written evaluations on their performance and suitability for subsequent instructional assignments. A person holding General Instructor Certification under the Criminal Justice Education and Training Standards Commission may evaluate instructors teaching any lecture portion of the course. However, if a Limited Lecturer is evaluated during the practical portion of a block of instruction, he/she must be evaluated by either the School Director or another instructor holding the equivalent type of certification. Instructor evaluations shall be prepared on commission forms in accordance with the rules in this Chapter. These evaluations shall be kept on file by the school for a period of three years and shall be made available for inspection by a representative of the Commission upon request. The observations shall be of sufficient duration to ensure the instructor is using the Instructional System Development model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan. For each topic area, the school director's or designee's evaluation shall be based on the course delivery observations, the instructor's use of the approved lesson plan, and the results of the students evaluations of the instructor.

(12) Ensure that any designated certified instructor who is evaluating the instructional presentation of another holds certification in the same instructional topic area as that being taught.

(13) Administer or designate a person to administer appropriate tests as determined necessary at various intervals during course delivery.

(14) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated.

(15) During ~~a~~ <u>any</u> delivery of the Detention Officer Certification Course, make available to authorized representatives of the Commission three hours of scheduled class time and classroom facilities for the administration of a written examination to those trainees who have satisfactorily completed all <u>required</u> course work.

(16) Not more than ten days after receiving from the Commission's representative the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B).

(b) In addition to the requirements in 12 NCAC 10B .0704(a), the school director shall be readily available to students and Division staff at all times during course delivery by telephone, pager, or other means. The means, and applicable numbers, shall be filed with the commission-certified training delivery site and the Division prior to the beginning of a scheduled course delivery.

Authority G.S. 17E-4.

12 NCAC 10B .0705 QUALIFICATIONS TO ACT AS SCHOOL DIRECTORS

Any person designated to act as, or who performs the duties of, a school director in the delivery or presentation of ~~a~~ <u>any</u> commission-accredited <u>Detention Officer Certification Course</u> ~~detention officer training course~~ shall meet the following qualifications prior to commencing duties as such. Any designated school director will continuously maintain these qualifications during service as a school director.

(1) Submit a written designation as school director executed by the executive officer of the institution or agency currently accredited, or which may be seeking accreditation, by the Commission to make presentation of accredited training programs;

(2) Be certified as a criminal justice instructor by the North Carolina Criminal Justice Education and Training Standards Commission;

(3) Attend or must have attended the most current offering of the school director's orientation as developed and presented by the Commission staff;

(4) Attend or must have attended the most current offering of the school director's conference as presented by the Commission staff and staff of the North Carolina Criminal Justice Education and Training Standards Commission and Standards Division;

(5) Not have had any type of certification issued from this Commission, from the North Carolina Criminal Justice Education and Training Standards Commission, or from any commission, agency, or board established to certify pursuant to said commission, agency or boards' standards, which was revoked,

suspended or denied for cause and such period of sanction is still in effect at the time of designation;

(6) Perform the duties and responsibilities of a school director as specifically required in Rule .0704;

(7) Maintain an updated copy of the "Detention Officer Certification Training Manual" assigned to each accredited school; and

(8) Ensure compliance with the Commission's accreditation requirements as set forth in 12 NCAC 10B .0703 and .0802.

Authority G.S. 17E-4.

Note: Italicized amendments have previously been published with a proposed effective date of January 2023.

12 NCAC 10B .0713 ADMISSION OF TRAINEES

(a) The school director shall not admit any individual as a trainee in any commission-certified basic training course who is not a citizen of the United States.

(b) The school shall not admit any individual younger than ~~21~~ *20* years of age as a trainee in ~~the~~ any Detention Officer Certification Course and shall not admit any individual younger than 18 years of age as a trainee in the Telecommunicator Certification Course without the prior written approval of the Director of the Standards Division. The Director shall approve those individuals who will turn ~~21~~ *20* years of age prior to the end of ~~the~~ any Detention Officer Certification Course and, those individuals who will turn 18 years of age prior to the end of the Telecommunicator Certification Course.

(c) The school shall not admit any individual who has not provided documentation that he or she meets the educational requirement set out in 12 NCAC 10B .0302.

(d) The school shall give priority admission in commission-certified basic training courses to individuals holding full-time employment with criminal justice agencies.

~~*(e) The school shall administer the reading component of a standardized test that reports a grade level for each trainee participating in either the Telecommunicator or Detention Officer Certification Course. The specific test instrument shall be determined by the school director and shall be administered within the first week of the Course. The grade level results for each trainee shall be submitted to the Commission on each trainee's Report of Student Course Completion.*~~

~~*(f)*~~*(e)* The school shall not admit any individual as a trainee in a presentation of ~~the~~ any Detention Officer Certification Course or the Telecommunicator Certification Course unless the individual has provided to the School Director a Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) in compliance with 12 NCAC 10B .0304. The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) required by the North Carolina Criminal Justice Education and Training Standards Commission shall be recognized by the Commission for the purpose of complying with this Rule.

~~*(g)*~~*(f)* The school shall not admit any individual trainee in commission-certified basic training courses unless the individual has provided the School Director a certified criminal record check for local and state records where the trainee has resided within the past 10 years and where the trainee attended high school. An Administrative Office of the Courts criminal record check or a comparable out-of-state criminal record check shall satisfy this requirement. If an individual trainee has received a probationary certificate from the Commission at the time of enrollment, this records check requirement shall be waived.

~~*(h)*~~*(g)* The school shall not admit any individual as a trainee in commission-certified basic training courses who has been convicted of the following:

(1) a felony;

(2) a crime for which the punishment could have been imprisonment for more than two years;

(3) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the date of appointment;

(4) four or more crimes or unlawful acts as defined as "Class B Misdemeanors" regardless of the date of conviction;

(5) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the trainee may be enrolled if the last conviction occurred more than two years prior to the date of enrollment; or

(6) a combination of four or more "Class A Misdemeanors" or "Class B Misdemeanors" regardless of the date of conviction.

~~*(i)*~~*(h)* Individuals charged with crimes specified in this Paragraph that were dismissed or the person was found not guilty may be admitted into the commission-certified basic training courses, but completion will not ensure that certification as a justice officer through the Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Commission-certified Basic Law Enforcement Training Course shall notify the School Director of all criminal offenses that the trainee is arrested for, charged with, pleads no contest to, pleads guilty to, or is found guilty of, and shall notify the School Director of all Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (50C) that are issued by a judicial official that provide an opportunity for both parties to be present, including all criminal offenses except minor traffic offenses. A minor traffic offense is defined for purposes of this Paragraph as any offense under G.S. 20 or similar laws of other jurisdictions except those Chapter 20 offenses published in the Class B Misdemeanor Manual. Other traffic offenses under laws of other jurisdictions that shall be reported to the School Director include driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years and driving while license permanently revoked or permanently suspended. The notifications required under this Paragraph shall be in writing and shall specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Order (G.S 50B) or Civil No Contact Order (G.S. 50C), and the final disposition and the date thereof. The notifications required under this Paragraph shall be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph shall apply at all times during which the trainee is enrolled in a Basic

Law Enforcement Training Course. The requirements of this Paragraph shall be in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

Authority G.S. 17C-4; 17E-7.

12 NCAC 10B .0714 PILOT COURSE PRESENTATION/PARTICIPATION

(a) When the Commission approves the development of a new course or the development of a new version of an existing course, the Commission shall designate the developer, and such designation shall be deemed by the Commission as approval for the developer to conduct pilot offerings of the course. A minor or major revision to existing curriculum does not constitute a new version of an existing curriculum.

(b) Individuals who complete such a pilot course offering shall not be required by other rules of this Subchapter to complete additional training for that specific certification program. Such pilot training courses shall be recognized for purposes of certification or recertification.

Authority G.S. 17E-7.

SECTION .0800 - ACCREDITATION OF JUSTICE OFFICER SCHOOLS AND TRAINING COURSES

12 NCAC 10B .0802 CERTIFICATION: DELIVERY/DETENTION OFFICER CERTIFICATION COURSE

(a) An institution or agency must be certified to deliver ~~a~~ any Detention Officer Certification Course.

(b) In order to obtain certification, an institution or agency shall meet or exceed the following minimum standards for overall course delivery:

(1) the institution or agency shall conduct a minimum of one Detention Officer Certification Course each calendar year;

(2) the executive officer shall comply with the requirements of 12 NCAC 10B .0703; and

(3) the executive officer shall comply with the additional certification requirements as specified in the "Detention Officer Certification Course Management ~~Guide".~~ Guide" or "Truncated Detention Officer Certification Course Management Guide."

(c) An institution or agency meeting the requirements of 12 NCAC 10B .0802(b) may submit a "Request for Certification" (Form F-7) to the Division. Upon receipt of the request, the Division staff shall:

(1) review the application for completeness;

(2) contact the institution or agency executive officer or designated school director to schedule an on-site visit and tour of the proposed training facilities;

(3) during the on-site visit note any deficiencies and attempt to provide assistance and recommendations in correcting those deficiencies; and

(4) notify the applying institution or agency, in writing, of the approval or denial of the certification request.

(d) In cases where the deficiencies prohibit the immediate certification of the institution or agency, the application shall be placed in a pending status:

(1) applications may remain in a pending status for no more than 30 days from the date of notification of any deficiencies; and

(2) within or following the 30 day period, the Division shall:

(A) issue certification; or

(B) notify the institution or agency, in writing, that it must re-apply for certification.

(e) Any existing commission-issued certifications issued and valid on July 31, 1998 shall be automatically extended with an expiration date of December 31, 1999 at which time the previously issued certification shall be terminated.

(f) All new applicants for certification shall meet the requirements of this Section after August 1, 1998.

(g) The certified institution or agency shall be subject to unannounced on-site certification audits to ensure compliance with the rules in this Section

(h) Following an on-site certification audit, the Division staff shall:

(1) notify the institution or agency of the results of the audit; and

(2) recommend to the Commission's Probable Cause Committee any action pursuant to 12 NCAC 10B .0802(j).

(i) School certification shall remain effective until surrendered, suspended, or revoked.

(j) The Commission may suspend or revoke the certification of a school when it finds that the school has failed to meet or to continuously maintain any requirement, standard or procedure for school certification or course delivery as required by Section .0700 of this Subchapter.

Authority G.S. 17E-4.

Note: Italicized amendments have previously been published with a proposed effective date of January 2023.

12 NCAC 10B .0803 REPORTS/DETENTION OFFICER CERT COURSE PRESENTATION/ COMPLETION

Each presentation of ~~the~~ any Detention Officer Certification Course shall be reported to the Commission as follows:

(1) After acquiring accreditation for the course and before commencing each delivery of the course, the school director shall, no less than 30 days prior to the scheduled delivery, notify the Division of the school's intent to offer the training course by submitting a Pre-Delivery Report of Training Course Presentation (Form F-7A); and

(2) Upon completing delivery of the accredited course, and not more than ten days after

receiving from the Commission's representative the Report of Examination Scores, the school director shall notify the Division regarding the progress and achievement of each enrolled trainee by submitting a Post-Delivery Report of Training Course Presentation (Form F-7B). ~~*This report shall also include each trainee's reading grade level as determined by testing required in 12 NCAC 10B .0601(c).*~~

Authority G.S. 17E-4; 17E-7.

SECTION .0900- MINIMUM STANDARDS FOR JUSTICE OFFICER INSTRUCTORS

12 NCAC 10B .0901 CERT/INSTRUCTORS/BASIC LAW ENFORCEMENT TRAINING COURSE

The rules covering the certification of instructors, codified as Title 12, Subchapter 9B, Section .0300 of the North Carolina Administrative Code, and adopted by the North Carolina Criminal Justice Education and Training Standards Commission, are hereby incorporated by reference, and shall automatically include any later amendments and editions of the referenced materials, to apply to actions of the North Carolina Sheriffs' Education and Training Standards Commission with the exception of instructors for ~~the~~ any Detention Officer Certification Course and Telecommunicator Certification Course. Copies of the publication may be obtained from the Office of Administrative Hearings, Rules Division web-site http://www.ncoah.com/rules.

Authority G.S. 17E-4.

12 NCAC 10B .0903 CERT: INSTRUCTORS FOR DETENTION OFFICER CERTIFICATION COURSE

(a) Any person participating in ~~a~~ any commission-certified Detention Officer Certification Course as an instructor, teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the Commission as an instructor.

(b) The Commission shall certify Detention Officer Certification Course instructors under the following categories:

(1) Detention Officer Instructor Certification;
(2) Professional Lecturer Certification; or
(3) Limited Lecturer Certification as outlined in Rules .0904, .0906 and .0908 of this Section.

(c) In addition to all other requirements of this Section, all instructors certified by the Commission to teach in ~~a~~ any commission-certified Detention Officer Certification Course shall remain knowledgeable and attend and complete any instructor training updates related to curriculum content and delivery as may be offered by the curriculum developer and within the time period as specified by the curriculum developer.

Authority G.S. 17E-4.

12 NCAC 10B .0906 PROFESSIONAL LECTURER CERTIFICATION

(a) The Commission may issue Professional Lecturer Certification to a licensed attorney-at-law or a person with a law degree to teach "Legal Aspects of Jail Management and Administration" or other approved Detention Officer Certification Course legal block in ~~the~~ any Detention Officer Certification Course.

(b) To be eligible for such certification an applicant shall present documentary evidence demonstrating that the applicant has:

(1) graduated from an accredited law school;
(2) obtained the endorsement of a commission recognized school director who shall:
    (A) recommend the applicant for certification as a professional lecturer; and
    (B) describe the applicant's expected participation, topical areas, duties and responsibilities.

Authority G.S. 17E-4.

12 NCAC 10B .0910 USE OF GUEST PARTICIPANTS

The use of guest participants in a delivery of ~~the~~ any Detention Officer Certification Course is permissible with the exception of those topic areas requiring instructors certified pursuant to 12 NCAC 10B .0908 and .0909. Such guest participants are subject to the direct on-site supervision of a commission-certified instructor and must be authorized by the school director. A guest participant shall only be used to complement the primary certified instructor of the topic area and shall in no way replace the primary instructor.

Authority G.S. 17E-4.

12 NCAC 10B .0911 SUSPENSION: REVOCATION: DENIAL OF DETENTION OFFICER INSTRUCTOR CERTIFICATION

(a) The Division may notify an applicant for instructor certification or a certified instructor that a deficiency appears to exist and attempt, in an advisory capacity, to assist the person in correcting the deficiency.

(b) When any person certified as an instructor by the Commission is found to have knowingly and willfully violated any provision or requirement of the rules of this Subchapter, the Commission may take action to correct the violation and to ensure that the violation does not recur, including:

(1) issuing an oral warning and request for compliance;
(2) issuing a written warning and request for compliance;
(3) issuing an official written reprimand;
(4) summarily suspending the individual's certification for a specified period of time or until acceptable corrective action is taken by the individual if the Commission finds that the public health, safety, or welfare requires immediate action; or
(5) revoking the individual's certification.

(c) The Commission may deny, suspend, or revoke an instructor's certification when the Commission finds that the person:

(1) has failed to meet and maintain any of the requirements for qualification;

(2) has failed to remain knowledgeable in the person's areas of expertise by failing to attend and successfully complete any instructor training updates pursuant to 12 NCAC 10B .0903(c);
(3) has failed to deliver training in a manner consistent with the instructor lesson plans;
(4) has failed to follow specific guidelines outlined in the applicable "Detention Officer Certification Course Management Guide" or the "Truncated Detention Officer Certification Course Management Guide" which ~~is~~ are hereby incorporated by reference and shall automatically include any later amendments and editions of the referenced materials. This publication is authored by and may be obtained from the North Carolina Justice Academy, Post Office Drawer 99, Salemburg, North Carolina 28385 at no cost at the time of adoption of this Rule;
(5) has demonstrated unprofessional personal conduct as defined in 12 NCAC 10B .0103(21) in the delivery of commission-mandated training;
(6) has otherwise demonstrated instructional incompetence;
(7) has knowingly and willfully obtained, or attempted to falsify data, records, scores, grades, or any other student course materials or obtain or maintain instructor certification by deceit, fraud, or misrepresentation; or
(8) has had any type of certification issued from the Commission, from the North Carolina Criminal Justice Education and Training Standards Commission, or from any commission, agency, or board established to certify pursuant to said commission, agency or boards' standards, which was revoked, suspended or denied for cause.

Authority G.S. 17E-4.

