

NORTH CAROLINA REGISTER

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June 17, 2024

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PUBLISHED BY

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2024 – December 2024

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
38:13	01/02/24	12/06/23	01/17/24	03/04/24	03/20/24	04/30/2024	05/01/24	09/28/24
38:14	01/16/24	12/19/23	01/31/24	03/18/24	03/20/24	04/30/2024	05/01/24	10/12/24
38:15	02/01/24	01/10/24	02/16/24	04/01/24	04/20/24	05/29/2024	06/01/24	10/28/24
38:16	02/15/24	01/25/24	03/01/24	04/15/24	04/20/24	05/29/2024	06/01/24	11/11/24
38:17	03/01/24	02/09/24	03/16/24	04/30/24	05/20/24	06/26/2024	07/01/24	11/26/24
38:18	03/15/24	02/23/24	03/30/24	05/14/24	05/20/24	06/26/2024	07/01/24	12/10/24
38:19	04/01/24	03/08/24	04/16/24	05/31/24	06/20/24	07/31/2024	08/01/24	12/27/24
38:20	04/15/24	03/22/24	04/30/24	06/14/24	06/20/24	07/31/2024	08/01/24	01/10/25
38:21	05/01/24	04/10/24	05/16/24	07/01/24	07/20/24	08/28/2024	09/01/24	01/26/25
38:22	05/15/24	04/24/24	05/30/24	07/15/24	07/20/24	08/28/2024	09/01/24	02/09/25
38:23	06/03/24	05/10/24	06/18/24	08/02/24	08/20/24	09/25/2024	10/01/24	02/28/25
38:24	06/17/24	05/24/24	07/02/24	08/16/24	08/20/24	09/25/2024	10/01/24	03/14/25
39:01	07/01/24	06/10/24	07/16/24	08/30/24	09/20/24	10/30/2024	11/01/24	03/28/25
39:02	07/15/24	06/21/24	07/30/24	09/13/24	09/20/24	10/30/2024	11/01/24	04/11/25
39:03	08/01/24	07/11/24	08/16/24	09/30/24	10/20/24	11/26/2024	12/01/24	04/28/25
39:04	08/15/24	07/25/24	08/30/24	10/14/24	10/20/24	11/26/2024	12/01/24	05/12/25
39:05	09/03/24	08/12/24	09/18/24	11/04/24	11/20/24	12/19/2024	01/01/25	05/31/25
39:06	09/16/24	08/23/24	10/01/24	11/15/24	11/20/24	12/19/2024	01/01/25	06/13/25
39:07	10/01/24	09/10/24	10/16/24	12/02/24	12/20/24	*01/29/2025	02/01/25	06/28/25
39:08	10/15/24	09/24/24	10/30/24	12/16/24	12/20/24	*01/29/2025	02/01/25	07/12/25
39:09	11/01/24	10/11/24	11/16/24	12/31/24	01/20/25	*02/26/2025	03/01/25	07/29/25
39:10	11/15/24	10/24/24	11/30/24	01/14/25	01/20/25	*02/26/2025	03/01/25	08/12/25
39:11	12/02/24	11/06/24	12/17/24	01/31/25	02/20/25	*03/26/2025	04/01/25	08/29/25
39:12	12/16/24	11/21/24	12/31/24	02/14/25	02/20/25	*03/26/2025	04/01/25	09/12/25

*Dates not approved by the RRC

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 but not later than 60 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.

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.



NORTH CAROLINA
STATE BOARD OF ELECTIONS

Mailing Address:
P.O. Box 27255,
Raleigh, NC 27611
(919) 814-0700 or
(866) 522-4723
Fax: (919) 715-0135

Mr. Brad Scott
420 N Ashe Avenue
Newton, NC 28658

May 22, 2024

Re: Request for an advisory opinion under N.C.G.S. § 163-278.23 regarding in-kind contributions

Dear Mr. Scott,

Thank you for contacting our office. The following written opinion is provided in accordance with N.C.G.S. § 163-278.23.

On February 29, 2024, you asked whether in-kind contributions to a candidate require the candidate to organize a candidate committee under N.C.G.S. § 163-278.7(a). In addition, you asked whether an individual volunteering to collect signatures on behalf of an unaffiliated candidate has made an in-kind contribution that would require the candidate to organize a candidate committee.

Pursuant to N.C.G.S. § 163-278.7(a), “[e]ach candidate who has received funds or made payments or given consent for anyone else to receive funds or transfer anything of value for the purpose of bringing about that individual’s nomination or election for office . . . shall appoint a treasurer and, under verification, report the name and address of the treasurer to the Board.” When an individual gives consent for anyone else to “transfer anything of value for the purpose of bringing about that individual’s nomination or election for office,” then N.C.G.S. § 163-278.7(a) is triggered and a committee must be organized. An in-kind transfer conveys goods or services rather than money. *In kind*, Black’s Law Dictionary (11th ed. 2019). When there is value attached to the good or service, the transfer will implicate the reporting requirements under N.C.G.S. § 163-278.7(a), just like the transfer of funds. At that point, the candidate must file a Statement of Organization and Certification of Financial Accounts with the appropriate board of elections. *See* N.C.G.S. § 163-278.7(b).

N.C.G.S. § 163-278.6(13) states that the term “contribution” “shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, political committee, or referendum committee.” While N.C.G.S. § 163-278.7(a) does not speak directly to contributions, it would not be logical to construe the intent of the

General Assembly to require organization of a candidate committee and the filing of disclosure reports based on receipt of volunteer services which, according to the definition of "contribution," would not ultimately be regulated or reportable under Article 22A. Therefore, the exception for volunteer services in N.C.G.S. § 163-278.6(13) also applies to N.C.G.S. § 163-278.7(a).

Accordingly, an individual volunteering their time to a candidate to gather signatures for a petition does not trigger the candidate to organize a committee pursuant to N.C.G.S. § 163-278.7(a). However, if along with their time, the individual provides resources for the effort, such as printing or copying forms and purchasing pens, then an in-kind contribution has been made and a committee must be organized.

The opinion will be filed with the Codifier of Rules to be published in the North Carolina Register.

Sincerely,



Karen Brinson Bell
Executive Director
State Board of Elections

Cc: Ashley B. Snyder, Codifier of Rules

To:

Karen Brinson Bell
PO BOX 27255
Raleigh, NC 27611-7255
Email: karen.bell@ncsbe.gov
Phone: (919) 814-0700

From:

Brad Scott
420 N Ashe Avenue
Newton, NC 28658
980-858-2137

29 February 2024

Re: Request for Opinion per N.C.G.S. 163-278.23

Dear Karen Bell --

A candidate committee has four essential functions that activate the requirement to report campaign finance activities. These, per NCSBE Campaign Finance Manual (Version Rev. 02.22), are listed as:

1. Receiving money or an item of any value in support of the campaign; or
2. Spending money in support of the campaign; or
3. Giving consent for anyone else to receive money or spend money for the purpose of bringing about that individual's nomination or election for office; or
4. Filing a notice of candidacy.

This raises a question about in-kind contributions. Specifically, do in-kind contributions require the formation of a candidate committee? Furthermore, when unaffiliated candidates or those intending to file for office enlist volunteers for signature collection, does this action require the establishment of a candidate committee?