12 NCAC 10B .0912 PERIOD/SUSPENSION: REVOCATION: OR DENIAL OF DETENTION OFFICER INSTRUCTOR CERTIFICATION

The period of suspension, revocation or denial of the certification of an instructor pursuant to 12 NCAC 10B .0911 shall be:

(1) no more than one year where the cause of sanction is:
  (a) failure to deliver training in a manner consistent with the instructor lesson plans; or
  (b) failure to follow specific guidelines outlined in the applicable "Detention Officer Certification Course Management Guide" or "Truncated Detention Officer Certification Course Management Guide," which ~~is~~ are hereby incorporated by reference and shall automatically include any later amendments and editions of the referenced materials. This publication is authored by and may be obtained from the North Carolina Justice Academy, Post Office Drawer 99, Salemburg, North Carolina 28385 at no cost at the time of adoption of this Rule; or
  (c) unprofessional personal conduct as defined in 12 NCAC 10B .0103(21) or demonstration of instructional incompetence in the delivery of ~~the~~ any Detention Officer Certification Course.
(2) no more than five years where the sanction is knowingly and willfully obtaining or attempting to falsify data, records, scores, grades, or any other student course materials or obtain or maintain instructor certification by deceit, fraud, or misrepresentation.
(3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:
  (a) failure to meet and maintain any of the requirements for qualification; or
  (b) failure to remain knowledgeable in the person's areas of expertise.

Authority G.S. 17E-4.

SECTION .1300 - MINIMUM STANDARDS OF TRAINING FOR TELECOMMUNICATORS

12 NCAC 10B .1302 TELECOMMUNICATOR CERTIFICATION COURSE

(a) The Commission hereby accredits as its telecommunicator certification training program, the 47-hour Telecommunicator Certification Course developed by the North Carolina Justice Academy.

(b) Each Telecommunicator Certification Course shall include the following identified topic areas and approximate minimum instructional hours for each area:

(1)	Orientation	2 hours
(2)	Introductory Topics for the Telecommunicator	2 hours
(3)	Interpersonal Communication	4 hours
(4)	Civil Liability for the Telecommunicator	4 hours
(5)	Telecommunications Systems and Equipment	2 hours
(6)	Overview of Emergency Services	9 hours
(7)	Communications Resources	2 hours
(8)	Call Reception, Prioritization, and Resource Allocation	6 hours
(9)	Broadcasting Techniques, Rules, and Procedures	6 hours

(10)	Telecommunicator Training Practicum	8 hours
(11)	State Comprehensive Examination	2 hours
TOTAL HOURS		47 hours

~~(c) Consistent with the curriculum development policy of the Commission as published in the "Telecommunicator Certification Course Management Guide", the Commission shall designate the developer of the Telecommunicator Certification Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Telecommunicator Certification Courses. Individuals who complete such a pilot Telecommunicator Certification Course offering shall be deemed to have complied with and satisfied the minimum training requirement.~~

~~(d)~~(c) The "Telecommunicator Certification Training Manual" as published by the North Carolina Justice Academy shall be used and shall automatically include any later amendments and editions of the incorporated matter to apply as the basic curriculum for the Telecommunicator Certification Course. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099.

~~(e)~~(d) The "Telecommunicator Certification Course Management Guide" as published by the North Carolina Justice Academy shall be used and shall automatically include any later amendments, editions of the incorporated matter to be used by certified school directors in planning, implementing and delivering basic telecommunicator training. The standards and requirements established by the "Telecommunicator Certification Course Management Guide" must be adhered to by the certified school director. Each certified school director shall be issued a copy of the guide at the time of certification at no cost to the accredited school.

~~(f)~~(e) Institutions may offer to deliver the Telecommunicator Certification Course after the Commission has approved the institution's pre-delivery report documenting who will be teaching the blocks of instruction for each course offering.

Authority G.S. 17E-4(a).

12 NCAC 10B .1303 TIME REQ/COMPLETION/TELECOMMUNICATOR CERTIFICATION COURSE

(a) Each telecommunicator shall have completed with passing scores the Telecommunicator Certification Course as prescribed in 12 NCAC 10B .1302 prior to obtaining probationary certification. ~~holding temporary or probationary certification shall satisfactorily complete a commission-accredited Telecommunicator Certification Course. The telecommunicator shall complete such course within one year from the date of his/her appointment.~~ Any telecommunicator who does not comply with this Rule or other training provisions of this Chapter shall not be authorized to exercise the powers of a telecommunicator. ~~If, however, a telecommunicator has enrolled in a commission-accredited Telecommunicator Certification Course that concludes later than the end of the telecommunicator's probationary period, the Commission may extend the probationary period for a period not to exceed six months.~~

(b) Persons having completed a commission-accredited Telecommunicator Certification Course and not having been duly appointed and certified in a telecommunicator position as defined in 12 NCAC 10B .0103(15) within one year of completion of the Telecommunicator Certification Course shall complete a subsequent commission-accredited Telecommunicator Certification Course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0402, unless the Director determines that a delay in applying for certification was due to an act of God or simple negligence on the part of the applicant or employing agency, in which case the Director may accept a commission-accredited Telecommunicator Certification Course which is over one year old. Such extension of the one year period shall not exceed 30 days from the expiration date of a commission-accredited Telecommunicator Certification Course.

Authority G.S. 17E-4; 17E-7.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 17 – BOARD OF DIETETICS, NUTRITION

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Board of Dietetics/Nutrition intends to amend the rules cited as 21 NCAC 17 .0101, .0103, .0104, .0106, .0108, .0110, .0113, .0114, .0302-.0304, .0401-.0403 and repeal the rules cited as 21 NCAC 17 .0201-.0203.*

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

Link to agency website pursuant to G.S. 150B-19.1(c): *http://www.ncbdn.org/proposed-rule-changes*

Proposed Effective Date: *November 1, 2022*

Public Hearing:
Date: *September 7, 2022*
Time: *1:00 p.m.*
Location:
Join Zoom Meeting
https://us02web.zoom.us/j/86158203823?pwd=YnVkUG5TblhPZHRmU21ySzNQMzljQT09 Meeting ID: 861 5820 3823 Passcode: eRF3Hp
*One tap mobile +19292056099,,86158203823#,,,,*490019# US (New York) +13017158592,,86158203823#,,,,*490019# US (Washington DC)*
Dial by your location +1 929 205 6099 US (New York) +1 301 715 8592 US (Washington DC) +1 312 626 6799 US (Chicago) +1 669 900 6833 US (San Jose) +1 253 215 8782 US (Tacoma) +1 346 248 7799 US (Houston)
Meeting ID: 861 5820 3823
Passcode: 490019
Find your local number:

https://us02web.zoom.us/u/kcNqkYXQA7

Reason for Proposed Action: *In 2018 the North Carolina Dietetics/Nutrition Practice Act was modernized via Session Law 2018-91. Pursuant to G.S. § 150B-21.3A(d)(2), select rules were readopted in 2019 to implement some of the changes instigated by the 2018 statutory changes. With the current proposed adoptions, amendments, and repeals, the North Carolina Board of Dietetics/Nutrition (hereinafter "the Board") seeks to align all of its rules with the statutory authority provided in Article 25, Chapter 90, ensure clarity, streamline the application process, and ensure its ability to continue operations.*

The Board has proposed an increase in its fees. Recognizing the Board has not increased its fees since 2003, the Board finds such increases necessary due to significant increases in legal costs related to implementing the 2018 statutory changes, a substantial rise in insurance premiums, and increases in the costs of doing business. Since 2016, when the Board pulled from its savings to invest in an online licensure system, most application and renewal fees have been paid via credit card. The Board has historically absorbed all credit card fees, but at an approximate cost of $13,000 for fiscal year 2021-2022, this number is no longer insignificant. Additionally, the premium for the Board's directors' and officer's policy has increased from a premium of $1,061 in 2011 to a premium of $18,519 in year 2021-2022. As deemed necessary, the Board has also added more robust cyber insurance. Noting the significant sum the Board is paying each year toward insurance premiums, the Board has been advised by its legal counsel that it would be prudent, at least for its directors' and officers' policy, to aim to self-insure. Under its current fees, this would not be attainable, but may be attainable in eight to ten years under the proposed adopted rules.

The Board does not believe these rule changes will have a substantial economic impact as that term is defined in G.S. § 150B-21.4(b1). In general, most of the adopted rules simply provide clarification to the licensure, complaint, and appeal processes. Regarding direct impact of fee increases, as of the date of submission of this notice of text the Board has 3657 active licensees. For fiscal year 2022-2023 the Board budgeted approximately 400 new licensure applicants. Based on these numbers, the fee increases would allow the Board to bring in approximately $87,000 more in revenue in 2022-2023 through initial licensure fees and annual renewals. Although with growth in the number of licensees, the revenue impact of the proposed fee increases may rise each year, the total impact remains well below what may be deemed a "substantial economic impact."

The examination fee historically has not been collected by the Board, but rather, has been paid directly to Board-approved examination bodies. The Board anticipates this will continue, and thus the examination fee increase is only made to bring this fee more in line with current rates; no revenue will be realized by the Board due to the examination fee increase. It is rare this fee is paid as most applicants apply for licensure having already passed a Board-approved examination.

Additionally, because of the exemption for State employees found in G.S. § 90-368(5), the Board does not believe the proposed changes would require expenditure or distribution of funds subject to the State Budget Act.

In summation, in consultation with the Board for Certification of Nutrition Specialists and the Academy of Nutrition and Dietetics, the North Carolina Board of Dietetics/Nutrition has spent almost three years working to draft these rule changes. The Board is satisfied that these adoptions, amendments, and repeals are necessary, will provide clarity, and will ensure consistency and objectivity in the licensure process better enabling the Board to achieve its mission.

Comments may be submitted to: Charla M. Burill, 1135 Kildaire Farm Road, Suite 200, Cary, NC 27511; phone (919) 678-7609; fax (919) 882-1776; email info@ncbdn.org

Comment period ends: *September 13, 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**

SECTION .0100 – LICENSURE

21 NCAC 17 .0101 DEFINITIONS, ACRONYMS, AND INITIALISMS

(a) As used in this Chapter, the following terms shall mean:

(1) "Act" means Dietetics/Nutrition Practice Act in G.S. 90, Article 25.

(2) "Applicant" means any person who has applied to the Board for a license to lawfully do any of the acts listed under G.S. 90-365(a).

(3) "Application" means a written request directed to and received by the Board, on forms supplied by the Board, for a license to lawfully do any of the acts listed under G.S. 90-365(a), together with all information, documents, and other materials necessary to demonstrate that the applicant has met the requirements for licensure as specified in the Act.

(4) "Degree" means a degree received from a college or university that was regionally accredited at the time the degree was conferred, or a validated foreign equivalent.

(5) "Dietitian/nutritionist" or "nutritionist" means one engaged in dietetics or nutrition practice.

(6) "Health care practitioner" includes any individual who is licensed under G.S. 90 and whose licensed scope of practice includes dietetics or nutrition.

(7) "Nutrition assessment" means:

(A) ~~the evaluation of the nutrition needs of individuals and groups by licensed dietitians/nutritionists and licensed nutritionists based upon biochemical, anthropometric, nutrigenomic, physical, and food and diet history data to determine nutritional needs and~~ the ongoing, dynamic, and systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to make decisions about the nature and cause of nutrition related problems and order therapeutic diets, including enteral and parenteral nutrition; ~~and~~

(B) the ordering of laboratory tests related to the practice of nutrition and ~~dietetics.~~ dietetics; and

(C) the conducting of a swallow screen.

(D) The collection of data does not, by itself, constitute nutrition assessment.

(8) "Nutrition ~~counseling"~~ intervention, education, counseling, or management" means the advice and assistance provided ~~by licensed dietitians/nutritionists and licensed nutritionists~~ to individuals or groups on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with therapeutic needs and cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs, education, and socioeconomic status. The following does not constitute nutrition intervention education, counseling, or management: presenting educational lectures, videos, webinars aimed at mass audiences; writing books, articles, blog posts, or social media content; developing condition-based training programs and treatment protocols not related to a current client; watching or listening to educational lectures, videos, or webinars; teaching classes in academic programs; and conducting research that is not related to a current client.

(9) "Nutrition monitoring or evaluation" means regular re-evaluation of medical nutrition therapy treatment and prevention plan, which may include review of clinical research and standards of care, to compare the outcomes with the patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired outcomes of nutrition care and whether planned interventions should be continued or revised.

(10) "Nutrition services" for purposes of G.S. 90-357.5(c)(2) means the provision of nutrition assessments; nutrition intervention, education, counseling, or management; and nutrition monitoring or evaluation.

(11) "Swallow screen" means a minimally invasive evaluation procedure conducted by a licensed dietitian/nutritionist that provides for the determination of:

(A) the likelihood that dysphagia exists;

(B) whether the patient requires referral for further swallowing assessment;

(C) whether it is safe to feed the patient orally (for the purposes of nutrition, hydration, and administration of medication); and

(D) whether the patient requires referral for nutritional or hydrational support.

(12) "Alternate supervised experiential learning" means observational hours that do not involve direct patient or client care or the discussion thereof. Such hours are limited to: observing videos of client and practitioner interactions; shadowing an experienced clinician; participating in simulation exercises or role playing; or utilizing case studies to prepare treatment plans.

(13) "Professional work setting" means nutrition care services provided for the benefit of patients or clients. Such hours are limited to: counseling individuals and groups; researching and developing patient or client treatment plans for current patients or clients; researching, preparing, and presenting patient or client workshops; community education (development and delivery of education to a specific population); supervisor grand rounds and one-on-one meetings with one's supervisor to discuss current patient or client care; or direct hours approved as part of a programmatically accredited supervised practice program.

(14) "Therapeutic diet" means a nutrition intervention prescribed by a physician or other authorized non-physician practitioner that provides food, fluid, or nutrients via oral, enteral or parenteral routes as part of treatment of disease or clinical conditions to modify, eliminate, decrease, or increase identified micronutrients and macronutrients in the diet, or to provide mechanically altered food when indicated.

(15) "Weight control services" as used in G.S. 90-368(7) means a general program of instruction with food, supplements, food products, or a food plan designed for one or more healthy population groups in order to achieve or maintain a healthy weight. A weight control program is not individualized to provide medical nutrition therapy as defined in G.S. 90-352(3a) or nutrition care services as defined in G.S. 90-352(4) to manage or treat a medical condition for a specific person or group.

(b) As used in this Chapter, the following acronyms and initialisms shall mean:

(1) "ACBN" means the American Clinical Board of Nutrition, whose Diplomate of the American Clinical Board of Nutrition credential is accredited by the National Commission for Certifying Agencies.
(2) "ACEND" means the Accreditation Council for Education in Nutrition and Dietetics.
(3) "AND" means the Academy of Nutrition and Dietetics.
(4) "BCNS" means the Board for Certification of Nutrition Specialists, whose Certified Nutrition Specialist credential is accredited by the National Commission for Certifying Agencies.
(5) "CDR" means the Commission on Dietetic Registration, whose Registered Dietitian Nutritionist credential is accredited by the National Commission for Certifying Agencies.
(6) "LDN" means licensed dietitian/nutritionist.
(7) "LN" means licensed nutritionist.
(8) "PLDN" means provisionally licensed dietitian/nutritionist.
(9) "PLN" means provisionally licensed nutritionist.

Authority G.S. 90-352; 90-356.

21 NCAC 17 .0103 QUALIFICATIONS FOR LICENSURE

Each applicant for an initial license as a licensed dietitian/nutritionist shall meet the qualifications as set forth in G.S. ~~90-357.~~ 90-357.5(a) and the rules of this Chapter. Each applicant for an initial license as a licensed nutritionist shall meet the qualifications as set forth in G.S. 90-357.5(c) and the rules of this Chapter.

Authority G.S. 90-356; 90-357.

21 NCAC 17 .0104 APPLICATIONS

(a) Each applicant for initial licensure shall file a completed application with the Board. Application forms are available at www.ncbdn.org.

(b) A complete application shall be:

(1) typed;
(2) signed by the applicant affirming that the information on the application is true and releasing to the Board information pertaining to the application;
(3) accompanied by the application, issuance, and criminal history record check fees; and
(4) accompanied by evidence, statements, or documents demonstrating the applicant meets the applicable requirements specified in G.S. 90-357.5, and this Rule, and the applicant is not in violation of G.S. 90-363.

(c) Applicants shall submit a completed application to the North Carolina Board of Dietetics/Nutrition via its website at www.ncbdn.org.

(d) The Board shall not review an application until the applicant pays the application fee. The fee may be paid online via credit card, or by check mailed to: North Carolina Board of Dietetics/Nutrition, 1135 Kildaire Farm Road, Suite 200, Cary, NC 27511.

(e) Examination information for each of the examinations the Board recognizes may be found on the following websites:

(1) Information regarding the Registered Dietitian Nutritionist examination offered by the Commission on Dietetic Registration may be found at: https://www.cdrnet.org/program-director/student-instructions.
(2) Information regarding the Certified Nutrition Specialist examination offered by the Board for Certification of Nutrition Specialists may be found at: https://theana.org/certify/CNScandidate.
(3) Information regarding the Diplomate of the American Clinical Board of Nutrition examination offered by the American Clinical Board of Nutrition may be found at: https://www.acbn.org/handbook.pdf.

(f) Before cancelling an application, the Executive Director shall send notice to an applicant who does not complete the application that lists the additional materials required. An incomplete application shall be valid for a period of ~~six~~ four months from the date the application is filed with the Board. After ~~six~~ four months, if an application has not been completed by the applicant and ready for Board review, the application shall be considered cancelled due to failure to complete. Complete applications that the Board determines require additional evidence under Paragraph (m) of this Rule shall be eligible for consideration for the timeline set forth in that Paragraph.

(g) Applicants providing evidence of current registration as a Registered Dietitian Nutritionist by the CDR in G.S. 90-357.5(a)(2) shall submit a photocopy of the applicant's registration identification card, or a copy of a CDR Credential Verification certificate certifying that the applicant is a Registered Dietitian Nutritionist.

(h) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(a)(1) shall either:

(1) Submit transcripts and a verification statement that includes the original signature of the Program Director of a college or university where the course of study was accredited by the ACEND as meeting the competency requirements of the most current edition of the

Accreditation Standards for Nutrition and Dietetic Didactic Programs; or

(2) Submit documentation, including official transcripts, demonstrating the course of study met the competency requirements of the most current edition of the ACEND Accreditation Standards for Nutrition and Dietetic Didactic Programs.

(i) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(c) shall submit documentation, including official transcripts, demonstrating completion of the requirements stated in G.S. 90-357.5(c)(1).

(j) Applicants providing evidence of completing a supervised practice experience in G.S. 90-357.5(a)(1)(b) shall either:

(1) Submit a verification statement that includes the original signature of the Program Director of a documented, supervised practice experience that has been accredited by the ACEND as meeting the competency requirements of the most current edition of the Accreditation Standards for Nutrition and Dietetics Internship Programs; or

(2) Submit documentation demonstrating at least 1000 hours of documented, supervised practice experience, meeting the competency requirements of the most current edition of the Accreditation Standards for Nutrition and Dietetics Internship Programs issued by ACEND. The scope of activities may include alternate supervised experiential learning such as simulation, case studies, and role playing, but must also include at least 750 hours in a professional work setting. The 1000 hours must be concurrent with or following completion of the academic requirements for licensure and need not be a paid experience. ~~The following shall be necessary to determine and verify supervised practice experience:~~

~~(A) The supervisor shall have access to all relevant patient/client records kept during the supervised practice experience. The supervisor shall review performance by periodic observation, either in real-time, or by some recording of the nutrition service.~~

(k) The following shall be necessary for applicant's submitting proof of completion of a Board-approved internship or a documented, supervised practice experience in nutrition services under Subparagraph (j)(2) of this Rule;

~~(B)~~(1) If there shall be more than one supervisor or facility for different parts of the supervised practice experience, information and verification of each part is required.

~~(C)~~(2) The applicant shall provide to the Board for each supervisor/facility:

~~(i)~~(A) the name and address of the facility providing the supervised practice experience;

~~(ii)~~(B) the name, address, phone, and title of the supervisor who supervised the supervised practice experience;

~~(iii)~~(C) a summary of nutrition services performed, along with dates and hours spent performing them;

~~(iv)~~(D) evidence that the supervisor met the requirements stated in G.S. 90-357.5(a)(1)(b) at the time of supervision; and

~~(v)~~(E) an attestation that the supervisor is not related to, married to, or domestic partners with the supervisee.

~~(D)~~(3) Each supervisor ~~shall review the evidence provided by the applicant and verify that the information is true, including:~~ shall:

(A) regularly, commensurate with the care provided, observe the provision of nutrition care services by the student or trainee supervised, and evaluate, authorize, and approve all nutrition care services of the student or trainee supervised;

(B) maintain primary responsibility for and control over all nutrition care services performed by the student or trainee, including clinical record keeping;

(C) ensure the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee;

~~(i)~~(D) verify that the applicant participated in nutrition services under his or her supervision, stating the total number of hours;

~~(ii)~~(E) ~~providing~~ provide a summary of the nutrition services ~~provided~~ completed under his or her supervision; and

~~(iii)~~(F) ~~providing~~ provide an evaluation of the applicant for the Board to be able to assess the applicant's performance in completion of the competencies required by ACEND.

~~(k)~~(l) Applicants providing evidence of completing a supervised practice experience in G.S. 90-357.5(c)(2) shall submit documentation demonstrating at least 1000 hours of documented, supervised practice experience, meeting the requirements as stated in G.S. 90-357.5(c)(2). The scope of activities may include alternate supervised experiential learning such as simulation, case studies, and role playing, but must also include at least 750 hours in a professional work setting. The 1000 hours must be concurrent with or following completion of the academic requirements for licensure and need not be a paid experience. Learning experiences must prepare students to work with various populations of diverse cultures, genders, and across the life cycle, which may include infants, children, adolescents, adults, pregnant/lactating females, and older adults and to be able to

competently formulate actionable medical nutrition therapies and interventions, education, counseling, and ongoing care for the prevention, modulation, and management of a range of acute and chronic medical conditions, including:

(1) underweight, overweight, malnutrition, and obesity;
(2) cardiometabolic;
(3) endocrine;
(4) immune and autoimmune; and
(5) gastrointestinal disorders.

(m) The following shall be necessary for proof of completion of a Board-approved internship or a documented, supervised practice experience in nutrition services under Paragraph (l) of this Rule: ~~to determine and verify the supervised practice experience:~~

~~(1) The supervisor shall have access to all relevant patient/client records kept during the supervised practice experience. The supervisor shall review performance by periodic observation, either in real time or by some recording of the nutrition service.~~

~~(2)~~(1) If there shall be more than one supervisor or facility for different parts of the supervised practice experience, information and verification of each part is required.

~~(3)~~(2) The applicant shall provide to the Board for each supervisor/facility:

(A) the name and address of the facility providing the supervised practice experience;
(B) the name, address, phone, and title of the supervisor who supervised the supervised practice experience;
(C) a summary of nutrition services performed, along with dates, and hours spent performing them;
(D) evidence that the supervisor met the requirements as stated in G.S. 90-357.5(c)(2) at the time of supervision; and
(E) an attestation that the supervisor is not related to, married to, or domestic partners with the supervisee.

~~(4)~~(3) Each supervisor ~~shall review the evidence provided by the applicant and verify that the information is true, including:~~ shall:

(A) regularly, commensurate with the care provided, observe the provision of nutrition care services by the student or trainee supervised, and evaluate, authorize, and approve all nutrition care services of the student or trainee supervised;
(B) maintain primary responsibility for and control over all nutrition care services performed by the student or trainee, including clinical record keeping;
(C) ensure the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee;
~~(A)~~(D) verify that the applicant participated in nutrition services under his or her supervision, stating the total number of hours;
~~(B)~~(E) ~~providing~~ provide a summary of the nutrition services ~~provided~~ completed under his or her supervision; and
~~(C)~~(F) ~~providing~~ provide an evaluation of the applicant for the Board to be able to assess the applicant's performance in the ~~areas of nutrition assessment; nutrition intervention, education, counseling, or management; and nutrition monitoring or evaluation.~~ provision of nutrition services, as defined in 21 NCAC 17 .0101(10), to address, at a minimum, the acute and chronic medical conditions listed in Paragraph (l) of this Rule.

~~(l)~~(n) Applicants who have obtained their education outside of the United States and its territories shall:

(1) Have their academic degree(s) evaluated by a Board-approved foreign credential evaluating service as equivalent to a baccalaureate or higher degree conferred by a U.S. college or university accredited by the regional accrediting agencies recognized by the Council on Higher Education Accreditation and the U.S. Department of Education; and
(2) All documents submitted in a language other than English shall be accompanied by a certified translation thereof in English from a Board-approved translation service.
(3) The following foreign credential evaluating and translation services are Board-approved:

(A) Academic and Professional International Evaluation, Inc., which may be found at: www.apie.org;
(B) Academic Credentials Evaluation Institute, Inc., which may be found at: https://www.acei-global.org/;
(C) American Education Research Corporation, Inc., which may be found at: http://www.aerc-eval.com/;
(D) Association of International Credential Evaluators, Inc., which may be found at: www.aice-eval.org;
(E) Bruscan Educational Information Services, which may be found at: http://www.bruscan.com/;
(F) Center for Educational Documentation, Inc., which may be found at: http://www.cedevaluations.com/;

(G) Education Credential Evaluators, Inc., which may be found at: www.ece.org;
(H) Educational Perspectives, which may be found at: https://www.edperspective.org/;
(I) Foundation for International Services, Inc., which may be found at: https://www.fis-web.com/;
(J) International Education Research Foundation, which may be found at: www.ierf.org;
(K) Josef Silny & Associates, which may be found at: http://www.jsilny.org/;
(L) SpanTran: The Evaluation Company, which may be found at: https://www.spantran.com/; or
(M) World Education Services, Inc., which may be found at: https://www.wes.org/.

~~(m)~~(o) If the Board determines that the application does not demonstrate satisfaction of the requirements specified in G.S. ~~90-357.5,~~ 90-357.5 and this Rule, the Board shall notify the applicant in writing. The notification shall include what is required to demonstrate the applicant meets the statutory requirements, and the applicant shall be:

(1) offered the ability to place the application on hold for a time period of up to one year from the date of the letter providing the Board's determination, so long as such a request is made in writing within 30 days of the date of the letter. During this hold time, the applicant may provide other evidence demonstrating the applicant satisfied the requirements the Board determined were not met;
(2) offered the opportunity to appear for an interview before the Board. At any time during that interview, the applicant may stop the interview, and request to have all or any part of requested information provided in writing; and
(3) offered the ability to withdraw the application so long as such a request is made in writing within 30 days of the date of the letter. The applicant will be allowed to apply for licensure at a later time.

~~(n)~~(p) If an applicant who received the notice specified in Paragraph ~~(m)~~(o) of this Rule does not provide a written response to the Board within 30 days of the date of the notification requesting that ~~he or she~~ they be granted an interview or ~~his or her~~ their application be placed on hold or withdrawn, or after the opportunity for an interview the Board determines the applicant has still not demonstrated satisfaction of the requirements specified in G.S. 90-357.5 and this Rule and the applicant has not requested their application be placed on hold or withdrawn, the Board shall issue the applicant an official rejection as provided in G.S. 90-358.

~~(o)~~(q) A rejected applicant shall have 60 days from the date of official rejection to request ~~an administrative hearing.~~ a contested case hearing in accordance with the rules of this Chapter.

Authority G.S. 90-356; 90-357.5; 90-357.6; 90-358.

21 NCAC 17 .0106 GRANTING LICENSE WITHOUT EXAMINATION

If an applicant seeks licensure on the basis that the applicant currently holds a valid license as a licensed dietitian/nutritionist or licensed nutritionist issued by another state, political ~~territory~~ territory, or jurisdiction with ~~equivalent~~ substantially the same ~~requirements,~~ requirements as this State, the applicant shall attach to the application evidence that:

(1) The applicant currently holds a license in good standing; and
(2) The requirements of the state, political ~~territory~~ territory, or jurisdiction are ~~equivalent~~ substantially the same to those of this ~~state.~~ State.

Authority G.S. 90-356; 90-360.

21 NCAC 17 .0108 DISAPPROVED APPLICATION

The Board shall not approve an applicant for licensure or renewal if the applicant:

(1) has ~~Has~~ not completed the requirements ~~in G.S. 90-350 through G.S. 90-369 including academic, experience and examination requirements;~~ set by Article 25 of G.S. 90 and the rules of this Chapter.
(2) has ~~Has~~ failed to remit any applicable fees;
(3) has ~~Has~~ failed to comply with requests for supporting documentation; ~~and~~ or
(4) has ~~Has~~ presented false information on application documents required by the Board to verify applicant's qualifications for licensure.

Authority G.S. 90-356; 90-358.

21 NCAC 17 .0110 LICENSURE CERTIFICATE

(a) The Board shall ~~prepare and provide~~ issue to each licensee ~~a~~ an electronic license certificate and an electronic license identification card. The identification card shall contain the person's name, license ~~number~~ number, and date of expiration.

(b) License certificates shall be signed by the Chair, ~~Secretary~~ Secretary, and Treasurer and be affixed with the seal of the Board. Identification cards shall bear the signature of the Chair.

(c) Any certificate or identification card issued by the Board shall remain the property of the Board and shall be surrendered to the Board ~~on~~ upon demand.

(d) Licensees shall comply with G.S. 90-640, Article 37, which specifies the wearing of a name badge.

(e) The license certificate must be displayed in a public manner as follows:

(1) The license certificate shall be displayed in the primary place of employment of the licensee; or
(2) In the absence of a primary place of employment or when the licensee is employed in multiple locations, the licensee shall carry a current, Board issued license identification card.

~~(e) Neither the licensee nor anyone else shall display a photocopy of a license identification card in lieu of the original license certificate or license identification card.~~

(f) Neither the licensee nor anyone else shall make any alteration on a license certificate or license identification card issued by Board.

(g) The Board shall ~~replace a lost, damaged or destroyed license certificate or identification card upon receipt of~~ issue an official licensure certificate upon a written request from the licensee and payment of the ~~duplicate license fee.~~ Duplicate License Certificate Fee.

(h) ~~The~~ Within 30 days of a name change, the licensee must submit a written request with documentation reflecting the name change ~~within 30 days of a name change~~ to the ~~Board~~ Board. Upon receipt of the request and documentation the Board ~~who~~ shall re-issue a license certificate and license identification card. ~~Requests~~ If an official licensure certificate reflecting the name change is requested, the request shall be accompanied by ~~duplicate license fee and documentation reflecting the change.~~ a Duplicate License Certificate Fee.

Authority G.S. 90-356; 90-362.

21 NCAC 17 .0113 FEES

In accordance with the provisions of the Act, the following fees, where applicable, are payable to the Board by credit card, ~~check~~ check, or money order. Fees are nonrefundable, except for the Issuance Fee, if application is not approved.

Application Fee	~~$ 50.00~~	$60.00
Issuance Fee	~~125.00~~	$150.00
License Renewal Fee	~~75.00~~	$95.00
Late Renewal Fee		75.00
Examination Fee	~~150.00~~	$200.00
Provisional License Fee		35.00
Duplicate License Certificate Fee		30.00
~~Duplicate License Identification Card Fee~~		~~20.00~~
~~Training Program~~		~~150.00~~

Authority G.S. 90-356(2),(9); 90-361; 90-364.

21 NCAC 17 .0114 CODE OF ETHICS FOR PROFESSIONAL PRACTICE AND CONDUCT

(a) Licensees, under the Act, shall comply with the following Code of Ethics in their professional practice and conduct. The Code reflects the ethical principles of the dietetic/nutrition professional and outlines obligations of the licensee to self, ~~client, society~~ client or patient, society, and the profession and sets forth mandatory standards of conduct for all licensees.

(1) The licensee shall provide professional services with objectivity and with respect for the unique needs and values of individuals as determined through the nutritional assessment.

(2) The licensee shall conduct all practices of ~~dietetics/nutrition~~ dietetics or nutrition with honesty and integrity.

(3) The licensee shall present substantiated information and interpret controversial information without personal bias, recognizing that legitimate differences of opinion exist.

(4) The licensee shall practice ~~dietetics/nutrition~~ dietetics or nutrition based on scientific principles and current information.

(5) The licensee shall assume responsibility and accountability for personal competence in ~~practice.~~ practice, continuously develop and enhance expertise through education, and recognize personal limitations.

(6) The licensee shall inform the public of ~~his/her~~ their services by using factual information and shall not advertise in a false or misleading manner.

(7) The licensee shall not exercise undue influence on a ~~client, including~~ client or patient. This includes, not exercising undue influence on a client or patient in the promotion or the sale of services or products. The licensee shall be alert to any conflicts of interest and shall provide full disclosure when a real or potential conflict of interest arises.

(8) The licensee shall not reveal information about a client or patient obtained in a professional capacity, without prior consent of the ~~client,~~ client or patient, except as authorized or required by ~~law~~ law, and shall make full disclosure about any limitations on ~~his/her~~ their ability to guarantee this.

(9) The licensee shall implement appropriate measures to protect personal health information using appropriate technology, such as encryption, and HIPAA compliant software.

~~(9)~~(10) The licensee shall recognize and exercise professional judgment within the limits of the licensee's qualifications and shall not accept or perform professional responsibilities which the licensee knows or has reason to know that ~~he or she is~~ they are not qualified to perform.