Volunteer services to a committee can typically be valued based on an hourly wage. However, when campaigns leverage volunteer services to bolster a candidacy, these contributions often go unreported due to the absence of a financial transaction. Nonetheless, the definition of in-kind contributions embraces such non-monetary support.

Consequently, should poll workers also be considered in-kind contributors under this rationale? The efforts of individuals who support candidate committees by working at polls and distributing campaign materials frequently go unnoticed. These contributors offer valuable services to the campaign, often at the expense of personal time (where they could be working for a wage).

Additional instances of potential in-kind contributions include:

- Deploying campaign signs;
- Designing or painting campaign signage;
- Composing electronic letters to newspaper editors;
- Managing social media platforms, among others.

I would appreciate your opinion on these questions. By formally requesting an opinion by N.C.G.S. 163-278.23, I am asking the NCSBE to support candidates in recognizing additional value that, generally, goes unreported.

Brad Scott

North Carolina License and Theft Bureau

PUBLIC NOTICE

This serves as a notice pursuant to G.S. § 20-288 of a license application submission by a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative that has not been previously issued a license by the Division.

Applicant's Name: Tesla Inc

Applicant's Address: 10615 Twin Lakes Pkwy, Charlotte, NC 28269

Application Date: 03/12/2024

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant:

Elon Musk CEO

Troy Jones VP

Emmanuelle Stewart

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Medical Care Commission intends to amend the rules cited as 10A NCAC 13F .0206, .1501; 13G .0305, .0308, .0313, repeal the rule cited as 10A NCAC 13F .0310, and readopt with substantive changes the rules cited as 10A NCAC 13F .0301, .0302, .0304-.0307, .0311, .1304; 13G .0206, .0301, .0302, .0306, .0307, .0309, .0312, .0315, .0317, and .0318.

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://info.ncdhhs.gov/dhsr/ruleactions.html>

Proposed Effective Date: January 1, 2025

Public Hearing:

Date: July 24, 2024

Time: 10:00 a.m.

Location: Edgerton Building Room 026, 809 Ruggles 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 Subchapters 10A NCAC 13F, Licensing of Adult Care Homes of Seven or More Beds, and 10A NCAC 13G, Licensing of Family Care Homes, 40 proposed readoption rules were part of the 97 total rules determined as “Necessary With Substantive Public Interest,” requiring readoption. With input from stakeholder groups, this package has proposed 40 rules for readoption, five rules proposed for amendment, and one rule repeal to update the process that has been followed in the regulation of licensed Adult Care Homes and Family Care Homes in N.C. Most of the rules for both types of assisted living residences, adult care homes of seven beds or more and family care homes, are the same with the primary exception of staffing and physical plant requirements since they serve the same population based on need for care and services. Rules 10A 13F .1501 and 10A NCAC 13G .0316 are being amended with these rules to accommodate for changes made in the other rules in this package. This package has been broken up into three groups by effective date to allow time for facilities to adequately prepare to make the changes in these rules.

Comments may be submitted to: Taylor Corpening, 809 Ruggles Drive; 2701 Mail Service Center, Raleigh, NC 27699; email dhsr.rulescoordinator@dhhs.nc.gov

Comment period ends: August 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 13 - NC MEDICAL CARE COMMISSION

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

SECTION .0200 – LICENSING

10A NCAC 13F .0206 CAPACITY

(a) The licensed capacity of adult care homes licensed pursuant to this Subchapter is seven or more residents.

(b) The total number of residents shall not exceed the number shown on the license.

(c) ~~A facility shall be licensed for no more than the number for which the required physical space and other required facilities in the building are available.~~ The Department shall not grant a license to a facility for more beds than the number for which the required physical space and other required facilities in the building are available. permit in accordance with the Rules of this Subchapter.

(d) The facility's bed capacity and services provided shall comply with the Certificate of Need issued to the facility in accordance be

~~in compliance with G.S. 131E, Article 9, Article 9, regarding the certificate of need.~~

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

SECTION .0300 - PHYSICAL PLANT

10A NCAC 13F .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

~~The physical plant requirements for each adult care home shall be applied as follows. Adult Care Homes shall apply the following physical plant requirements:~~

- (1) New construction shall comply with the requirements of this Section.
- (2) Except where otherwise specified, ~~existing~~ licensed facilities or portions of ~~existing~~ licensed facilities shall meet the licensure and code requirements in effect at the time of licensure, construction, change in service or bed count, addition, modification, renovation, or alteration; ~~alteration, however in no case shall the requirements for any licensed facility where no addition or renovation has been made, be less than those requirements found in the 1971 "Minimum and Desired Standards and Regulations" for "Homes for the Aged and Infirm", copies of which are available at the Division of Health Service Regulation, 701 Barbour Drive, Raleigh, North Carolina, 27603 at no cost;~~
- (3) In no case shall the requirements for a licensed facility, where no addition or renovation has been made, be less than those requirements found in the 1971 "Minimum and Desired Standards and Regulations" for "Homes for the Aged and Infirm", copies of which are available at the Division of Health Service Regulation, 1800 Umstead Drive, Raleigh, North Carolina, 27603 at no cost.
- ~~(3)(4)~~ New additions, alterations, ~~modifications~~ modifications, and repairs shall meet the ~~technical~~ requirements of this ~~Section~~; Section.
- ~~(4)(5)~~ Effective July 1, 1987, resident bedrooms and resident services shall not be permitted on the second floor of ~~any~~ a facility licensed for seven or more beds prior to April 1, 1984 and classified as two-story wood frame construction by the North Carolina State Building ~~Code~~; Code.
- ~~(5)(6)~~ Rules contained in this Section are minimum requirements and are not intended to prohibit buildings, ~~systems~~ systems, or operational conditions that exceed minimum ~~requirements~~; requirements.
- (6) ~~The bed capacity and services provided in a facility shall be in compliance with G.S. 131E, Article 9 regarding Certificate of Need. A facility shall be licensed for no more beds than~~

- (7) ~~the number for which required physical space and other required facilities are available; Equivalency: Alternate methods, procedures, design criteria and functional variations from the physical plant requirements shall be approved by the Division when the facility can effectively demonstrate that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility; and The Division may grant an equivalency to allow alternate methods, procedures, design criteria, or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a facility submits a written equivalency request to the Division that states the following:~~
 - (a) the rule citation and the rule requirement that will not be met because strict conformance with current requirements would be:
 - (i) impractical;
 - (ii) unable to be met due to extraordinary circumstances;
 - (iii) unable to be met due to new programs; or
 - (iv) unable to be met due to unusual conditions;
 - (b) the justification for the equivalency; and
 - (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- (8) In determining whether to grant an equivalency request, the Division shall consider whether the request will reduce the safety and operational effectiveness of the facility. The governing body shall maintain a copy of the approved equivalence issued by the Division.
- ~~(8)(9)~~ Where rules, ~~codes~~ codes, or standards have ~~any~~ a conflict, the ~~most~~ most stringent requirement shall ~~apply and any conflicting requirement shall not apply.~~

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

10A NCAC 13F .0302 DESIGN AND CONSTRUCTION

(a) ~~Any~~ A building licensed for the first time as an adult care home or a licensed adult care home that is closed or vacant and not serving residents for more than one year for reasons other than approved construction or remodeling shall meet the requirements of the North Carolina State Building ~~Code~~ Codes for new construction. All new construction, ~~additions~~ additions, alterations, repairs, modifications, and renovations to ~~existing~~ buildings shall meet the requirements of the North Carolina State Building ~~Code~~ Codes for I-2 Institutional Occupancy if the facility houses 13 or more residents or the North Carolina State Building ~~Code~~ Codes requirements for Large Residential Care

Facilities if the facility houses seven to twelve residents. The North Carolina State Building Code, all applicable volumes, Codes, which is are incorporated by reference, including all subsequent amendments and editions, may be purchased from the Department of Insurance Engineering Division located at 322 Chapanoke Road, Suite 200, Raleigh, North Carolina 27603 at a cost of three hundred eighty dollars (\$380.00). International Code Council online at <https://shop.iccsafe.org/> at a cost of eight hundred fifty-eight dollars (\$858.00) or accessed electronically free of charge at <https://codes.iccsafe.org/codes/north-carolina>. Licensed facilities shall meet the North Carolina State Building Codes in effect at the time of licensure, construction, or remodeling. The facility shall also meet all of the rules of this Section.

(b) ~~Each facility shall be planned, constructed, equipped and maintained to provide the services offered in the facility. A facility shall not offer services for which the facility was not planned, constructed, equipped, or maintained.~~

(c) ~~Any existing A building converted from another use to an adult care home shall meet all requirements of a new facility. Paragraph (a) of this Rule.~~

(d) ~~Any existing licensed facility that is closed or vacant for more than one year shall meet all requirements of a new facility.~~

~~(e)(d) The sanitation, water supply, sewage disposal disposal, and dietary facilities for facilities with a licensed capacity of 13 or more residents shall comply with the rules of the North Carolina Division of Environmental Health, which are incorporated by reference, including all subsequent amendments. The "Rules Governing the Sanitation of Hospitals, Nursing and Rest Homes, Sanitariums, Sanatoriums, and Educational and Other Institutions", Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions set forth in 15A NCAC 18A .1300 .1300, which are available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, North Carolina. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632 at no cost. are hereby incorporated by reference, including subsequent amendments and editions. The sanitation, water supply, sewage disposal, and dietary facilities for facilities with a licensed capacity of 7 to 12 residents shall comply with Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600, which are hereby incorporated by reference, including subsequent amendments and editions. Copies of these rules may be accessed online free of charge at <https://www.oah.nc.gov/>.~~

~~(f)(e) The facility shall maintain in the facility and have available for review current sanitation and fire and building safety inspection reports which shall be maintained in the home and available for review- reports.~~

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

10A NCAC 13F .0304 PLANS AND SPECIFICATIONS

(a) When construction or remodeling of an adult care home is planned, ~~two copies~~ the adult care licensee or licensee's appointed representative shall submit one copy of ~~Construction Documents~~ construction documents and specifications shall be submitted by the applicant or appointed representative to the Division for

~~review and approval. As a preliminary step to avoid last minute difficulty with final plan approval, Schematic Design Drawings design drawings and Design Development Drawings design development drawings may be submitted for review and approval prior to the required submission of Construction Documents. construction documents.~~

(b) Approval of ~~Construction Documents~~ construction documents and specifications shall be obtained from the Division prior to licensure. Approval of ~~Construction Documents~~ construction documents and specifications shall expire after one year after the date of approval unless a building permit for the construction has been ~~obtained. obtained prior to the expiration date of the approval of construction documents and specifications.~~

(c) If an approval expires, renewed approval shall be issued by the Division, provided revised ~~Construction Documents~~ construction documents and specifications meeting all current regulations, codes and standards the rules established in this Section are submitted by the applicant or appointed adult care licensee or licensee's appointed representative and reviewed by the Division.

(d) ~~Any changes made during construction shall require the approval of the Division to assure that licensing requirements are maintained. An adult care licensee or licensee's appointed representative shall submit changes made during construction to the Division for review and approval to ensure compliance with the rules established in this Section.~~

(e) Completed construction or remodeling shall conform to the requirements of this Section including the operation of all building systems and shall be approved in writing by the Division prior to licensure or occupancy. ~~Within 90 days following licensure, the owner or licensee shall submit documentation to the Division that "as built" drawings have been received from the builder.~~

(f) ~~The applicant or designated agent shall notify the Division when actual construction or remodeling starts and at points when construction is 50 percent, 75 percent and 90 percent complete and upon final completion. The adult care licensee or licensee's appointed representative shall notify the Division in writing either by U.S. Mail or e-mail when construction or remodeling is complete.~~

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

10A NCAC 13F .0305 PHYSICAL ENVIRONMENT

(a) An adult care home shall provide living arrangements ~~to meet the individual needs of~~ for the residents, the live-in ~~staff~~ staff, and other live-in persons.

(b) The requirements for each a living room and recreational area are:

- (1) ~~Each~~ a living room and recreational area shall be located off a lobby or ~~corridor. At least 50 percent of required living and recreational areas shall be enclosed with walls and doors; corridor;~~
- (2) ~~In~~ in buildings with a licensed capacity of 15 or less, there shall be a minimum area of 250 square feet;

- (3) ~~In~~ in buildings with a licensed capacity of 16 or more, there shall be a minimum of 16 square feet per resident; and
 - (4) ~~Each~~ a required living room and recreational area shall have ~~windows.~~ windows with views to the outside. The total gross window area shall not be less than eight percent of the gross floor area of the room. The window shall be openable from the inside and shall have insect-proof screens.
- (c) The requirements for the dining room are:
- (1) ~~The~~ the dining room shall be located off a lobby or ~~corridor and enclosed with walls and doors;~~ corridor;
 - (2) ~~In~~ in buildings with a licensed capacity of 15 or less, there shall be a minimum of 200 square feet;
 - (3) ~~In~~ in building with a licensed capacity of 16 or more, there shall be a minimum of 14 square feet per resident; and
 - (4) ~~The~~ the required dining room shall have ~~windows.~~ windows with views to the outside. The total gross window area shall not be less than eight percent of the gross floor area of the room. The window shall be openable from the inside and shall have insect-proof screens.
- (d) The requirements for the bedroom are:
- (1) ~~The~~ the number of resident beds set up shall not exceed the licensed capacity of the facility;
 - (2) live-in staff shall be permitted in facilities with a capacity of 7 to 12 residents provided all of the requirements of Section .0600 of these Rules are met;
 - (2) ~~There shall be bedrooms sufficient in number and size to meet the individual needs according to age and sex of the residents, any live in staff and other persons living in the home. Residents shall not share bedrooms with staff or other live in non-residents;~~
 - (3) there shall be separate bedrooms for any live-in staff and other persons living in the facility. Residents shall not share bedrooms with live-in staff and other live-in non-residents;
 - (4) live-in staff shall not occupy a licensed bed or live in a licensed bed;
 - (5) residents shall reside in bedrooms with residents of the same sex unless other arrangements are made with each resident's consent;
 - (3)(6) ~~Only~~ only rooms authorized by the Division of Health Service Regulation as bedrooms shall be used for ~~residents'~~ residents' bedrooms;
 - (4)(7) ~~Bedrooms~~ bedrooms shall be located on an outside wall and off a corridor. A room where access is through a bathroom, kitchen, or another bedroom shall not be approved ~~for~~ as a resident's bedroom;
 - (5)(8) ~~There shall be a minimum area of 100 square feet excluding vestibule, closet or wardrobe~~