(11) The licensee shall collaborate with others, obtain consultation, and make referrals as appropriate.

~~(10)~~(12) The licensee shall take action, with prior consent of the ~~client,~~ client or patient, to inform a ~~client's~~ client or patient's physician or other health care practitioner in writing in cases where a ~~client's~~ client or patient's nutritional status indicates a change in health status.

~~(11)~~(13) The licensee shall ~~give~~ ensure that their client or patient has sufficient information ~~based on the client's ability to process information such that the client can make his or her own informed decisions.~~ to make an informed decision. The licensee shall not guarantee that nutrition care services will cause any certain outcome or particular result for the ~~client.~~ client or patient.

~~(12)~~(14) The licensee shall permit use of that licensee's name for the purpose of certifying that ~~dietetics/nutrition~~ dietetics or nutrition services have been rendered only if the licensee has provided or supervised those services.

(15) The licensee shall document, code, and bill to most accurately reflect the character and extent of delivered services.

~~(13)~~(16) The licensee shall notify the Board in writing within 30 days of the occurrence of any of the following:

(A) ~~The Licensee~~ the licensee seeks any medical care or professional treatment for the chronic or persistent use of intoxicants, drugs or narcotics.

(B) ~~The Licensee~~ the licensee is adjudicated to be mentally incompetent.

(C) ~~The Licensee~~ the licensee has been convicted or entered into a plea of guilty or nolo contendere to any crime ~~involving moral turpitude.~~ directly related to the duties and responsibilities of a dietitian or nutritionist or that was violent or sexual in nature; or

(D) ~~The~~ the licensee has been disciplined by an agency of another state that regulates the practice of dietetics or nutrition.

~~(14)~~(17) The licensee shall comply with all laws and rules concerning the profession.

~~(15)~~(18) The licensee shall uphold the Code of Ethics for professional practice and conduct by reporting ~~suspected violations~~ to the Board inappropriate behavior or treatment of a client or patient in violation of the Code and the ~~Act to the Board.~~ Act.

~~(16)~~(19) The licensee shall not interfere with an investigation or disciplinary proceeding by willful misrepresentation of facts to the Board or its representative or by the use of threats or harassment against any person.

~~(17)~~(20) The licensee shall not engage in kissing, fondling, touching or in any activities, advances, or comments of a sexual nature with any client or patient or, while under the licensee's supervision, with any student, trainee, provisional ~~licensee~~ licensee, or person aiding the practice of ~~dietetics/nutrition.~~ dietetics or nutrition.

~~(18)~~(21) The licensee shall not invite, accept, or offer gifts, monetary incentives, or other considerations that affect or reasonably give an appearance of affecting the licensee's professional judgment.

(b) Conduct and circumstances which may result in disciplinary action by the Board include the following:

(1) The licensee is a chronic ~~or persistent~~ user of intoxicants, drugs or narcotics to the extent that the same impairs ~~his/her~~ their ability to practice ~~dietetics/nutrition.~~ dietetics or nutrition.

(2) The licensee is mentally, emotionally, or physically unfit to practice ~~dietetics/nutrition~~ dietetics or nutrition and is afflicted with such a mental, ~~emotional~~ emotional, or physical disability as to be dangerous to the health and welfare of a ~~client.~~ client or patient.

(3) The licensee has been disciplined by an agency of another state that regulates the practice of dietetics or nutrition and at least one of the grounds for the discipline is the same or substantially equivalent to the grounds for discipline in this state.

(4) The licensee has violated any provisions of the Act or any of the ~~rules in~~ rules of this Chapter.

Authority G.S. 90-356(3); 90-356(2).

SECTION .0200 - REVIEW AND APPROVAL OF WEIGHT CONTROL SERVICES

21 NCAC 17 .0201 DEFINITIONS

Authority G.S. 90-356; 90-368.

21 NCAC 17 .0202 REQUIREMENT FOR REVIEW

Authority G.S. 90-356; 90-368.

21 NCAC 17 .0203 REVIEW AND BOARD ACTION

Authority G.S. 90-356; 90-368.

SECTION .0300 - DIETETIC/NUTRITION STUDENTS OR TRAINEES

21 NCAC 17 .0302 REQUIREMENTS

A student or trainee under direct supervision is exempt pursuant to G.S. ~~90-360(2)~~ 90-368(2) when enrolled in a course of study or completing a documented supervised practice experience as required under G.S. 90-357.5, not to exceed five years. The Board may approve or disapprove a request for an extension of the period of time based upon circumstances beyond the control of the student or trainee.

Authority G.S. 90-357.5; 90-356(2); 90-368(2).

21 NCAC 17 .0303 SUPERVISION

For purposes of G.S. 90-368(2), "direct supervision" means the supervising practitioner:

(1) ~~discusses and recommends, with the student or trainee, nutrition care services undertaken by the student or trainee, which are appropriate to the level of nutrition care; develop and carry out a program for advancing and optimizing the quality of care provided by a supervisee.~~ together with the supervisee, shall identify and document competency goals for the supervised practice experience described in G.S. 90-357.5; the supervisee's scope of practice; the assignment of clinical tasks as appropriate to the supervisee's level of competence; the

supervisee's relationship and access to the supervisor; and an evaluation process for the supervisee's performance.

(2) ~~is available for consultation on nutrition care services being performed by the student or trainee, either through on-site or through electronic communication;~~ is physically onsite and available for immediate physical intervention where the student or trainee is providing nutrition care that requires physically touching the patient and is either physically onsite and available for immediate physical intervention or immediately and continuously available by means of two-way real-time audiovisual technology that allows for the direct, contemporaneous interaction by sight and sound between the qualified supervisor and the supervisee where the student or trainee is providing medical nutrition therapy not requiring touching of the patient;

(3) shall be available to render immediate assistance when requested by ~~the student or trainee or~~ the patient or client, or shall have arranged for another qualified practitioner to be available in the absence of the supervising practitioner;

(4) ~~periodically~~ regularly, commensurate with the care provided, observes the nutrition care services of the student or trainee supervised, and evaluates, authorizes, ~~evaluates~~ and approves all ~~nutrition care services~~ medical nutrition therapy provided by the student or trainee ~~supervised,and~~ supervised,

(5) maintains primary ~~shall maintain~~ responsibility for ~~the~~ and control over all nutrition care ~~activities~~ services performed by the student or ~~trainee.~~ trainee, including countersigning all clinical encounter notes; and

(6) ensures the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee.

Authority G.S. 90-356(2); 90-357.5; 90-368(2).

21 NCAC 17 .0304 RECORDS AND REPORTS

(a) Permanent and current records from ~~approved clinical practice programs~~ internships or documented, supervised practice experiences in nutrition services shall be available for review by representatives of the Board. The Board may make use of facts supplied in determining compliance with G.S. ~~90-368~~ 90-368(2) and in approving applications for a license.

(b) The Board may require additional records and reports for review at any time to provide evidence and substantiate compliance with standards of education, the ~~law~~ law, and the rules of ~~the Board.~~ this Chapter.

Authority G.S. 90-356(2); 90-368(2); 90-357.

SECTION .0400 - UNLICENSED INDIVIDUALS

21 NCAC 17 .0401 INDIVIDUALS AIDING THE PRACTICE OF ~~DIETETICS/NUTRITION~~ DIETETICS OR NUTRITION

(a) As used in this Section, the following terms and phrases, which have not already been defined in G.S. 90, Article 25, shall have the meanings specified:

~~(1) "Certified Dietary Manager" means an individual who is certified by the Certifying Board of the Dietary Managers.~~

~~(2) "Dietetic Technician Registered" or "DTR" means an individual who is registered by the Commission on Dietetic Registration of the American Dietetic Association.~~

~~(3)~~(1) "Direct supervision" as referenced in G.S. 90-368(4) means that a licensed ~~dietitian/nutritionist~~ dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition shall:

(A) be available for consultation on delegated nutrition care activities being performed by the person being supervised, either through on-site or through electronic communication, and shall be available to render assistance when needed to the unlicensed personnel and patient or client, or shall have arranged for another licensee to be available in the absence of the licensed ~~dietitian/nutritionist;~~ dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition. ~~provided that the licensed dietitian/nutritionist shall be on-site at the service delivery site and within audible and visual range of any unlicensed personnel person described in Subparagraph (b)(3) of this Rule for the provision of any nutrition care activities;~~

(B) directly and personally examine, ~~evaluate~~ evaluate, and approve the acts or functions of the person supervised; and

(C) meet with the unlicensed personnel in a joint effort to establish, ~~maintain~~ maintain, and elevate a level of performance to ensure the health, safety and welfare of clients or patients during the provision of nutrition care activities, and provide sufficient guidance and direction as to enable the unlicensed personnel to

~~competently~~ perform the delegated activity or function.

~~(4)~~(2) "Nutrition care activities" means activities performed by unlicensed personnel ~~which~~ that are delegated by licensed ~~dietitians/nutritionists~~ dietitians/nutritionists, licensed nutritionists, or other licensed health care practitioners whose licensed scope of practice includes the practice of dietetics or nutrition in accordance with Paragraphs ~~(c)~~(b), ~~and (d)~~(c), and (d) of this Rule and ~~which~~ that support the provision of ~~nutrition care services~~ medical nutrition therapy as referenced in G.S. ~~90-352(4).~~ 90-352(3a). ~~Nutrition care activities include the provision of nutrition care to address and mitigate a medical condition, illness or injury and the provision of weight control programs or services, as well as community nutrition, food service, and nutrition information or education.~~

~~(b) Unlicensed personnel aiding the practice of dietetics/nutrition may include the following:~~

~~(1) a Certified Dietary Manager;~~

~~(2) a Dietetic Technician Registered; or~~

~~(3) an individual who has met the academic requirements as referenced in G.S. 90-357(3)b.1, c.1 and d.~~

~~(c)~~(b) The licensed ~~dietitian/nutritionist~~ dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition:

(1) may delegate nutrition care activities to unlicensed personnel that are appropriate to the level of knowledge and skill of the unlicensed personnel. ~~The licensed dietitian/nutritionist~~

(2) shall be responsible for the initial and ongoing determination of the competence of the unlicensed personnel to perform any delegated acts or functions. Delegation of nutrition care activities shall be in writing and shall identify the patient or client and the act or function assigned to the unlicensed personnel. ~~The licensed dietitian/nutritionist~~

(3) shall supervise the nutrition care activities of the unlicensed personnel and maintain responsibility for nutrition care activities performed by all personnel to whom the care is delegated. ~~The licensed dietitian/nutritionist~~

(4) shall not delegate the entire spectrum of ~~nutrition care services,~~ medical nutrition therapy but may delegate specific acts and functions which support the licensed ~~dietitian/nutritionist's~~ professional's provision of ~~nutrition care services.~~ medical nutrition therapy. ~~The licensed dietitian/nutritionist~~

(5) shall have the responsibility for clinical record ~~keeping,~~ documentation. ~~and shall ensure that case notes and other records of services identify whether the licensed dietitian/nutritionist or the unlicensed personnel was the direct provider of the service.~~

~~(d)~~(c) The following variables shall be considered by the licensed ~~dietitian/nutritionist~~ dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition in determining whether or not an activity or function may be delegated to unlicensed personnel:

(1) knowledge and skills of the unlicensed personnel which include both basic educational and experience preparation and continuing education and experience;

(2) the competence of the unlicensed personnel for the activity or function;

(3) the variables in each service setting which include:

(A) the complexity and frequency of nutrition care needed by a given client population;

(B) the acuity and stability of the client's condition; and

(C) established policies, procedures, practices, and channels of communication of the facilities where the delegated activities or functions are being performed which lend support to the types of nutrition care activities being delegated, or not delegated, to unlicensed personnel; and

(4) whether the licensed ~~dietitian/nutritionist~~ dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition has the skills, ~~experience~~ experience, and ability to ~~competently~~ supervise the unlicensed personnel for the activity or function.

(d) Tasks, treatments, or interventions that may not be delegated include, but are not limited to:

(1) assessments of data, problem identification, and outcome evaluation;

(2) tasks, treatments, or intervention that require a license; and

(3) any and all aspects of care or activities that require independent clinical judgment or knowledge.

Authority G.S. 90-356(2); 90-368(4).

21 NCAC 17 .0402 INDIVIDUALS PROVIDING NUTRITION INFORMATION

(a) The following terms and phrases shall have the meanings specified:

(1) "Nutrition information" means nonfraudulent nutrition information related to food, food materials, or dietary supplements which is designed for one or more healthy population groups and is based on valid scientific evidence,

~~reports~~ reports, and studies. Nutrition information is not ~~based on an individual nutrition assessment as referenced in G.S. 90-352 or medical nutrition therapy as referenced in 21 NCAC 17 .0101(11) and is not~~ individualized to provide nutrition care services ~~to prevent, manage, treat, cure or rehabilitate a~~ for the purpose of managing or treating a medical ~~condition, illness, or injury~~ condition for a specific person or group as referenced in G.S. ~~90-352 and 21 NCAC 17 .0101(12).~~ 90-352(3a).

(2) "Reported or historical use" means information about food, food ~~materials~~ materials, or dietary supplements which is based ~~on the following:~~ on:

(A) historical or methodological studies or research conducted by experts in the field using sound scientific methods with randomized controlled clinical trials; or

(B) reports on valid scientific studies published in peer-reviewed medical or dietetics and nutrition journals or publications.

(b) The Board shall deem an individual who provides nutrition information or education to be in compliance with G.S. 90-368(9) when:

(1) The person does not hold ~~himself/herself~~ themselves out to be a dietitian or nutritionist or imply orally or in writing or indicate in any way that ~~he/she~~ they are ~~is~~ a ~~dietitian/nutritionist;~~ dietitian or nutritionist;

(2) The person does not provide ~~nutrition care services or nutrition care activities~~ medical nutrition therapy support activities which have not been delegated to ~~him/her~~ them by a licensed ~~dietitian/nutritionist;~~ dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition;

(3) The person provides nutrition information on or about food, food ~~materials~~ materials, or dietary supplements, and does not provide nutrition information on the nutritional needs of the ~~consumer;~~ consumer as related to managing or treating a medical condition;

(4) The person provides nutrition information in connection with the marketing and distribution of the food, food materials, dietary ~~supplements~~ supplements, or other goods to be provided or sold, and does not provide nutrition information in connection with the marketing and distribution of ~~nutrition~~ medical nutrition therapy services;

(5) The person provides nonfraudulent nutrition information which is based on scientific reports and studies, is not false or misleading, and is safe; and

(6) The person provides the nutrition information on food, food materials, nutraceuticals, dietary ~~supplements~~ supplements, or other goods in accordance with federal, ~~state~~ State, and local laws, ~~regulations~~ regulations, and ordinances, including but not limited to G.S. 90, Article 25.

Authority G.S. 90-356(2); 90-368.

21 NCAC 17 .0403 ~~ELECTRONIC PRACTICE~~ TELEPRACTICE

Any person, whether residing in this ~~state~~ State or not, who by use of electronic or other medium performs any of the acts described as the practice of ~~dietetics/nutrition,~~ medical nutrition therapy with a client or patient located in this State, but is not licensed pursuant to Article 25 of G.S. 90 shall be deemed by the Board as being engaged in the practice of ~~dietetics/nutrition~~ medical nutrition therapy and subject to the enforcement provisions available to the Board. Among other remedies, the Board shall report violations of this Rule to any occupational licensing board having issued an occupational license to a person who violates this Rule. This Rule does not apply to persons licensed pursuant to, or exempt from licensure pursuant to, Article 25 of G.S. 90.

Authority G.S. 90-356.