- ~~space in rooms occupied by one person and a minimum area of 80 square feet per bed, excluding vestibule, closet or wardrobe space, in rooms occupied by two people; private residents' bedrooms shall have not less than 100 square feet of floor area excluding vestibules, closets, or wardrobes;~~
 - (9) semi-private residents' bedrooms shall have not less than 80 square feet of floor area per bed excluding vestibules, closets, or wardrobes;
 - (6)(10) ~~The~~ the total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of Health Service Regulation for that particular bedroom;
 - (7)(11) ~~A~~ a bedroom may not be occupied by more than two ~~residents.~~ residents;
 - (8)(12) ~~Resident~~ residents' bedrooms shall be designed to accommodate all required furnishings;
 - (9)(13) ~~Each resident bedroom~~ residents' bedrooms shall be ventilated with one or more windows which are maintained ~~operable and well lighted.~~ operable. The window area shall ~~be equivalent to at least~~ not be less than eight percent of the floor space and be ~~provided~~ equipped with ~~insect~~ insect-proof screens. The window opening may be restricted to a six-inch opening to inhibit resident elopement or suicide. The windows shall be low enough to see outdoors from the bed and chair, with a maximum 36 inch sill height; and
 - (10)(14) ~~Bedroom closets or wardrobes shall be large enough to provide each resident with a minimum of 48 cubic feet of clothing storage space (approximately two feet deep by three feet wide by eight feet high) of which at least one half shall be for hanging clothes with an adjustable height hanging bar. Residents' bedrooms shall have one closet or wardrobe per resident. A closet or wardrobe shall have clothing storage space of not less than 48 cubic feet per bed, approximately two feet deep by three feet wide by eight feet high, of which one-half of this space shall be for hanging with an adjustable height hanging bar;~~
- (e) The requirements for ~~bathrooms and toilet rooms~~ bathrooms, toilet rooms, bathtubs, showers, a manufactured walk-in tub, or a similar manufactured bathtub, and central bathing rooms are:
- (1) ~~Minimum~~ minimum bathroom and toilet ~~facilities~~ rooms shall include a toilet and a hand lavatory for each 5 ~~residents~~ residents, and a ~~tub or shower~~ bathtub, shower, a manufactured walk-in tub, or a similar manufactured bathtub for each 10 residents or portion ~~thereof;~~ thereof. The hand lavatory shall be trimmed with valves that can be operated without hands. If the hand lavatory is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the hand lavatory faucet depends on the building electrical service for

- operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- (2) ~~Entrance~~ entrance to the bathroom ~~bathrooms~~ and toilet rooms shall not be through a kitchen, another person's bedroom, or another bathroom;
- (3) ~~Toilets~~ toilet rooms and ~~baths~~ bathrooms for staff and visitors shall be in accordance with the North Carolina State Building Code, Plumbing Code;
- (4) ~~Bathrooms~~ bathrooms and ~~toilets~~ toilet rooms accessible to the physically handicapped shall be provided as required by ~~Volume I-C, the~~ North Carolina State Building Code, Accessibility Code; Codes;
- (5) ~~The~~ bathrooms and toilet rooms shall be designed to provide privacy. Bathrooms and toilet rooms with two or more water closets (commodes) shall have privacy partitions or curtains for each water closet. Each ~~tub or shower~~ bathtub, shower, a manufactured walk-in tub, or a similar manufactured bathtub shall have privacy partitions or ~~curtains;~~ curtains. The requirements of this Paragraph shall apply to new and existing facilities.
- (6) ~~Hand~~ hand grips shall be installed at all commodes, ~~tubs and showers used by or~~ accessible to residents; bathtubs, showers, a manufactured walk-in tub, and similar manufactured bathtubs;
- (7) ~~Each home shall have at least one bathroom opening off the corridor with:~~
- (A) ~~a door of three feet minimum width;~~
 - (B) ~~a three feet by three feet roll in shower designed to allow the staff to assist a resident in taking a shower without the staff getting wet;~~
 - (C) ~~a bathtub accessible on at least two sides;~~
 - (D) ~~a lavatory; and~~
 - (E) ~~a toilet.~~
- (7) there shall be one central bathing room opening off the corridor in a facility. In multi-level facilities, each resident floor shall contain a minimum of one central bathing room opening off the corridor. Central bathing room(s) shall have the following:
- (A) a door of three feet minimum width;
 - (B) a roll-in shower designed to allow the staff to assist a resident in taking a shower without the staff getting wet. The roll-in shower shall be designed and equipped for unobstructed ease of shower chair entry and use. If a bathroom with a roll-in shower
- designed and equipped for unobstructed ease of shower chair entry adjoins each resident bedroom in the facility, the central bathing area is not required to have a roll-in shower;
- (C) a bathtub, a manufactured walk-in tub, or a similar manufactured bathtub designed for easy transfer of residents into the tub. Bathtubs shall be accessible on three sides. Manufactured walk-in tubs or a similar manufactured bathtub shall be accessible on at least two sides. Staff shall not be required to reach over or through the tub faucets and other fixture fittings to assist the resident in the tub;
- (D) a toilet and a lavatory trimmed with valves that can be operated without hands. If the lavatory is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the lavatory faucet depends on the building electrical service for operation, the faucet shall have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets; and
- (E) individual cubicle curtain enclosing each toilet, bathtub, shower, manufactured walk-in tub, or a similar manufactured bathtub and shower. A closed cubicle curtain at one of these plumbing fixtures shall not restrict access to the other plumbing fixtures.
- (8) If where the tub and shower are in separate rooms, each room shall have a lavatory and a toilet; toilet. The lavatory shall be trimmed with valves that can be operated without hands. If the lavatory is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the lavatory faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- (9) Bathrooms and toilet rooms shall be located as conveniently as possible to the residents' bedrooms; in facilities where resident bedrooms do not have direct access to a bathroom or toilet room, bathrooms and toilet

rooms shall be evenly distributed throughout the facility for residents' use;

(10) ~~Resident~~ resident toilet rooms and bathrooms shall not be ~~utilized~~ used for storage or ~~purposes other than those indicated in Item (4) of this Rule;~~ purposes;

(11) ~~Toilets~~ toilet rooms and ~~baths~~ bathrooms shall be well ~~lighted and mechanically ventilated at two cubic feet per minute. The mechanical ventilation requirement does not apply to facilities licensed before April 1, 1984, with natural ventilation;~~ lighted;

(12) toilet rooms and bathrooms shall have an exhaust system per the North Carolina State Building Code. Exhaust vents shall be vented directly to the outdoors;

~~(12)(13) Nonskid~~ nonskid surfacing or strips shall be installed in ~~showers, showers, and bath areas; areas, and bathtubs; and~~

~~(13)(14) The~~ the floors of the bathrooms and toilet rooms shall ~~have be~~ be water-resistant ~~covering, and slip-resistant.~~

(f) The requirements for storage rooms and closets are:

(1) ~~General Storage for the Home. A~~ a facility shall ~~have a~~ have a minimum area of five square feet (40 cubic feet) per licensed ~~capacity shall be provided.~~ capacity for general storage for the facility. This storage space shall be either in the facility or within 500 feet of the facility on the same site;

~~(2) Linen Storage. Storage areas shall be adequate in size and number for separate storage of clean linens and separate storage of soiled linens. Access to soiled linen storage shall be from a corridor or laundry room;~~

~~(2)~~ separate storage room or area shall provide for the storage of clean linens. Clean linens shall not be stored in the same room or area as soiled linens;

~~(3)~~ separate storage room shall provide for the storage of soiled linens. Access to soiled linen storage shall be from a corridor or laundry room. If space for the storage of soiled linen is provided in the soiled utility room, a separate soiled linen room is not required;

~~(3)(4) Food Storage. Space there shall be provided space for the storage of dry, refrigerated refrigerated, and frozen food items to items, and shall comply with sanitation rules; Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions set forth in 15A NCAC 18A .1300, which is incorporated by reference including subsequent amendments and editions, for facilities with a licensed capacity of 13 or more residents, and Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600, which is incorporated by reference including subsequent amendments~~

and editions, for facilities with a licensed capacity of 7 to 12 residents;

~~(4)(5) Housekeeping~~ the requirements for housekeeping storage requirements are:

(A) ~~A~~ a housekeeping closet, with mop sink or mop floor receptor, shall be provided at the rate of one per 60 residents or portion ~~thereof; and thereof. In multi-level facilities, each resident floor shall have a housekeeping closet; and~~

(B) ~~There~~ there shall be separate locked areas for storing cleaning agents, bleaches, pesticides, and other substances which may be hazardous if ~~ingested, inhaled~~ inhaled, or handled. Cleaning supplies shall be monitored while in use;

~~(5)(6) Handwashing facilities with wrist type lever handles there be a sink which can be operated without the use of hands located shall be provided immediately adjacent to the drug storage area; area. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have battery backup capability or an emergency power source. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;~~

~~(6)(7) Storage for Resident's Articles. Some means for residents to lock personal articles within the home shall be provided; and the facility shall have locked storage for residents' personal articles within the facility; and~~

~~(7)(8) Staff Facilities. Some means for staff to lock personal articles within the home shall be provided. the facility shall have some means for staff to lock personal articles within the facility.~~

(g) The requirements for corridors are:

(1) ~~Doors~~ doors to spaces other than reach-in closets shall not swing into the corridor;

(2) ~~Handrails~~ handrails shall be provided on both sides of corridors at 36 inches above the floor and be capable of supporting a 250 pound concentrated load;

(3) ~~Corridors~~ corridors shall be lighted with night lights providing 1 foot-candle power at the floor; and

(4) ~~Corridors~~ corridors shall be free of all equipment and other obstructions.

(h) The requirements for outside entrances and exits are:

(1) Service entrances shall not be through resident use areas;

(2) All steps, porches, ~~stoops~~ stoops, and ramps shall ~~be provided with~~ have handrails and

~~guardrails; guards. Handrails shall be on both sides of steps and ramps including sides bordered by the facility wall. Handrails shall extend the full length of steps and ramps. Guards shall be on all open sides of steps, porches, stoops, and ramps. For the purposes of this Rule, "guards" are building components or a system of building components located at or near the open side of elevated walking surfaces that minimizes the possibility of a fall from a walking surface to any adjacent change in elevation;~~

- (3) ~~All exit door locks shall be easily operable, by a single hand motion, operate from the inside at all times by a single hand motion without keys; and keys, tools or special knowledge; and~~
- (4) ~~In homes with at least one resident who is determined by a physician or is otherwise known to be disoriented or a wanderer, disoriented or exhibits wandering behavior, each exit door accessible by residents shall be equipped with a continuously sounding device that is activated when the door is opened. opened shall be located on each exit door that opens to the outside. The sound shall be of sufficient such volume that it can be heard by staff. If a central system of remote sounding devices is provided, the control panel for the system shall be powered by the facility's electrical system, and be located in the office of the administrator or in a location accessible only to by staff authorized by the administrator to operate the control panel. The requirements of this Paragraph shall apply to new and existing facilities.~~

(i) The requirements for floors are:

- (1) All floors shall be of smooth, non-skid material and so constructed as to be easily cleanable;
- (2) Scatter or throw rugs shall not be used; and
- (3) All floors shall be kept in good repair.

(j) ~~Soil Utility Room. A separate room shall be provided and equipped for the cleaning and sanitizing of bed pans and shall have handwashing facilities. The requirements for soiled utility rooms are:~~

- (1) ~~for facilities with a licensed capacity of 13 or more residents, a separate soiled utility room shall be provided and equipped for the cleaning and sanitizing of bed pans as required by 15A NCAC 18A .1312, which is incorporated by reference including subsequent amendments and editions. The soiled utility room shall have a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have battery backup capability or an emergency power source. If the faucet has battery operated~~

~~sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets; and~~

- (2) ~~for facilities with a licensed capacity of 7 to 12 residents, a separate soiled utility room shall be provided and equipped for the cleaning and sanitizing of bed pans. The soiled utility room shall have a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have battery backup capability or an emergency power source. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets.~~

(k) ~~Office. There~~ The facility shall be have an area within the home facility large enough to accommodate normal administrative functions.

(l) The requirements for laundry facilities are:

- (1) Laundry facilities shall be large enough to accommodate washers, dryers, and ironing equipment or work tables;
- (2) These facilities shall be located where soiled linens will not be carried through the kitchen, dining, clean linen storage, living rooms or recreational areas; and
- (3) A minimum of one residential type washer and dryer each shall be provided in a separate room ~~which that~~ is accessible by staff, ~~residents residents,~~ and family, even if all laundry services are ~~contracted. contracted.~~ In multi-level facilities, each resident floor shall have a minimum of one residential type washer and dryer each in a separate room which is accessible by staff, residents, and family.

(m) The requirements for outside premises are:

- (1) The outside grounds of new and existing facilities shall be maintained in a clean and safe ~~condition; condition.~~ Creeks, ravines, ponds, pools, and other similar areas shall have safety protection;
- (2) If the ~~home facility~~ has a fence around the premises, the fence shall not prevent residents from exiting or entering freely or ~~be hazardous; and have sharp edges, rusting posts, or other similar conditions that may cause injury; and~~
- (3) Outdoor walkways and drives shall be illuminated by no less than five foot-candles of light at ground level.