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CHAPTER 19 – BOARD OF ELECTROLYSIS EXAMINERS

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Board of Electrolysis Examiners intends to adopt the rules cited as 21 NCAC 19 .0705, .0706, amend the rules cited as 21 NCAC 19 .0404, .0701-.0704, and repeal the rule cited as 21 NCAC 19 .0103.*

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

Link to agency website pursuant to G.S. 150B-19.1(c): *https://www.ncbee.com/*

Proposed Effective Date: *November 1, 2022*

Public Hearing:
Date: *August 1, 2022*
Time: *10:00 a.m.*
Location: *By videoconference at https://bit.ly/3MZI9EL or by teleconference at (650) 479-3208, access code 2634 074 7300##*

Reason for Proposed Action: *Rule .0103 is proposed for repeal because the contents of that rule, with some modifications discussed below, will be moved to Rule .0404. This approach*

merges two rules with definitions into a single rule, making it easier to locate definitions.
The amendment to Rule .0404 incorporates the definition of "continuing education unit" or "CEU" that previously appeared in Rule .0103. That definition has also been amended to change the meaning of "CEU" from 10 contact hours to one contact hour. As discussed below, the requirements for CEUs have been updated to reflect this new definition. Except as noted below, the requirements for CEUs have not increased, but the definition is being updated to make the requirements easier to understand and more intuitive. The amendment also defines "in-person seminar." The remainder of the changes in the amendment correct manifest errors, update the numbering of items, or reformat portions of the rule.
The amendment to Rule .0701 updates references to the required number of CEUs to reflect the change in how "CEU" is defined in Rule .0404 (see discussion above). Except for electrologists with 20-29 years of practice, the rule does not increase the CEU requirements but simply makes the requirements easier to understand. Under the current version of the codified rule, electrologists with 20 or more years of practice are required to complete 10 contact hours of continuing education every five years. Under the amendment, only electrologists with 30 (rather than 20) or more years have that requirement, and only if there is no interruption in licensure. The amendment specifies how those five-year periods would be measured. The amendment changes references to "renewal period," instead using the term "license effective period," a change which the board intends simply as a clarification of terminology rather than a substantive change in requirements. The amendment indicates that only CEUs earned through in-person seminar may be carried forward to the next license effective period and prohibits other forms of CEUs from carrying forward. The amendment requires new licensees to renew licenses and pay for inspections for the upcoming year, and specifies that an initial license will not be issued until an initial inspection of the practicing office takes place. All other changes in the amendment are designed to confirm to Style Guide recommendations or to provide clarity.
The amendment to Rule .0702 adds a requirement for the programs or courses submitted to the board. Under this requirement, the programs or courses must include the outline of each course's content. The amendment also makes it clearer that the hours of study must be for each course topic rather than each course. Since the board is adopting a rule for an application for approval of continuing education (see the discussion for Rule .0705 below), some references have been removed from this rule and a cross-reference has been added. The remaining changes improve style, update formatting and numbering, remove outdated information that is otherwise readily available to the public, or eliminate ambiguous language.
The amendment to Rule .0703 makes no substantive change but only updates references to the number of CEUs to account for the new definition of "CEU" in Rule .0404, as discussed above.
The amendment to Rule .0704 eliminates the reference to carrying forward CEUs. The carry-forward requirements now appear and are updated in the amendment to Rule .0701. The remaining changes are stylistic.
Rule .0705 is an adoption that specifies the requirements to apply for continuing-education approval and specifies where the application may be found.
Rule .0706 is an adoption that specifies the circumstances under which the board may waive a rule.

Comments may be submitted to: *Susan Magas, 2 Centerview Drive, Pinehurst Building, Ste 60, Greensboro, NC 27407; email ncbeexam@att.net*

Comment period ends: *September 13, 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**

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 19 .0103 DEFINITIONS

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

SECTION .0400 – INFECTION CONTROL

21 NCAC 19 .0404 DEFINITIONS AND OVERVIEW

In addition to the terms defined in ~~G.S. 88-A,~~ G.S. 88A, the following terms have the following meanings:

(1) "Alcohol-based hand rub or gel" is a preparation which contains 60 percent to 95 percent ethanol or isopropanol that is designed for application to the hands in order to reduce the number of viable microorganisms on the hands.

(2) ~~"Antiseptic~~ "Antiseptic" is a germicide used on skin or living tissue to inhibit or destroy microorganisms.

(3) "Aseptic technique" is the term used to describe the precautionary measures taken to help reduce

the risk of post treatment infections by decreasing the opportunity for microorganisms to enter the body. Precautionary measures include handwashing, disinfection, sterilization of surfaces and instruments, use of protective barriers, containment and disposal of waste, and instrument and surface manipulations that minimize cross contamination.

(4) "Autoclave" is a vessel used for sterilization by the application of saturated steam under pressure and heat.

(5) "Biological indicator" is a commercially prepared device populated with bacterial spores which is used to test the method of sterilization being monitored and which demonstrates whether or not conditions necessary to achieve sterilization were met during the cycle being monitored.

(6) "Chemical indicator" is a chemically treated paper strip used to monitor parameters of a heat sterilization process by means of a characteristic color change. A chemical indicator does not indicate that sterilization has been achieved, but rather, that the temperature needed has been attained.

(7) "Cleaning" is the removal of all visible organic material from objects using friction, detergent and water prior to the disinfection and sterilization processes.

(8) "Contaminate" is to make something impure by exposure to or addition of a polluting substance.

(9) "Contaminated" is the presence of potentially infectious pathogenic microorganisms on surfaces of a objects.

(10) "Continuing education unit" or "CEU" means one contact hour of participation in an organized learning experience that is:

(a) related to the practice of electrolysis or laser light-based hair reduction;

(b) contributes to the competency of a practitioner of electrolysis or laser light-based hair reduction;

(c) obtained by a licensee after the original granting of licensure; and

(d) approved by the Board at least 30 days before the event according to the standards set forth in G.S. 88A-13.

~~(10)~~(11) "Cross-contamination" is the process by which bacteria or other microorganisms are transferred from one substance or object to another, with harmful effect.

~~(11)~~(12) "Critical items" are instruments, devices, objects or environmental surfaces that will come in direct contact with the bloodstream or other normally sterile areas of the body.

~~(12)~~(13) "Decontaminate" is to neutralize or remove dangerous substances or germs from an area or object.

~~(13)~~(14) "Decontamination" is the use of physical or chemical means to remove, inactivate, or destroy pathogens on a surface or item so that they are no longer capable of transmitting infectious particles and to render the surface or item safe for handling, use, or disposal.

~~(14)~~(15) "Disinfect" is to clean with a disinfectant in order to destroy bacteria.

~~(15)~~(16) "Disinfectant" is a chemical agent used on inanimate surfaces and objects to destroy infectious fungi and bacteria, but not necessarily their spores and is classified into levels of potency as follows:

(a)~~(A)~~ High-level, which is utilized for the reprocessing of semi-critical instruments or devices and includes Food and Drug Administration (FDA) regulated substances such as glutaraldehyde-, chlorine dioxide-hydrogen peroxide, orthophthaldehyde-, and peracetic acid-based formulations;

(b)~~(B)~~ Intermediate-level, which is utilized for disinfecting tips for epilator needles and includes Environmental Protection Agency (EPA) regulated substances such as alcohols containing 70 to 90 percent ethanol or isopropanol, chlorine compounds, and certain phenolic or iodophor preparations as determined by the EPA;

(c)~~(C)~~ Low-level, which is utilized for disinfecting environmental or non-instrument surfaces and includes EPA regulated substances such as quaternary ammonium compounds and certain phenolic or iodophor preparations as determined by the EPA.

~~(16)~~(17) Disinfection" is a procedure that reduces the level of microbial contamination and is classified into the following levels:

(a)~~(A)~~ "High-level," which inactivates some, but not necessarily all, bacterial spores. This process will also kill Mycobacterium tuberculosis var. bovis, and all microorganisms with the exception of high levels of bacterial spores.

(b)~~(B)~~ "Intermediate-level," which does not kill bacterial spores, but is capable of killing. M. tuberculosis var. bovis, most vegetative bacteria and fungi, as well as viruses such as hepatitis B virus (HBV) and human immunodeficiency virus (HIV);

(c)~~(C)~~ "Low level," which inactivates most bacteria, some viruses and fungi but

not bacterial spores or Mycobacterium tuberculosis var. bovis.

~~(17)~~(18) "Dry heat sterilizer" is a forced air oven-type device designed to sterilize items by exposure to high temperatures for designated exposure periods.

~~(18)~~(19) "Environmental surfaces" are surfaces in the electrology treatment room which may potentially contribute to cross-contamination by hands of the electrologist or by contact with instruments that will subsequently come into contact with clients.

~~(19)~~(20) "Enzyme detergent" is the detergent that helps break down organic soils and fats, and suspends particles during cleaning. An enzyme detergent is used as a soaking solution for critical and non-critical instruments and as the detergent used in the ultrasonic device.

~~(20)~~(21) "Epilator" is an electrical device used to perform electrolysis.

~~(21)~~(22) "Epilator cords" are insulated plastic covered cords used to complete the current circuit between the epilator and the epilator needle or the indifferent electrode.

~~(22)~~(23) "Forceps" are the instruments or "tweezers" used in electrology treatments to lift the treated hair from the follicle. Forceps used in electrology are not intended to be critical items, but may come in contact with blood, serum or other material and shall be sterile when used.

~~(23)~~(24) "Gloves" are coverings for the hands, which provide a protective barrier against infections and toxic substances.

~~(24)~~(25) "Hand hygiene" is the general term that applies to:

(a)~~(A)~~ "Hand washing," the decontamination process for the removal of soil and transient microorganisms from the hands by a vigorous rubbing together of all surfaces of lathered hands for at least 15 seconds, followed by rinsing under a stream of water;

(b)~~(B)~~ "Antiseptic hand wash," the washing of hands with water and soap or other detergents containing an antiseptic agent;

(c)~~(C)~~ "Antiseptic hand rub," the application of an alcohol-based hand rub product, to all surfaces of the hands to reduce the number of microorganisms present; and

(d)~~(D)~~ "Hand antisepsis," a preoperative antiseptic hand wash or antiseptic hand rub to eliminate transient microorganisms and reduce resident hand flora.

~~(25)~~(26) "Health History Assessment File" is a cumulative and permanent documentation of a client's medical and treatment record which is maintained by the electrologist.

~~(26)~~(27) "Hirsute or Hirsutism" is the excessive growth of hair that is thickened caused by hormonal or biochemical imbalances or genetic predisposition.

~~(27)~~(28) "Hospital-grade disinfectant" is a chemical germicide that is classed in a spectrum of activity as either low-level or intermediate-level, with labeled claims for effectiveness against Salmonella choleraesuis, Staphylococcus aureus and Pseudomonas aeruginosa.

~~(28)~~(29) "Indifferent electrode" is a stainless steel bar held by the client during electrology treatments to complete current circuit with galvanic electrolysis modality or with the use of a timer delay switch in automatic delivery epilators.

(30) "In-person seminar" is continuing education that occurs in a physical location rather than online.

~~(29)~~(31) "Instruments" are tools or devices designed to perform a specific function, such as grasping, holding, or retracting.

~~(30)~~(32) "Intact skin" is skin in which the natural protective barrier has not been altered by infection or trauma.

~~(31)~~(33) "Latex allergy" is a systemic or local allergic response to various latex proteins to which the individual has been sensitized.

~~(32)~~(34) "Medical-grade gloves" are disposable gloves used during medical examinations and procedures to prevent contamination between caregivers and patients.

~~(33)~~(35) "Microbial" is a minute life form; a microorganism, especially a bacterium that causes disease.

~~(34)~~(36) "Nitrile" is non-sterile, latex-free substance from which gloves are manufactured.

~~(35)~~(37) "Needle" is the pre-sterilized, disposable wire filament which is inserted into the hair follicle for application of current in electrology.

~~(36)~~(38) "Non-critical items" are instruments, devices, objects or environmental surfaces that will come in contact only with intact skin.

~~(37)~~(39) "Non-intact skin" is skin in which there is a break in the skin's natural integrity, for example, exposed skin that is chapped, abraded, or afflicted with dermatitis.

~~(38)~~(40) "Packaging" is a generic term meant to include all types of containment, such as woven or non-woven wraps, paper or film pouches, or rigid container systems.

~~(39)~~(41) "Pathogen" is a microorganism or substance capable of producing a disease.

~~(40)~~(42) "Phoresis rollers" are sterilized stainless steel rollers used to apply current to skin before or after electrology treatment.

~~(41)~~(43) "Physical visible indicators" are monitoring devices built into a sterilizer, such as indicating thermometers, recording thermometers, pressure gauges and automatic controls, which are used in identifying and preventing malfunctions and operational errors and for recordkeeping purposes.

~~(42)~~(44) "Plain soap" is a detergent-based cleanser without antimicrobial additives which is used for the physical removal of dirt and transient microorganisms.

~~(43)~~(45) "Protective disposable barrier" is a disposable, moisture-resistant covering which reduces the potential for contaminating environmental or medical device surfaces that may be difficult or inconvenient to clean and disinfect routinely, for example, tables and pillows, or hard-to-clean surfaces such as light handles and epilator surfaces..

~~(44)~~(46) "Reprocessing" is the process of cleaning, disinfecting or sterilizing a reusable instrument that has been used or contaminated in order to be made safe for its intended use.

~~(45)~~(47) "Semi-critical items" are instruments, devices, objects or environmental surface that may come in contact with mucous membranes and non-intact skin, but do not ordinarily penetrate body surfaces. Semi-critical items require sterilization or exposure to high-level disinfection as set in Item 44 of this Rule.

~~(46)~~(48) "Sharps container" is a manufactured and labeled, leak-proof, rigid, puncture-resistant, durable plastic container into which needles are placed after use and which is designed to be disposed of as an item of regulated medical waste.

~~(47)~~(49) "Standards" is the level of quality or excellence.

~~(48)~~(50) "Sterility assurance file" is the record containing the sterilizer maintenance and use log and culture report from each biological monitor.

~~(49)~~(51) "Sterilization" is the process which destroys all forms of microbial life. The recommended methods of sterilization of instruments and items used in the practice of electrology are the dry heat sterilizer or the autoclave.

~~(50)~~(52) "Tip for epilator needle" is the cap or plastic tip that surrounds the base of the needle and covers the pin device where the needle shank is seated.

~~(51)~~(53) "Treatment room" is the operatory where electrolysis treatments are performed.

~~(52)~~(54) "Ultrasonic cleaner" is a processing unit using ultrasonic waves transmitted through the cleaning solution in a mechanical process known as cavitation. The transmitted sound waves produce tiny air bubbles on instrument surfaces, which scrub tightly adhering or embedded particles from solid surfaces and remove soil deposits from hard-to-reach areas.

Authority G.S. 88A-6; 88A-13; 88A-16.

SECTION .0700 - CONTINUING EDUCATION

21 NCAC 19 .0701 CONTINUING EDUCATION REQUIREMENTS, LICENSE RENEWAL, REINSTATEMENT AND REACTIVATION

(a) ~~Requirements~~ The following are requirements for the Board to approve renewals for electrologist or laser hair practitioners:

(1) Each electrologist licensed in this State shall complete ~~one CEU,~~ 10 CEUs as defined in ~~Rule .0103~~ Rule .0404 of this Chapter, per ~~renewal~~ license effective period as a requirement for renewal of the electrology license. ~~For electrologists~~ Electrologists with ~~20~~ 30 or more years of ~~practice,~~ practice without interruption in licensure ~~the CEU requirement~~ shall ~~be completion of one CEU~~ complete 10 CEUs every five years. The first five-year period shall be measured from the issuance date of the license in year 30, and subsequent periods shall be measured from the issuance date in each fifth year thereafter.

(2) Each laser hair practitioner licensed in this State shall complete ~~one CEU~~ 10 CEUs per ~~renewal~~ license effective period as a requirement for renewal of the laser hair practitioner license.

(3) An electrologist or laser hair practitioner who has been placed on the inactive list by the Board for less than five years and desires to return to active ~~status,~~ status shall present evidence of completion of ~~one CEU~~ 10 CEUs within the 12 months preceding the reactivation application in satisfaction of the competency requirement of G.S. 88A-14.

(4) An electrologist or laser hair practitioner whose license has been expired for 90 days or more but less than five years shall present certification of completion of ~~one CEU~~ 10 CEUs for each ~~renewal~~ license effective period or part of a ~~renewal~~ license effective period that has elapsed since the electrologist's or laser hair practitioner's license was last ~~current~~ current, in satisfaction of the competency requirement of G.S. 88A-12. At least ~~one~~ 10 of the CEUs offered in satisfaction of a competency requirement shall have been completed within the 12 months immediately preceding the application for reinstatement.

(5) Not more than ~~one CEU~~ 10 CEUs earned through in-person seminar may be carried over ~~per renewal period.~~ to the next license effective period. CEUs earned through other content delivery methods cannot be carried over to the next license effective period.

(6) No more than ~~one CEU~~ 10 CEUs of home study may be credited for continuing education in each ~~renewal~~ license effective period. "Home study" is defined as an educational activity

undertaken by an individual, completed by correspondence or online, and with a certification of completion awarded at the end of the course. Continuing education hours obtained through home study ~~may~~ shall not be carried over to a subsequent ~~renewal~~ license effective period.

(7) In the initial year of licensure, new licensees tested after the sixth month of the calendar year shall not be required to obtain CEUs until the following renewal year.

(8) Over any two ~~renewal~~ license effective periods, the Board shall give credit for no more than ~~one-half CEU~~ five CEUs in the area of business management.

(9) New licensees shall be required to renew licenses and pay for inspections for the upcoming year.

(10) An initial license shall not be issued until an initial inspection has been completed on the practicing office.