~~(n) Alternate methods, procedures, design criteria and functional variations from the physical environment requirements, because of extraordinary circumstances, new programs or unusual conditions, shall be approved by the Division when the facility can effectively demonstrate to the Division's satisfaction that the~~

~~intent of the physical environment requirements are met and the variation does not reduce the safety or operational effectiveness of the facility.~~

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

10A NCAC 13F .0306 HOUSEKEEPING AND FURNISHINGS

(a) Adult care homes shall:

- (1) have walls, ceilings, and floors or floor coverings kept clean and in good repair;
- (2) have no ~~chronic unpleasant odors~~; odors that are considered by the residents to be chronic and unpleasant;
- (3) have furniture ~~clean and in good repair~~; that is clean, safe, and functional;
- (4) have a sanitation report in accordance with one of the following: North Carolina Division of Environmental Health approved sanitation classification at all times in facilities with 12 beds or less and North Carolina Division of Environmental Health sanitation scores of 85 or above at all times in facilities with 13 beds or more;
 - (A) A North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Section approved sanitation classification at all times in facilities with 12 beds or less, which are incorporated by reference including all subsequent amendments. The "Rules Governing the Sanitation of Residential Care Facilities", 15A NCAC 18A .1600, can be accessed electronically free of charge at <http://ehs.dph.ncdhhs.gov/rules.htm>; and
 - (B) A North Carolina Department of Health and Human Services Division of Public Health, and Environmental Health Section sanitation scores of 85 or above at all times in facilities with 13 beds or more. The "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes, and Other Institutions", 15A NCAC 18A .1300, can be accessed electronically free of charge at <http://ehs.dph.ncdhhs.gov/rules.htm>.
- (5) be maintained in an uncluttered, clean clean, and orderly manner, free of all obstructions and hazards;
- (6) have a supply on hand at all times of bath soap, clean towels, washcloths, sheets, pillowcases, blankets, and additional coverings adequate covers for resident use on hand at all times; use;
- (7) make available the following items as needed through ~~any~~ means other than charge to the

personal funds of recipients of State-County Special Assistance:

- (A) ~~sheets~~ protective mattress covers, and clean, absorbent, ~~soft~~, soft, and smooth mattress pads;
 - (B) ~~bedpans, urinals, hot water bottles, and ice caps~~; bedpans and urinals; and
 - (C) bedside commodes, walkers, and wheelchairs.
- (8) have one television and one radio, ~~each~~ in good working order;
 - (9) have curtains, ~~draperies~~ draperies, or blinds at windows in resident use areas to provide for resident privacy;
 - (10) have recreational equipment, supplies for games, books, ~~magazines~~ magazines, and a current newspaper available for residents;
 - (11) have a clock that has numbers at least 1½ inches tall in ~~an area commonly used by the residents~~; the living room or in the dining room or dining area; and
 - (12) have at least one telephone that does not ~~depend on~~ require electricity or cellular service to operate.
- (b) Each bedroom shall have the following furnishings in good repair and clean for each resident:
- (1) A bed equipped with box springs and mattress or solid link springs and no-sag innerspring or foam mattress. Hospital bed appropriately equipped with all accessories required for use shall be arranged for as needed. A waterbed is allowed if requested by a resident and permitted by the ~~home~~. facility. Each bed shall have the following:
 - (A) at least one pillow with clean pillowcase;
 - (B) a clean top and bottom ~~sheets~~ sheet on the bed, with bed changed ~~as often as necessary but~~ at least once a week; and week and when soiled; and
 - (C) clean bedspread and other clean coverings as needed.
 - (2) a bedside type table;
 - (3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents;
 - (4) a wall or dresser mirror that ~~can~~ may be used by each ~~resident~~; resident in each bedroom;
 - (5) a minimum of one ~~comfortable chair (rocker or straight, arm or without arms, as preferred by resident)~~, high enough from floor for easy rising; chair that is comfortable as preferred by the resident, which may include a rocking or straight chair, with or without arms, that is high enough for the resident to easily rise without discomfort;
 - (6) additional chairs available, as needed, for use by visitors;

- (7) individual clean towel, wash ~~cloth~~ cloth, and towel bar in the bedroom or an adjoining bathroom; and
- (8) a light overhead of bed with a switch within reach of person lying on bed; or a lamp. The light shall provide a minimum of 30 foot-candle power of illumination for reading.

(c) The living room shall have ~~functional living room furnishings for the comfort of aged and disabled persons, that are in good working order and provide comfort as preferred by residents~~ with coverings that are easily cleanable.

- (d) The dining room shall have the following furnishings:
- (1) small tables serving from two to eight persons and chairs to seat all residents eating in the dining room; tables and chairs equal to the resident capacity of the home shall be on the premises; and
 - (2) chairs that are sturdy, without rollers unless retractable or on front legs only, non-folding and designed to minimize tilting.
- (e) This Rule shall apply to new and existing facilities.

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

10A NCAC 13F .0307 FIRE ALARM SYSTEM

(a) The fire alarm system in adult care homes shall be able to transmit the fire alarm signal automatically to the local emergency fire department dispatch center, ~~either directly or through a central station monitoring company connection.~~ center that is legally committed to serving the area in which the facility is located. The alarm shall be transmitted either to a fire department or through a third-party service that shall transmit the alarm to the fire department. The method used to transmit the alarm shall be in accordance with local ordinances.

(b) ~~Any applicable fire safety requirements required by city ordinances or county building inspectors shall be provided. The facility shall comply with fire safety requirements of the city and county in which the facility is located as required by local building and fire officials.~~

(c) In a facility licensed before April 1, 1984 and constructed prior to January 1, 1975, the building, in addition to meeting the requirements of the North Carolina State Building Code in effect at the time the building was constructed, shall ~~be provided with~~ have the following:

- (1) A fire alarm system with pull stations within five feet of ~~each~~ an exit and sounding devices which are audible throughout the building;
- (2) Products of combustion (smoke) U/L listed detectors in all corridors. The detectors shall be no more than 60 feet from each other and no more than 30 feet from ~~any~~ an end wall;
- (3) Heat detectors or products of combustion detectors in all storage rooms, kitchens, living rooms, dining rooms and laundries;
- (4) All detection systems interconnected with the fire alarm system; and
- (5) Emergency power for the fire alarm system, heat detection system, and products of combustion detection with automatic start

generator or trickle charge battery system capable of operating the fire alarm systems for 24 hours and able to sound the alarm for five minutes at the end of that time. Emergency egress lights and exit signs shall be powered from an automatic start generator or a U/L approved trickle charge battery system capable of operation for 1-1/2 hours when normal power fails.

(d) When ~~any~~ a facility not equipped with a complete automatic fire extinguishment system replaces the fire alarm system, ~~each bedroom~~ all bedrooms shall ~~be provided with~~ have smoke detectors. Other building spaces shall ~~be provided with such~~ provide fire detection devices as required by the North Carolina State Building Code and requirements of this Subchapter.

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

10A NCAC 13F .0310 ELECTRICAL OUTLETS

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

10A NCAC 13F .0311 OTHER REQUIREMENTS

(a) The building and all fire safety, electrical, mechanical, and plumbing equipment in an adult care home shall be maintained in a safe and operating condition.

(b) ~~There shall be a heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions. In addition, the~~ The following shall apply to heaters and cooking appliances:

- (1) ~~Built in~~ built-in electric heaters, if used, shall be installed or protected so as to avoid burn hazards to residents and room ~~furnishings.~~ furnishings;
- (2) ~~Unvented~~ unvented fuel burning room heaters and portable electric heaters are ~~prohibited.~~ prohibited;
- (3) ~~Fireplaces,~~ fireplaces, fireplace ~~inserts~~ inserts, and wood stoves shall be designed ~~or~~ and installed so as to avoid a burn hazard to residents. Fireplace inserts and wood stoves shall be U.L. ~~listed.~~ listed;
- (4) ~~Ovens, ranges and~~ the power supply for ovens, ranges, microwaves, cook tops ~~tops,~~ and other domestic cooking appliances located in resident activity or recreational areas ~~shall not be used except under facility staff supervision. The degree of staff supervision shall be based on the facility's assessment of the capabilities of each resident. The operation of the equipment shall have a locking feature provided, that shall be controlled by staff.~~ shall have a locking feature provided that shall be controlled by staff. These appliances shall not be used except under facility staff supervision.
- (5) ~~Ovens, ranges and~~ the power supply for ovens, and ranges, microwaves, cook tops ~~tops,~~ and other domestic cooking appliances located in resident rooms shall have a locking feature

~~provided that shall be controlled by staff, to limit the use of the equipment by residents who have been assessed by the facility to be incapable of operating the equipment in a safe manner.~~ staff. Each resident shall be assessed by the administrator or their designee to determine the resident's capability to operate the appliances in a safe manner, and the degree of staff supervision necessary to ensure safe operation of the appliances.