(b) ~~Requirements~~ The following are requirements for the Board to approve renewals for instructors:

(1) An instructor whose certification has been placed on the inactive list for more than 90 days and less than ~~3~~ three years shall present certification of completion of ~~one CEU~~ 10 CEUs within the 12 months immediately preceding the application for reactivation of certification.

(2) An instructor whose certification has been expired for more than 90 days, but less than ~~3~~ three years shall present certification of completion of ~~one CEU~~ 10 CEUs for each ~~renewal~~ license effective period or part of a ~~renewal~~ license effective period that has elapsed since the instructor's license was last current. At least ~~one~~ 10 of the CEUs offered in satisfaction of a competency requirement shall have been completed within the 12 months immediately preceding the application for reinstatement of certification.

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

21 NCAC 19 .0702 BOARD APPROVAL OF COURSES

(a) The Board shall approve a program or course if it is:

(1) In any subject required by 21 NCAC 19 .0601; and

(2) Offered by one of the following entities:

(A) a college or university authorized to grant degrees in this State;

(B) a national professional electrolysis or laser association;

(C) a school or Continuing Education (CE) provider certified by the Board;

(D) American Society of Laser Medicine (ASLM);

(E) American Academy of Dermatology (AAD); or

(F) an entity providing a program of Certified Medical Education (CME).

(b) The entity offering the program or course shall provide the Board with the information listed in Paragraph (c) of this Rule and shall certify to the Board the names of all electrologists licensed by the Board who attended the program or course and their actual hours of attendance.

(c) The Board shall not approve a program or course without the following information:

(1) Title, location, and date of the ~~course;~~ course or courses;

(2) Sponsoring entity;

(3) Course objective and outline of each course's content;

(4) Hours of ~~study;~~ study for each course topic; and

(5) Name, education, and background of each instructor.

(d) An electrologist or laser hair practitioner seeking credit for a program or course offered by an entity not listed in Paragraph (a) of this Rule may request that the Board approve the course by submitting ~~in writing, at least two months in advance of the course registration date, the information listed in Paragraph (c) of this Rule on an application form provided by the Board. The Application for Approval of Continuing Education may be obtained online at www.ncbee.com.~~ the application for approval of continuing education as set forth in Rule .0705 of this Section.

(e) The Board shall approve a program or course if requested pursuant to Paragraph (d) of this Rule upon finding that it meets the requirements of G.S. 88A-13. ~~In determining whether or not to make~~ When making this finding, the Board shall consider ~~the program or course in light of~~ the criteria set forth in The Continuing Education Unit Criteria and Guidelines, current edition, as adopted by the International Association for Continuing Education and Training (IACET) in conjunction with the American Standards National Institute (ANSI) and incorporated herein by reference including subsequent amendments or editions. ~~The presence of all criteria or the absence of individual criteria shall not be conclusive, and the Board shall have discretion in the approval of programs, courses, or providers on a case by case basis.~~ Copies of The Continuing Education Unit Criteria and Guidelines, current edition, may be obtained ~~at a cost of twenty nine dollars and ninety five cents ($29.95)~~ at http://www.IACET.org.

(f) The Board shall notify the electrologist by mail of the Board's findings and decision regarding the request made pursuant to Paragraph (d) of this Rule.

(g) A change in subject matter, length, or instructor of a course requires reapproval by the Board.

(h) The entity offering the program or course shall either provide to the electrologist or directly to the Board certification of the electrologist's actual hours of attendance after the program or course is complete.

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

21 NCAC 19 .0703 COMPUTATION OF CONTINUING EDUCATION UNITS

(a) To obtain credit as a contact hour of continuing education, the learning activity scheduled for an hour shall occupy at least 50 minutes of the hour.

(b) An electrologist may fulfill the continuing education requirements of Rule .0701 of this Section by completing more than one course if the total equals ~~one~~ 10 or more CEUs.

(c) One semester credit hour at a university or college shall be equivalent to ~~one CEU.~~ 10 CEUs. A course may be audited or taken for credit.

(d) An electrologist who teaches in a program or course approved by the Board may obtain CEU credit at the rate of four contact hours for each contact hour of teaching.

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

21 NCAC 19 .0704 TIME LIMITS ON CREDIT

~~An electrologist or laser hair practitioner may carry over up to one CEU from one renewal period to the next.~~ An electrologist or laser hair practitioner applying for reinstatement under ~~21 NCAC 19 .0203(b) who is~~ Rule .0203(b) of this Chapter and presenting CEUs in satisfaction of competency requirements ~~may, however, subject to the requirements of 21 NCAC 19 .0701(c),~~ may receive credit for ~~that purpose for~~ any CEUs taken during the time the applicant's license was ~~expired.~~ expired, subject to the requirements of Rule .0701(c) of this Section.

Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18.

21 NCAC 19 .0705 APPLICATION FOR APPROVAL OF CONTINUING EDUCATION

(a) The application for approval of continuing education shall be filed as set forth in Rule .0702(d) of this Section. It requests the following:

(1) the application date;
(2) the sponsoring entity offering the continuing education;
(3) the name of the speakers or presenters;
(4) the title of the course;
(5) the location of the course;
(6) the date of the course;
(7) the number of hours of study;
(8) the course objectives and a summary of the course content;
(9) the educational or professional background of the speakers or presenters, or a copy of the curricula vitae of the speakers or presenters; and
(10) a summary of the learning outcomes of the course.

(b) Applicants shall submit the form to the address in Rule .0101 of this Chapter at least two months before the course-registration date.

(c) Any change in subject matter, length, or instructor of a course shall require a new application.

(d) The application form is available at the website listed address in Rule .0101 of this Chapter.

(e) The application form shall be submitted as a fillable PDF and shall not be submitted as a handwritten form.

Authority G.S. 88A-6; 88A-13.

21 NCAC 19 .0706 WAIVER

The Board may waive any rule in this Chapter that is not statutorily required if a licensee, or applicant for license or certification, submits a written request to the address in Rule .0101 of this Chapter. Factors the Board shall use in determining whether to grant the waiver are:

(1) degree of disruption to the Board;
(2) cost to the Board;
(3) degree of benefit to the public;
(4) whether the requesting party had control over the circumstances that required the requested waiver;
(5) notice to and opposition by the public;
(6) need for the waiver; and
(7) previous requests for waivers submitted from the requesting party.

Authority G.S. 88A-6; 150B-19(6).

Note from the Codifier: *The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.*
This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Rule-making Agency: *Wildlife Resources Commission*

Rule Citation: *15A NCAC 10B .0501-.0505*

Effective Date: *July 1, 2022*

Date Approved by the Rules Review Commission: *June 16, 2022*

Reason for Action: *Emergency powers were invoked by the Executive Director on April 12, 2022, to activate a localized response plan to assist with detection and isolation of chronic wasting disease (CWD). A temporary rule is needed to replace emergency powers and specify requirements necessary to reduce movement of the disease and infection opportunities.*

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0500 – CHRONIC WASTING DISEASE MANAGEMENT

15A NCAC 10B .0501 DEFINITIONS AND GENERAL REQUIREMENTS

(a) The rules in this Section apply to any area of the State where Chronic Wasting Disease (CWD) has been detected, as determined by the Commission.

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

(1) "Cervid" means all animals in the Family Cervidae not otherwise regulated by the NC Department of Agriculture and Consumer Services.

(2) "Cervid Health Cooperator" means an individual authorized to collect CWD samples on behalf of the Commission.

(3) "Chronic Wasting Disease" or "CWD" means the transmissible spongiform encephalopathy prion disease affecting species within the deer (Cervidae) Family.

(4) "CWD Management Area" means the area delineated by the Commission where CWD has been determined to be endemic and the rules of this Section apply.

(5) "Index location" means the approximate location where a new CWD detection has been identified.

(6) "Primary Surveillance Area" or "PSA" means an area within an approximate five-mile radius around an index location as delineated by the Commission for CWD surveillance.

(7) "Sample" means ~~tissue from a cervid suitable for CWD testing.~~ the cervid head and at least three inches of the neck.

(8) "Secondary Surveillance Area" or "SSA" means an area within an approximate five- to 30-mile radius around an index location delineated by the Commission for CWD surveillance.

(9) "Surveillance Area" means the PSA and SSA collectively.

History Note: Authority G.S. 113-134; 113-306; Temporary Adoption Eff. July 1, 2022.

15A NCAC 10B .0502 CWD SURVEILLANCE AREAS DEFINED

The following Surveillance Area is established around the Yadkin County index location:

(1) Surry County East of US 601, South of NC 268 and West of Quaker Church Road and the Ararat River; and Yadkin County East of US 601, North of NC 67, West of Shoals Road to the intersection with Shady Grove Church Road and West of Fairground Road are delineated as the PSA.

(2) Surry County, Yadkin County, Davie County, Forsyth County, Stokes County, all portions of Alleghany County East of US 21 from the Virginia state line to the junction of ~~and~~ NC ~~18,~~ 18 and thereafter all portions South and East of NC 18 to the Wilkes County line, all portions of Wilkes County East of NC 18 from the Alleghany County line to the junction of NC 115 and thereafter all portions East of NC ~~115,~~ 115 to the Iredell County line, and Iredell County ~~East of NC 115 and~~ North of I 40 are delineated as the SSA.

History Note: Authority G.S. 113-134; 113-306; Temporary Adoption Eff. July 1, 2022.

15A NCAC 10B .0503 SURVEILLANCE AREA

(a) Placement of bait, food, food product, ~~mineral,~~ minerals, or salt licks to purposefully congregate wildlife shall be prohibited from January 2 through August 31 each year inside ~~the~~ a Surveillance Area, except that bird feeders and other activities specifically permitted by the Commission shall be allowed. Placement of bait, food, or food products for the purpose of

hunting during the urban archery season shall be allowed within the established season in participating municipalities.
(b) It is unlawful to export a live cervid, cervid ~~carcass~~ carcass, or carcass parts originating from inside a Surveillance Area except:

(1) meat that has been boned out such that no pieces or fragments of bone remain;
(2) caped hides with no part of the skull or spinal column attached;
(3) antlers, antlers attached to cleaned skull plates, or skulls free from meat or brain tissue;
(4) cleaned lower jawbones with teeth or cleaned teeth;
(5) finished taxidermy products and tanned hides; and
(6) carcass or carcass parts permitted by the Commission for disposal outside of the Surveillance Area.

(c) White-tailed deer fawn rehabilitation is prohibited in a Surveillance Area.
(d) White-tailed deer fawns originating from within ~~the~~ a Surveillance Area shall not be transported outside the Surveillance area.

History Note: Authority G.S. 113-134; 113-306; Temporary Adoption Eff. July 1, 2022.

15A NCAC 10B .0504 PRIMARY SURVEILLANCE AREA
(a) Any hunter who harvests a cervid in the PSA during the blackpowder or all lawful weapons season shall submit a sample to the Commission for CWD testing.
(b) No cervid carcass or carcass part originating from inside a PSA shall be transported outside the PSA unless double bagged and taken directly to a Cervid Health Cooperator in a county included in the PSA, or the carcass parts comply with Rule .0503(b) of this Section, or as ~~permitted~~ authorized by the Commission.

History Note: Authority G.S. 113-134; 113-306; Temporary Adoption Eff. July 1, 2022.

15A NCAC 10B .0505 SECONDARY SURVEILLANCE AREA
(a) Any hunter who harvests a cervid in the SSA during the blackpowder season and from opening day through the second Sunday of all lawful weapons season shall submit a sample to the Commission for CWD testing.
(b) Cervid carcass and carcass parts originating from inside an SSA may be transported to the PSA within the same Surveillance Area.
(c) Except as provided in Rule .0503(b) of this Section, cervid carcasses or carcass parts shall not be transported outside of the SSA ~~without a permit from~~ unless authorized by the Commission.

History Note: Authority G.S. 113-134; 113-306; Temporary Adoption Eff. July 1, 2022.

TITLE 16 – STATE BOARD OF EDUCATION

Rule-making Agency: *State Board of Education*

Rule Citation: *16 NCAC 06E .0204*

Effective Date: *July 1, 2022*

Date Approved by the Rules Review Commission: *June 16, 2022*

Reason for Action: *The effective date of a recent act of the General Assembly or of the U.S. Congress, S.L. 2021-184, Part 1, Section 1.(b). Notwithstanding G.S. 150B-21.1(a2), for 180 days following the effective date of this act, the State Board of Education is authorized to submit temporary rules for high school interscholastic athletic activities to the Rules Review Commission. Notwithstanding G.S. 150B-21.1(a4), the State Board of Education shall not be required to submit a written statement of its findings of need with its submission of temporary rules for high school interscholastic athletic activities during this period (see S.L. 2021-184 Section 1.(b). Except as otherwise provided in this subsection, the requirements of Article 2A of Chapter 150B of the General Statutes shall apply.*
G.S. 150B-21.1(a4) also states that, when promulgating a rule that establishes a fee, an agency must comply with the G.S. 12-3.1 which requires agencies to request a consultation with the Joint Legislative Oversight Commission on Government Operations and the Fiscal Research Division of the General Assembly. This temporary rule does not establish a fee; the rule only delegates the authority to establish a fee to the administering organization. Therefore, this temporary rule is not subject to G.S. 12-3.1. Nevertheless, the State Board of Education has informed the Joint Legislative Oversight Commission on Government Operations and the Fiscal Research Division of the General Assembly that it is filing this temporary rule with OAH and provided them with the information required in a request for consultation.

CHAPTER 06 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 06E - STUDENTS

SECTION .0200 - SCHOOL ATHLETICS AND SPORTS MEDICINE

16 NCAC 06E .0204 INTERSCHOLASTIC ATHLETICS AND ADMINISTERING ORGANIZATIONS FOR HIGH SCHOOL ATHLETICS
(a) ~~Local Education Agencies (LEAs)~~ Definitions:

(1) "Administering organization" is defined in G.S. 115C-407.50(1).
(2) "Participating school" is defined in G.S. 115C-407.50(7).
(3) "Public school unit" is defined in G.S. 115C-5(7a).

(b) Public school units (PSUs) are authorized to determine whether and to what extent students in grades ~~6-12~~ 6 through 12 may participate in interscholastic athletics; provided, ~~however,~~

that students in ~~sixth~~ grade 6 are not eligible to participate in tackle football. This Rule shall not apply to charter school athletic programs in kindergarten through grade 8.

~~(b)~~(c) ~~In order to qualify for participation~~ To participate in public school interscholastic athletics, a student shall meet the following requirements:

(1) ~~The~~ A student ~~shall meet the residence criteria of G.S. 115C-366(a).~~ who attends a school supervised by a local board of education ~~The student~~ shall only participate ~~only at~~ in the school to which the student is assigned ~~by the LEA or, if~~ under G.S. 115C-366. A student enrolled in a charter, regional, statewide public school, or school operated by the University of North Carolina, must meet all the enrollment criteria for that school and attend that school. If a student is over the age requirements, for the school the student attends, the student may participate at the school to which the student would be assigned or attend at the next higher grade level.

(2) ~~The~~ A student shall meet the age requirements at each grade level to participate. ~~The principal~~ PSUs shall ~~have~~ determine the age of participating students based on a preponderance of the evidence ~~of the legal birth date of the student.~~ known to them. A student ~~who is~~ ineligible to participate at one grade level due to age ~~is~~ shall be eligible to participate at the next higher grade level ~~only. However,~~ only, provided, no student ~~is~~ shall be eligible to participate at the middle school level for a period lasting longer than six consecutive semesters, beginning with the student's entry into ~~sixth grade.~~ grade 6, and ~~No~~ no student shall be eligible to participate at the high school level for more than eight consecutive semesters, beginning with the student's first entry into grade ~~nine~~ 9 or participation on a high school team, whichever occurs first.

(A) A student shall not participate on a ~~sixth, seventh, or eighth~~ grade 6, 7, or 8 team if the student becomes 15 years of age on or before August 31 of that school year.

(B) A student shall not participate on a ~~ninth~~ grade 9 through 12 ~~junior high school~~ team if the student becomes ~~16~~ 19 years of age on or before August 31 of that school year.

~~(C) A student is eligible to participate in high school athletic contests during a school year if the student does not reach his or her 19th birthday on or before August 31 of that school year.~~

~~(c)~~(d) To be eligible to ~~compete~~ participate during any semester in grades 6, 7, ~~and~~ or 8, the student shall have passed at least one less course than the number of required core courses the immediate prior semester and meet promotion standards established by the ~~LEA.~~ PSU, provided, a student who is promoted from grade 5 to grade 6 shall be deemed to have satisfied the requirement set forth in this Paragraph to participate in the first semester of grade 6. To be eligible to compete during any semester in grades ~~9-12,~~ 9 through 12, the student shall have passed at least five courses (or the equivalent for non-traditional school schedules) the immediate prior semester and meet promotion standards established by the ~~LEA. Regardless of the school organization pattern,~~ PSU, provided, ~~a student who is promoted from the fifth grade to the sixth grade automatically meets the courses passed requirement for the first semester of the sixth grade. Regardless of the school organization pattern,~~ a student who is promoted from ~~the eighth~~ grade 8 to ~~the ninth~~ grade 9 ~~automatically meets the courses passed requirement for the first semester of the ninth grade~~ shall be deemed to have satisfied the requirement set forth in Paragraph to participate in the first semester of grade 9.

~~(d)~~(e) ~~The~~ To be eligible to participate, a student shall receive a medical examination ~~each year~~ every 395 days by a licensed physician, nurse practitioner, or physician assistant, subject to the provisions of G.S. 90-9, 90-18.1, and 90-18.2.

~~(e)~~(f) The student shall not participate in interscholastic athletics after any of the following:

(1) ~~graduation;~~ graduation, except that the student may continue to participate in playoff and state championship contests in spring sports after graduation;

~~(2) becoming eligible to graduate;~~

~~(3)~~(2) signing a professional athletic ~~contact;~~ contract, except that the student may continue to participate in any sport for which the student has not signed a professional contract;

~~(4)~~(3) receiving remuneration as a participant in an athletic ~~contest, or~~ contest, except that the student may accept a gift, merchandise, trophy, or other thing of value, provided that:

(A) the value does not exceed two hundred fifty dollars ($250.00) per student per sports season;

(B) the item is totally consumable and nontransferable, or labeled in a permanent manner, for example, monogrammed or engraved items; and

(C) the item is approved by the student's principal and superintendent; or

~~(5)~~(4) participating on an all-star team or in an all-star game that is not sanctioned by the ~~association~~ administering organization of which the student's school is a ~~member. The~~ member, provided, the student ~~is~~ shall be ineligible only for the specific sport involved.

~~(f)~~(g) Each PSU shall require the principal of a school that participates in interscholastic athletics ~~shall~~ to certify a list of eligible students for each sport.

~~(g)~~(h) ~~Any~~ A PSU shall impose at least the following penalties on a student, ~~student-athlete,~~ coach, or school official in grades ~~6-12~~ 6 through 12 who is ejected from ~~any~~ an interscholastic athletic contest ~~shall at least be penalized as follows~~:

(1) for the first offense, the person shall be reprimanded and suspended from participating in ~~for~~ the next game at that level of play (varsity or junior varsity); ~~varsity) and for any intervening games at either level;~~

(2) for a second offense, the person shall be placed on probation and suspended from participating in ~~for~~ the next two games at that level of play (varsity or junior varsity); ~~varsity) and for any intervening games at either level;~~

(3) for a third offense, the person shall be suspended for one calendar year; and

(4) a coach who is suspended ~~at any level of grades 6-12 (middle school, junior high or high school)~~ shall not coach any team for ~~in~~ any ~~other~~ grade level ~~in grades 6-12~~ during the period of suspension.

~~(5)~~ Penalties are cumulative from sport to sport and from sport season to sport season. If no member of the school's coaching staff is present to assume an ejected coach's duties, the contest shall be terminated by a forfeit.

~~(h)~~(i) ~~LEAs~~ PSUs may allow their schools to belong to ~~the North Carolina High School Athletic Association (NCHSAA), which has established as a minimum the rules adopted by the SBE.~~ an administering organization designated by the State Board of Education. ~~The NCHSAA may~~

(j) An administering organization entering into a memorandum of understanding with the State Board of Education for the purpose of administering interscholastic athletics under this Rule must apply and enforce all of the requirements of this Rule.

(k) The State Board of Education may delegate to an administering organization its authority over participating schools to:

(1) waive any student eligibility requirement contained in this Rule, ~~except the age requirement,~~ if it finds that the ~~rule~~ requirement fails to accomplish its purpose, or it works an undue hardship on a student who has lost eligibility due to circumstances that made participation impossible such as prolonged illness or ~~injury. The NCHSAA may enforce penalties for the violation of this Rule at the high school level~~. injury;

(2) adopt, apply, and enforce penalty rules that establish a system of demerits that includes reprimands, probations, suspensions, forfeitures of contests, forfeitures of titles, and disqualifications;

(3) adopt, apply, and enforce administrative rules, as defined in G.S. 115C-407.55(5);

(4) adopt, apply, and enforce gameplay rules, as defined in G.S. 115C-407.55(6); and

(5) establish and collect from all its members a uniform membership fee of either:

(A) one thousand dollars ($1,000) for each participating school, or

(B) one dollar ($1.00) for each student enrolled in a participating school.

(l) An administering organization shall:

(1) enter into a memorandum of understanding with the State Board of Education no later than March 15 prior to the academic year in which it is to begin administering interscholastic athletics and before each subsequent renewal of a memorandum of understanding;

(2) be audited by a reputable independent auditing firm and submit the audit to the State Board of Education no later than March 15 each year;

(3) broadcast the meetings of its membership and board of directors in a manner that is announced on its website and which may be viewed electronically by any member of the public;

(4) provide to the State Board of Education within 30 days any requested organizational records, including but not limited to, financial information, annual audit reports, and any matters related to or impacting participating schools;

(5) enter into written agreements with PSUs that allow their eligible schools to participate in interscholastic sports, which agreements shall include an explanation of the fees to be charged, the obligations of the PSU and participating schools, penalties for the violation of this Rule at the high school level that may be imposed, and an explanation of the process to contest or appeal adverse decisions; and

(6) publish the organization's rules through a link on the first page of its website.

(m) The State Board of Education will appoint an appeals board to hear and act upon appeals from final decisions of an administering organization regarding student eligibility, penalties, fees imposed, retaliation, or discrimination. Panels of no fewer than three members of the appeals board may hear and decide matters on behalf of the board. A PSU aggrieved by a final decision of the administering organization may file an appeal with the State Board of Education's Office of General Counsel within five days after receipt of the administering organization's final decision. The notice shall be mailed to the Superintendent or board of trustees of the PSU.

(1) The administering organization's notice shall contain:

(A) findings of fact;

(B) conclusions of law, including citation to any rules related to the decision;

(C) a description of any penalties; and

(D) a statement that the PSU may file a notice of appeal within five days of receipt of the administering organization's decision by mailing the notice to the State Board of Education's Office of General Counsel, 301 S. Wilmington Street, Raleigh, N.C. 27601, and emailing a copy of the notice of appeal to the Office of General Counsel for the State Board of Education.

(2) The PSU's appeal shall:
(A) be in writing;
(B) include a description of the facts of the dispute;
(C) include any evidence submitted to the administering organization;
(D) present an argument explaining why the PSU believes the administering organization's final decision was not based on substantial evidence or affected by an error of law.

(3) The administering organization may file a response to the PSU's submissions within five days. The panel may shorten the time to for filing the administering organization's response if the decision affects a student's or coach's eligibility to participate in an intervening athletic contest.

(4) All documents filed in the appeal shall be simultaneously served on all parties. in the manner prescribe in Rule 5 of the North Carolina Rules of Civil Procedure.

(5) Any hearing shall be recorded.

(6) No later than 30 days after the State Board of Education's receipt of the appeal, a panel of the appeals board shall issue its decision. The panel shall affirm the administering organization's final decision unless a majority of the panel determines that the final decision is not supported by substantial evidence or affected by an error of law.

(7) The panel's decision shall be final.

~~(i)~~(n) The ~~LEA~~ PSU that has jurisdiction over ~~the high~~ a school may impose ~~additional penalties.~~ penalties in addition to those imposed by an administering organization. If there is no administering organization governing a group of schools, a PSU ~~LEAs or conferences~~ may adopt and impose penalties ~~at the middle and junior high school levels.~~ for schools under its jurisdiction.

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50, 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Emergency Adoption Eff. August 20, 2019;
Amended Eff. March 1, 2021;
Temporary Amendment Eff. July 1, 2022.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 56 – BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

Rule-making Agency: *Board of Examiners for Engineers and Surveyors*

Rule Citation: *21 NCAC 56 .0601, .0608*

Effective Date: *July 1, 2022*

Date Approved by the Rules Review Commission: *June 16, 2022*

Reason for Action: *The effective date of a recent act of the General Assembly or of the U.S. Congress, S.L. 2022-1, ss.1.(a)-1.(c) (S.B. 219).*
The Session Law requires that the Board adopt rules for the applicants for licensure to have the additional apprenticeship path to licensure beginning July 1, 2022. This is now spelled out in 21 NCAC 56 .0601.
The Session Law, in the process of providing for applicants for licensure to have the additional apprenticeship path to licensure beginning July 1, 2022, removed language addressing the land surveyor intern to address specifically, and only, the qualifications for licensure as a professional land surveyor. This proposed rule, 21 NCAC 56 .0608, continues the long established granting of the Surveyor Intern Certificate, as a recognition for applicants and has been recognized by employers in the surveying profession. To continue to encourage workforce development of the surveying profession the Board is adopting this new rule. It is in response to the Legislative charge and authority to the Board in the new paragraph in Section 1.(c) of the Session law:
"(g1) The Board shall review and promulgate rules establishing continuing education requirements for surveying apprenticeships and encourage the workforce development of the profession."

SECTION .0600 - PROFESSIONAL LAND SURVEYOR

21 NCAC 56 .0601 REQUIREMENTS FOR LICENSING

(a) Education. The terms used by the Board for the specific education requirements to be eligible to be licensed as a Professional Land Surveyor are defined as follows:

(1) "B.S. in surveying or other equivalent curriculum." These degrees shall contain a minimum of 45 semester hours, or their quarter-hour equivalents. Of the 45 semester hours, a minimum of 12 semester hours of surveying fundamentals, 12 semester hours of applied surveying practice, and 12 semester hours of advanced or theoretical surveying courses are required. The remainder of the required surveying courses may be elective-type courses in any of the categories; and

(2) "Associate degree in surveying technology." This degree shall contain a minimum of 20 semester hours, or quarter-hour equivalents. Courses shall be in surveying fundamentals, applied surveying practice and advanced or theoretical surveying courses, including courses in surveying practices, subdivision design and planning, surface drainage, and photogrammetry which must be completed with a passing grade.

(3) "Land Surveyor Apprenticeship." The applicant shall have completed one of the following programs:

(A) Certified Survey Technician Program (CST) of the National Society of Surveyors (NSPS) levels I through IV.

(B) "Technologist" Certification Program of the American Society for Photogrammetry and Remote Sensing (ASPRS).

(C) Based upon the Surveying Education Standard of the National Council of Examiners for Engineering and Surveying (NCEES) by obtaining college semester credit hours, as modified to require the following 39 college semester hours:

(i) 12 college semester hours in mathematics beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus.

(ii) 27 college semester hours of surveying science and surveying practice. Courses shall be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, legal principles of land surveying, boundary law, professional surveying and mapping, and remote sensing. Graduate-level surveying courses can be included to fulfill curricular requirements in this area.

(b) Experience:

(1) Definition. As used in the North Carolina Engineering and Land Surveying Act, the term "progressive practical experience" means that during the period of time in which an applicant made a practical utilization of the knowledge of the principles of geometry and trigonometry in determining the shape, boundaries, position, and extent of the earth's surface, such that continuous improvement, growth, and development in the utilization of that knowledge have been shown. In addition, the applicant shall show the continuous assumption of greater individual responsibility for the work product over that period of time.

(2) Required Experience. In evaluating the work experience required, the Board shall consider the total experience record and the progressive nature of the record. Not less than half of the required land surveying experience shall be of a professional grade and character, and shall be performed under the responsible charge of a Professional Land Surveyor. If the work was not under the responsible charge of a Professional Land Surveyor, the applicant shall submit a written explanation to the Board explaining why the experience should be considered. The Board shall approve the experience on a case-by-case basis if it is satisfied of the grade and character of the progressive experience. Experience gained under the technical supervision of an unlicensed individual shall be considered based upon the engineering education and experience credential of the unlicensed supervisor. Experience gained in the armed services, typically while serving in an engineering or surveying related group, shall be accepted only if substantially equivalent to that which would have been gained in civilian work.

(3) Other Experience. The applicant shall document the nature and details of the work done in the following areas to evidence to the Board its equivalency to land surveying:

(A) construction layout;

(B) engineering surveying; or

(C) part-time surveying work.

(c) Exhibits, Drawings, Maps:

(1) Required Exhibit Before Principles and Practice of Surveying Examination:

(A) General. The applicant shall submit, along with the application, an actual map of a boundary survey of an actual project prepared under the direct supervision and responsible charge of a Professional Land Surveyor who states that the applicant did the preparatory work of the survey; that shows, by its conformance, that the applicant is knowledgeable of the contents of the Standards of Practice for Land Surveying in North Carolina as set forth in Section .1600 of this

Chapter; and that shows that the applicant is able to apply this knowledge by preparing a map in accordance with the various legal and professional requirements of land surveying.

(B) Physical Requirement. The map submitted shall be a clean, clear, legible print of an original map in the file of a Professional Land Surveyor.

(2) Specific Requirements. The details that shall be evaluated are those applicable to the particular project as described in the Standards of Practice for Land Surveying in North Carolina as set forth in Section .1600 of this Chapter, and as described in G.S. 47-30. In addition, the exhibit shall contain a statement that the field work, calculation, and mapping were performed by the applicant under the supervision of a Professional Land Surveyor, attested to by that Professional Land Surveyor.

(3) Requirements for Comity Applicant. The map submitted by an applicant under comity may be a representative map of an actual survey of a project or work performed in the state of licensure that is modified to meet the requirements in Subparagraph (c)(2) of this Rule and shall be evaluated in accordance with the requirements applicable to the particular project as described in the Standards of Practice for Land Surveying in North Carolina as set forth in Section .1600 of this Chapter, and as described in G.S. 47-30.

History Note: Authority G.S. 47-30; 89C-10; 89C-13;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. August 1, 2014; July 1, 2009; August 1, 2000; August 1, 1998; November 2, 1992; April 1, 1989; December 1, 1984; January 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. July 1, 2020;
Temporary Amendment Eff. July 1, 2022.

21 NCAC 56 .0608 SURVEYOR INTERN

(a) General. To obtain the optional certification as a Surveyor Intern, an applicant shall:

(1) pass the fundamentals of land surveying examination and make application to the Board on a form prescribed and furnished by the Board,

(2) be of good character and reputation,

(3) submit three character references to the Board, one of whom is a professional land surveyor,

(4) comply with the requirements of this Rule, and

(5) satisfy one of the following requirements related to education and experience:

(A) Have a bachelor of science degree in surveying or other equivalent curricula, approved by the Board and a record satisfactory to the Board of one year of progressive practical experience under a practicing professional land surveyor.

(B) Have an associate degree in surveying technology approved by the Board and a record satisfactory to the Board of two years of progressive practical experience under a practicing professional land surveyor.

(C) Have graduated from high school or completed a high school equivalency certificate and a record satisfactory to the Board of five years of progressive practical experience, under a practicing professional land surveyor.

(D) Graduation from a high school or the completion of a high school equivalency certificate, completion of a Land Surveyor Apprenticeship, and a record satisfactory to the Board of three years of progressive practical experience under a practicing professional land surveyor.

(b) Request. The application form may be requested from the Board office or obtained from the website.

(c) Application Form. Surveyor Intern ~~Certification~~ Certificate Application ~~Form.~~ form. After passing the ~~fundamentals~~ Fundamentals of ~~surveying~~ Land Surveying examination an applicant may make application to the Board to become certified as a "Surveyor Intern." This form requires the applicant to set forth personal history, educational background, surveying experience, character references and exhibit. A passport-type photographic quality portrait that is adequate for current identification purposes is ~~also~~ required.

(d) Reference Forms:

(1) Persons applying to be certified as a Surveyor Intern shall submit to the Board names of individuals who are familiar with the applicant's work, character and reputation. The names shall be submitted by the applicant on the application form.

(2) Persons applying for certification as a Surveyor Intern must submit three references, one of whom shall be a Professional Land Surveyor.

(3) In addition to the applicant submitting names to the Board of such individuals, those individuals shall submit to the Board their evaluations of the applicant on reference forms supplied them by the applicant.

(4) The reference form requires the individual evaluating the applicant to state the evaluating individual's profession, knowledge of the ~~applicant~~ applicant, and information concerning the applicant's land surveying experience, ~~character~~ character, and reputation.

(5) The Board shall provide the reference forms to the applicant along with the application for licensure. The reference forms shall then be distributed by the applicant to the persons listed on the application as references. The applicant shall ensure that the individuals listed as references return the forms to the Board prior to the filing deadline for the examination applied for by the applicant.