~~(c) Air conditioning or at least one fan per resident bedroom and living and dining areas shall be provided when the temperature in the main center corridor exceeds 80 degrees F (26.7 degrees C).~~ The facility shall have heating and cooling systems such that environmental temperature controls shall be capable of maintaining temperatures in the facility at 75 degrees F minimum in the heating season, and not exceed 80 degrees F during the non-heating season.

~~(d) The hot water system shall be of such size to provide an adequate supply of hot water to the kitchen, bathrooms, laundry, housekeeping closets, and soil soiled utility room. The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).~~ F. The requirements of this Paragraph shall apply to new and existing facilities.

~~(e) All multi-story~~ Multi-story facilities shall be equipped with elevators.

(f) In addition to the required emergency lighting, minimum lighting shall be as follows:

- (1) 30 foot-candle power for ~~reading; reading; and~~ reading; and
- (2) 10 foot-candle power for general ~~lighting; and~~ lighting.
- (3) ~~1 foot-candle power at the floor for corridors at night.~~

~~(g) The spaces listed in this Paragraph shall be provided with have an exhaust ventilation system per the North Carolina State Building Code. Exhaust vents shall be vented directly to the outdoors; at the rate of two cubic feet per minute per square foot. This requirement does not apply to facilities licensed before April 1, 1984, with natural ventilation in these specified spaces:~~

- (1) soiled linen storage;
- (2) ~~soil~~ soiled utility room;
- (3) bathrooms and toilet rooms;
- (4) housekeeping closets; and
- (5) laundry area.

~~(h) In facilities licensed for 7-12 7 to 12 residents, an electrically operated call system shall be provided connecting each resident bedroom to the live-in staff bedroom. The resident call system activator shall be such that they can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of the resident lying on the bed. there shall be an electrically operated call system meeting the following requirements:~~

- (1) the call system shall connect residents' bedrooms and bathrooms to the live-in staff bedroom. Where there are no live-in staff for the facility, the call system shall connect

residents' bedrooms and bathrooms to a location accessible to staff;

- (2) residents' bedrooms shall have a resident call system activator at the resident's bed;
- (3) the resident call system activator shall be within reach of a resident lying on the bed;
- (4) the resident call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff at point of origin; and
- (5) when activated, the call system shall activate an audible and visual signal in the live-in staff bedroom, in a location accessible to staff, or register with the floor staff.

~~(i) In newly licensed facilities without live-in staff, an electrically operated call system shall be provided connecting each resident bedroom and bathroom to a staff station. The resident call system activator shall be such that they can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of the resident lying on the bed. there shall be an electrically operated call system meeting the following requirements:~~

- (1) the call system shall connect residents' bedrooms and bathrooms to a location accessible to staff;
- (2) residents' bedrooms shall have a resident call system activator at the resident's bed;
- (3) the resident call system activator shall be within reach of a resident lying on the bed;
- (4) the resident call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff at point of origin; and
- (5) when activated, the call system shall activate an audible and visual signal in a location accessible to staff.

(j) Except where otherwise specified, existing facilities housing persons unable to evacuate without staff assistance shall provide those residents with hand bells or other signaling devices.

~~(k) This Rule shall apply to new and existing facilities with the exception of Paragraph (e) which shall not apply to existing facilities.~~

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

SECTION .1300 - SPECIAL CARE UNITS FOR ALZHEIMER AND RELATED DISORDERS

10A NCAC 13F .1304 SPECIAL CARE UNIT BUILDING PHYSICAL ENVIRONMENT REQUIREMENTS

In addition to meeting all applicable building codes and licensure regulations for adult care homes, the special care unit shall meet the following building requirements:

(a) In addition to meeting all applicable building codes and licensure regulations for adult care homes, the special care unit shall meet the following building requirements. For facilities licensed prior to January 1, 2025, the following shall apply:

PROPOSED RULES

- (1) Plans for new or renovated construction or conversion of existing building areas shall be submitted to the Construction Section of the Division of Health Service Regulation for review and approval.
 - (2) If the special care unit is a portion of a facility, it shall be separated from the rest of the building by closed doors.
 - (3) Unit exit doors may be locked only if the locking devices meet the requirements outlined in the N.C. State Building Code for special locking devices.
 - (4) Where exit doors are not locked, a system of security monitoring shall be provided.
 - (5) The unit shall be located so that other residents, staff and visitors do not have to routinely pass through the unit to reach other areas of the building.
 - (6) At a minimum the following service and storage areas shall be provided within the special care unit: staff work area, nourishment station for the preparation and provision of snacks, lockable space for medication storage, and storage area for the residents' records.
 - (7) Living and dining space shall be provided within the unit at a total rate of 30 square feet per resident and may be used as an activity area.
 - (8) Direct access from the facility to a secured outside area shall be provided.
 - (9) A toilet and hand lavatory shall be provided within the unit for every five residents.
 - (10) A tub and shower for bathing of residents shall be provided within the unit.
 - (11) Use of potentially distracting mechanical noises such as loud ice machines, window air conditioners, intercoms and alarm systems shall be minimized or avoided.
- (b) For facilities licensed on or after January 1, 2025, the following shall apply:
- (1) A special care unit that is part of an adult care home shall meet licensure rules for adult care homes contained in Rules .0301-.0311 of this Subchapter with the following exceptions: 13F .0305(e)(3), 13F .0305(f)(1), 13F .0305(f)(4), 13F .0305(h)(3), 13F .0305(k), and 13F .0305(l).
 - (2) The unit, if part of an adult care home, shall be separated from the rest of the facility by walls and closed doors.
 - (3) The unit, if part of an adult care home, shall be located so that other residents, staff, and visitors will not have to pass through the unit to reach other areas of the facility.
 - (4) Unit exit doors shall be locked with locking devices meeting the requirements outlined in the North Carolina State Building Code for special locking arrangements.
 - (5) Unit exit doors shall have a sounding device that is activated when the door is opened per Rule 13F .0305(h)(4).
 - (6) Operable exterior windows shall be equipped with mechanisms to limit window openings to no less than four inches and no greater than six inches to minimize the chance of elopement.
 - (7) There shall be direct access from the unit to a secured outside area located on the same level as the unit.
 - (8) Fences used to enclose the secured outside area shall be at least six feet high and shall be constructed to prevent residents' ability to climb over the fence.
 - (9) The following service and storage areas shall be provided within the special care unit:
 - (A) a staff work area;
 - (B) a staff bathroom;
 - (C) a nourishment station for the preparation and provision of snacks. The nourishment station shall be provided with a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
 - (D) lockable space for medication storage;
 - (E) storage area for the residents' records;
 - (F) separate storage room or area shall be provided for the storage of soiled linens, and
 - (G) a housekeeping closet, with mop sink or mop floor receptor.
 - (10) The living room and dining room/dining area may be sized per Rules 13F .0305(b) and 13F .0305(c) or may be combined for a minimum of 30 square feet per resident. The combined space may be used as an activity area.
 - (11) The unit shall have a central bathing area meeting the following:
 - (A) a door of three feet minimum width;
 - (B) a roll-in shower designed to allow the staff to assist a resident in taking a shower without the staff getting wet. The roll-in shower shall be designed and equipped for unobstructed ease of shower chair entry and use. If a bathroom with a roll-in shower designed and equipped for