~~(e) Fees. Surveyor Intern Certification Form. Once the applicant passes the examination on the fundamentals of surveying and makes application to the Board to become certified as a "Surveyor Intern" the application fee of one hundred dollars ($100.00) is payable.~~

~~(f)~~(e) Personal Interview. During the application process, the applicant may be interviewed by Board members if the members have questions regarding the applicant's education, experience or character, based upon the information submitted in the application.

History Note: Authority G.S. 89C-10; 89C-13; 89C-14; 89C-15;
Temporary Adoption Eff. July 1, 2022.

This Section contains information for the meeting of the Rules Review Commission June 16, 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

Brian Liebman	984-236-1948
Lawrence Duke	984-236-1938
William W. Peaslee	984-236-1939

RULES REVIEW COMMISSION MEETING DATES

July 21, 2022	September 15, 2022
August 18, 2022	October 20, 2022

RULES REVIEW COMMISSION MEETING
MINUTES
June 16, 2022

The Rules Review Commission met on Thursday, June 16, 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, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho were present in the Commission Room.

Staff members Alexander Burgos; Commission Counsel Lawrence Duke, Brian Liebman, and Bill Peaslee were present in the room.

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.

The Chair advised the Commission that all RRC members were present in the room, therefore, roll call votes are not required. The RRC members were instructed to respond with ayes or noes during the votes in this meeting.

APPROVAL OF MINUTES
The Chair asked for any discussion, comments, or corrections concerning the minutes of the May 19, 2022, meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS
Department of Natural and Cultural Resources
07 NCAC 02H .0306 - The rewritten rule was unanimously approved.

DRAFT

Environmental Management Commission
15A NCAC 02B .0208, .0212, .0214, .0215, .0216, and .0218 - The agency is addressing the objection from the May meeting. No action was required by the Commission.

Environmental Management Commission
15A NCAC 02H .1301, .1401, .1402, .1403, .1404, and .1405 - The agency is addressing the objection from the May meeting. No action was required by the Commission.

Marine Fisheries Commission
15A NCAC 03O .0114 and .0209 - The rewritten rules were unanimously approved.

Coastal Resources Commission
15A NCAC 07H .1701, .1702, .1703, .1704, .1705, .1901, .1902, .1903, .1904, .1905, .2501, .2502, .2503, .2504, and .2505 - The rewritten rules were unanimously approved.

Wildlife Resources Commission
15A NCAC 10D .0103, .0209, .0226, .0229, .0230, .0239, .0240, .0243, .0260, and .0276 – The Commission extended the period of review at the May meeting through the end of the 2022 Legislative Session of the General Assembly, as one or more of these rules await legislative review. No action was required by the Commission

State Board of Education
16 NCAC 06E .0204 - The rewritten temporary rule was unanimously approved.

LOG OF FILINGS (PERMANENT RULES)

Pesticide Board
All rules were unanimously approved.

Board of Agriculture
The Commission extended the period of review for 02 NCAC 52J .0101, .0102, .0103, .0104, .0105, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0301, .0302, .0303, .0304, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .0408, .0409, .0410, .0411, .0412, .0413, .0414, .0415, .0416, .0417, .0418, .0419, .0501, .0701, .0702, .0703, .0704, .0705, .0801, .0802, .0803, .0901, and .0902 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period of review to give the agency additional time in which to respond to requests for changes.

Medical Care Commission
The Commission extended the period of review for 10A NCAC 13B .3801. .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, and .5411 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period of review to give the agency additional time in which to respond to requests for changes.

Criminal Justice Education and Training Standards Commission
The Commission extended the period of review for 12 NCAC 09G .0205 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period of review in order to wait for the conclusion of the legislative review process.

Private Protective Services Board
All rules were unanimously approved.

Environmental Management Commission
The Commission extended the period of review for 15A NCAC 02Q .0103, .0503, .0504, .0505, .0507, .0508, .0509, .0514, .0516, .0518, .0521, .0522, .0525, and .0526 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period of review to give the agency additional time in which to respond to requests for changes.

Coastal Resources Commission
The Commission extended the period of review for 15A NCAC 07H .0104, .0208, .0304, .0305, .0306, .0308, .0309, .0310, .1205, .1801; 07J .0403, .0404, .1201, .1202, .1203, .1204, .1205, .1206, .1301, .1302, .1303; 07K .0208; 07M .0301, .0302, .0303, .0306, .0307, .0308, and .0310 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period of review to give the agency additional time in which to respond to requests for changes.

DRAFT

Commission for Public Health
All rules were unanimously approved.

State Board of Education
16 NCAC 06D .0403 was unanimously approved.

Board of Chiropractic Examiners
All rules were unanimously approved.

Board of Dental Examiners
All rules were unanimously approved.

Medical Board
Prior to the review of the rules from the Medical Board, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.
All rules were unanimously approved.

Board of Pharmacy
All rules were unanimously approved.

Board of Licensed Clinical Mental Health Counselors
All rules were unanimously approved.

Appraisal Board
All rules were unanimously approved.

Commissioner Currin was not present in the Commission room during the discussion or vote on the rules from the Appraisal Board.

Vanessa Hall with of the North Carolina Chapter of the Appraisal Institute addressed the Commission.

Scott DiBiasio, with the National Appraisal Institute, addressed the Commission.

In accordance with G.S. 150B-21.3(b2), the Commission received over ten letters of objection requesting legislative review and a delayed effective date of 21 NCAC 57A .0201, .0405, .0407, .0601, .0604, and .0605.

Addictions Specialist Professional Practice Board
All rules were unanimously approved.

Commissioner Currin was not present in the Commission room during the discussion or vote on the rules from the Addictions Specialist Professional Practice Board.

LOG OF FILINGS (TEMPORARY RULES)
Wildlife Resources Commission
15A NCAC 10B .0501. .0502, .0503, .0504, and .0505 were unanimously approved.

Commissioner Currin was not present in the Commission room during the discussion or vote on the rules from the Wildlife Resources Commission.

Board of Examiners for Engineers and Surveyors
21 NCAC 56 .0601 and .0608 were unanimously approved.

Commissioner Currin was not present in the Commission room during the discussion or vote on the rules from the Board of Examiners for Engineers and Surveyors.

COMMISSION BUSINESS
The Chair advised the Commission that at the July meeting, the Commission will have a discussion on whether staff will discontinue pre-reviews. Additionally, there will be a discussion on the precedence of significant deadline extensions allowed in the past for the filing of rules post-adoption.

DRAFT

The meeting adjourned at 9:31 a.m.

The next regularly scheduled meeting of the Commission is Thursday, July 21, 2022, at 9:00 a.m.

_____
Alexander Burgos, Paralegal

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

DRAFT

June 16, 2022

Rules Review Commission
Meeting
Please **Print** Legibly

Name	Agency
Jennifer Everett	DEQ
Shawn Mayes	DOJ
CHRIS MILLIS	NCHBA
Anna Haywood	NCDACS

Rules Review Commission Meeting June 17, 2022
Via WebEx

Name	Agency
Angela Willis	CRC
Shelby Taylor	DSHR
Jessica Montie	DEQ
Brad Howard	WRC
Ashley Carroll	mountcastleinsurance.com
Lou Martin	DPI
Misty Piekaar	DHHS
Ashley	acarroll@mountcastleinsurance.com
Rachel Love-Adrick	DENR
Ashley Carroll	mountcastleinsurance.com
Barbara Geiger	Landscape Architects
Dennis Seavers	Barbers
Shelby Taylor	DHHS
Laura Rowe	Treasurer
Leslie Dismukes	ldismukes@ncdoj.gov
Pam Melton	ncrealtors.org
Brandon Walker	DPI
Greta Hill	DHHS
Makeda Harris	Healthcare Association
Vanessa Hall	colliers.com
Scott Dibiasio	Appraisalinstitute.org
Ross Smith	NC Manufacturers Alliance
Helen Landi	DOT
Bridget Shelton	DENR
Ashley Pekrul	WRC
Dauna Bartley	Dental Board
Anna Baird Choi	General Contractors
Catherine Blum	DEQ
Ross Smith	NC Manufacturers Alliance
Kim Randolph	DOJ
Jonathan Avery	NCDCR
Jim Burnette	Agriculture
Nadine Pfeiffer	MCC
Virginia Niehaus	CPH
Don Rodgers	Appraisal Board
Alesia Balshakova	DOJ
Clint Pinyan	Pharmacy
Melonie Davis	NCBLCMHC
Alice Isley	DHHS
Anne Coan	ncfb.org
Carrie Ruhlman	WRC

Sondra Panico	Appraisal Board
Mary Lucasse	CRC
John Barkley	DOJ
Robin Colburn	cce-global.org
Larry Michael	DHHS
Shane Smith	DHHS
David Tuttle	ncbels.org
Kirsten Leloudis	DHHS

LIST OF APPROVED PERMANENT RULES
June 16, 2022 Meeting

PESTICIDE BOARD			
Prohibited Acts	02 NCAC	09L	.0530
Prohibited Acts	02 NCAC	09L	.1112
NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF			
Reproduction Services	07 NCAC	02H	.0306
PRIVATE PROTECTIVE SERVICES BOARD			
Application for Licenses and Trainee Permits	14B NCAC	16	.0201
Renewal or Re-issue of Licenses and Trainee Permits	14B NCAC	16	.0203
Reports	14B NCAC	16	.0404
Renewal of Unarmed Security Guard Registration	14B NCAC	16	.0706
Renewal of Armed Security Guard Firearm Registration Permit	14B NCAC	16	.0806
Renewal of a Firearms Trainer Certificate	14B NCAC	16	.0904
Renewal of an Unarmed Trainer Certificate	14B NCAC	16	.0911
Renewal or Reissue of Unarmed Car Service Guard Registration	14B NCAC	16	.1306
Renewal of Armed Armored Car Service Guard Firearm Regist...	14B NCAC	16	.1406
MARINE FISHERIES COMMISSION			
Suspension, Revocation and Reissuance of Licenses	15A NCAC	03O	.0114
Transfer of Interest	15A NCAC	03O	.0209
COASTAL RESOURCES COMMISSION			
Purpose	15A NCAC	07H	.1701
Approval Procedures	15A NCAC	07H	.1702
Permit Fee	15A NCAC	07H	.1703
General Conditions	15A NCAC	07H	.1704
Specific Conditions	15A NCAC	07H	.1705
Purpose	15A NCAC	07H	.1901
Approval Procedures	15A NCAC	07H	.1902
Permit Fee	15A NCAC	07H	.1903
General Conditions	15A NCAC	07H	.1904
Specific Conditions	15A NCAC	07H	.1905
Purpose	15A NCAC	07H	.2501
Approval Procedures	15A NCAC	07H	.2502
Permit Fee	15A NCAC	07H	.2503
General Conditions	15A NCAC	07H	.2504
Specific Conditions	15A NCAC	07H	.2505
PUBLIC HEALTH, COMMISSION FOR			
Definitions	15A NCAC	18A	.2508
Display Spa at a Temporary Event	15A NCAC	18A	.2545
Disbursement of Funds	15A NCAC	18A	.2901

EDUCATION, STATE BOARD OF

Provide Information on Child Abuse and Neglect	16 NCAC	06D	.0403

CHIROPRACTIC EXAMINERS, BOARD OF

Acupuncture	21 NCAC	10	.0208
Professional Entities	21 NCAC	10	.0217

DENTAL EXAMINERS, BOARD OF

Licensure	21 NCAC	16C	.0101
Application Certification of Licensure	21 NCAC	16F	.0102
Certificate of Registration	21 NCAC	16F	.0104
Application for Renewal or Reinstatement	21 NCAC	16F	.0105
Amendments to Articles of Incorporation or Organization, ...	21 NCAC	16F	.0107
Corporate Officers or Managers Shall Execute Documents	21 NCAC	16F	.0110
Procedures Prohibited	21 NCAC	16G	.0103
Dental Hygienist Certification to Administer Local Anesth...	21 NCAC	16G	.0109
Approved Courses and Sponsors	21 NCAC	16I	.0202
Inspection Authorized	21 NCAC	16Q	.0704
Approved Courses and Sponsors	21 NCAC	16R	.0202
Definition: Unprofessional Conduct by a Dentist	21 NCAC	16V	.0101
Definition: Unprofessional Conduct by a Dental Hygienist	21 NCAC	16V	.0102
Eligibility to Practice Hygiene Outside Direct Supervision	21 NCAC	16Z	.0101

MEDICAL BOARD

Disposition of Request	21 NCAC	32A	.0112
Administration of Vaccines by Pharmacists	21 NCAC	32U	.0101
Administration of Long-Acting Injectables	21 NCAC	32U	.0102

PHARMACY, BOARD OF

Code of Ethics	21 NCAC	46	.1820
Administration of Vaccines by Pharmacists	21 NCAC	46	.2507
Administration of Long-Acting Injectables	21 NCAC	46	.2514

CLINICAL MENTAL HEALTH COUNSELORS, BOARD OF LICENSED

Professional Disclosure Statement Requirements for LCMHCA...	21 NCAC	53	.0204
Counseling Experience	21 NCAC	53	.0205
Receipt of Application	21 NCAC	53	.0308
Renewal Period	21 NCAC	53	.0601
Renewal for Licensure Form; Address Change; Name Change	21 NCAC	53	.0602
Failure to Secure Sufficient Continuing Education/Renewal...	21 NCAC	53	.0604
Renewal of Certificate of Registration for a Professional...	21 NCAC	53	.0902

APPRAISAL BOARD

Qualifications for Trainee Registration and Appraiser Lic...	21 NCAC	57A	.0201
Registration, License and Certificate Renewal	21 NCAC	57A	.0203
Continuing Education	21 NCAC	57A	.0204
Expired Registration, License or Certificate	21 NCAC	57A	.0206

Replacement Registration, License and Certificate Fees	21 NCAC	57A	.0208
National Appraiser Registry	21 NCAC	57A	.0209
Temporary Practice	21 NCAC	57A	.0210
Display of Registration, Licenses and Certificates	21 NCAC	57A	.0402
Change of Name or Address	21 NCAC	57A	.0404
Appraisal Reports	21 NCAC	57A	.0405
Supervision of Trainees	21 NCAC	57A	.0407
Appraisal Standards	21 NCAC	57A	.0501
Experience Credit to Upgrade	21 NCAC	57A	.0601
Types of Appraisal Experience	21 NCAC	57A	.0604
Reporting Appraisal Experience	21 NCAC	57A	.0605
Registered Trainee Course Requirements	21 NCAC	57B	.0101
Course Records	21 NCAC	57B	.0210
Course Completion Standards	21 NCAC	57B	.0303
Course Scheduling	21 NCAC	57B	.0304
Criteria for Course Recognition	21 NCAC	57B	.0307
Original Course Approval Fee	21 NCAC	57B	.0402
Application and Fee	21 NCAC	57B	.0602
Criteria for Course Approval	21 NCAC	57B	.0603
Continuing Education Credit Hours	21 NCAC	57B	.0605
Course Operational Requirements	21 NCAC	57B	.0606
Sponsor Reporting of Continuing Education Credit	21 NCAC	57B	.0608
Changes During the Approval Period	21 NCAC	57B	.0609
Instructors for the Trainee/Supervisor Course Required by...	21 NCAC	57B	.0614
Registration Renewal	21 NCAC	57D	.0202

ADDICTIONS SPECIALIST PROFESSIONAL PRACTICE BOARD

Definitions	21 NCAC	68	.0101
Designation as Alcohol and Drug Counselor Intern	21 NCAC	68	.0203
Supervised Practicum for Certified Alcohol and Drug Couns...	21 NCAC	68	.0204
Certified Alcohol and Drug Counselor Certification	21 NCAC	68	.0205
Process for Prevention Specialist Certification	21 NCAC	68	.0206
Renewal Requirements for Counselor, Criminal Justice Addi...	21 NCAC	68	.0208
Process for Residential Facility Director Certification	21 NCAC	68	.0212
Licensure Requirements for Initial Applicants for Licensu...	21 NCAC	68	.0305
Renewal of Licensed Clinical Addictions Specialist	21 NCAC	68	.0306

LIST OF APPROVED TEMPORARY RULES

June 16, 2022 Meeting

WILDLIFE RESOURCES COMMISSION

Definitions and General Requirements	15A NCAC	10B	.0501
CWD Surveillance Areas Defined	15A NCAC	10B	.0502
Surveillance Area	15A NCAC	10B	.0503
Primary Surveillance Area	15A NCAC	10B	.0504
Secondary Surveillance Area	15A NCAC	10B	.0505

EDUCATION, STATE BOARD OF

Interscholastic Athletes	16 NCAC 06E	.0204

ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR

Requirements for Licensing	21 NCAC 56	.0601
Surveyor Intern	21 NCAC 56	.0608