- (C) unobstructed ease of shower chair entry adjoins each resident bedroom in the facility, the central bathing area is not required to have a roll-in shower; a bathtub, a manufactured walk-in tub or a similar manufactured bathtub designed for easy transfer of residents into the tub. Bathtubs shall be accessible on three sides. Manufactured walk-in tubs or a similar manufactured bathtub shall be accessible on at least two sides. Staff shall not be required to reach over or through the tub faucets and other fixture fittings to assist the resident in the tub;
- (D) a toilet and a lavatory trimmed with valves that can be operated without hands. If the lavatory is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the lavatory faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets; and
- (E) individual cubicle curtains shall enclose each toilet, bathtub, manufactured walk-in tub or similar manufactured bathtub, and shower.
- (12) If each resident bedroom has direct access to a bathroom equipped with a shower meeting the requirements of Rule 13F .0305(e)(7)(B), the shower required by this rule is not required to be provided in the unit.
- (13) Fire extinguishers required by Rule 13F .0308(a) shall be secured in a manner acceptable to the local Fire Marshal to prevent access by residents.

- (1) used only in those circumstances in which the resident has medical symptoms for which the resident's physician or physician extender has determined that warrant the use of restraints and not for discipline or convenience purposes;
- (2) used only with a written order from a physician or physician extender except in emergencies, emergencies where the health or safety of the resident is threatened, according to Paragraph (e)(d) of this Rule;
- (3) the least restrictive restraint that would provide safety; provide a safe environment for the resident and prevent physical injury;
- (4) used only after alternatives that would provide safety to a safe environment for the resident to prevent physical injury and prevent a potential decline in the resident's functioning have been tried and documented by the administrator or their designee in the resident's record, record as being unsuccessful;
- (5) used only after an assessment and care planning process has been completed, except in emergencies, emergencies where the health or safety of the resident is threatened, according to Paragraph (d) of this Rule;
- (6) applied correctly according to the manufacturer's instructions and the physician's or the physician extenders' order; and
- (7) used in conjunction with alternatives in an effort to reduce restraint use. For the purposes of this Rule, "physician extender" means a licensed physician assistant or licensed nurse practitioner.

Note: Bed rails are restraints when used to keep a resident from voluntarily getting out of bed as opposed to enhancing mobility of the resident while in bed. Examples of restraint alternatives are: providing restorative care to enhance abilities to stand safely and walk, providing a device that monitors attempts to rise from chair or bed, placing the bed lower to the floor, providing frequent staff monitoring with periodic assistance in toileting and ambulation and offering fluids, providing activities, controlling pain, providing an environment with minimal noise and confusion, and providing supportive devices such as wedge cushions.

(b) ~~The facility shall ask obtain written consent from the resident or resident, the resident's responsible person, or legal representative if the resident may for the resident to be restrained based on an order from the resident's physician, physician or physician extender.~~ The facility shall inform the ~~resident~~ resident, the resident's responsible person, or legal representative of the reason for the ~~request and request,~~ the benefits of restraint use, and the negative outcomes and alternatives to restraint use. The resident or the resident's legal representative may accept or refuse restraints based on the information provided. Documentation shall consist of a statement signed by the resident or the resident's legal representative indicating the signer has been informed, the signer's acceptance or refusal of restraint use and, if accepted, the type of restraint to be used and the medical indicators for restraint use.

Authority G.S. 131D-2.16; 131D-4.5; 131D-4.6; 131D-8; 143B-165.

SECTION .1500 - USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES

10A NCAC 13F .1501 USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES

(a) An adult care home shall assure that a physical restraint, any physical or mechanical device attached to or adjacent to the resident's body that the resident cannot remove easily and ~~which~~ that restricts freedom of movement or normal access to one's body, shall be:

Note: Potential negative outcomes of restraint use include incontinence, decreased range of motion, decreased ability to ambulate, increased risk of pressure ulcers, symptoms of withdrawal or ~~depression~~ depression, and reduced social contact.

(c) In addition to the requirements in Rules 13F .0801, .0802 and .0903 of this Subchapter regarding assessments and care planning, the resident assessment and care planning prior to application of restraints as required in Subparagraph (a)(5) of this Rule shall meet the following requirements:

- (1) The assessment and care planning shall be implemented through a team process with the team consisting of at least a ~~staff~~ supervisor or personal care aide, a registered nurse, the resident and the resident's responsible person or legal representative. If the resident or resident's responsible person or legal representative is unable to participate, there shall be documentation in the resident's record that they were notified and declined the invitation or were unable to attend.
- (2) The assessment shall include consideration of the following:
 - (A) medical symptoms that warrant the use of a restraint;
 - (B) how the medical symptoms affect the resident;
 - (C) when the medical symptoms were first observed;
 - (D) how often the symptoms occur;
 - (E) alternatives that have been provided and the resident's response; and
 - (F) the least restrictive type of physical restraint that would provide safety.
- (3) The care plan shall include the following:
 - (A) alternatives and how the alternatives will be used prior to restraint use and in an effort to reduce restraint time once the resident is restrained;
 - (B) the type of restraint to be used; and
 - (C) care to be provided to the resident during the time the resident is restrained.

(d) The following applies to the restraint order as required in Subparagraph (a)(2) of this Rule:

- (1) The order shall indicate:
 - (A) the medical need for the ~~restraint~~; restraint based on the assessment and care plan;
 - (B) the type of restraint to be used;
 - (C) the period of time the restraint is to be used; and
 - (D) the time intervals the restraint is to be checked and released, but no longer than every 30 minutes for checks and no longer than two hours for releases.
- (2) If the order is obtained from a physician other than the resident's physician, the facility shall notify the resident's physician or physician extender of the order within seven days.

- (3) The restraint order shall be updated by the resident's physician or physician extender at least every three months following the initial order.
- (4) If the resident's physician changes, the physician or physician extender who is to attend the resident shall update and sign the existing order.
- (5) In ~~emergency situations~~, an emergency, where the health or safety of the resident is threatened, the administrator or ~~administrator in charge~~ their designee, shall make the determination relative to the need for a restraint and its type and duration of use until a physician or physician extender is contacted. Contact with a physician shall be made within 24 hours and documented in the resident's record. For the purpose of this Rule, an "emergency" means a situation where there is a certain risk of physical injury or death to a resident.
- (6) The restraint order shall be kept in the resident's record.

(e) All instances of the use of physical restraints and alternatives shall be documented by the facility in the resident's record and include the following:

- (1) restraint alternatives that were provided and the resident's response;
- (2) type of restraint that was used;
- (3) medical symptoms warranting restraint use;
- (4) the time the restraint was applied and the duration of restraint use;
- (5) care that was provided to the resident during restraint use; and
- (6) behavior of the resident during restraint use.

(f) Physical restraints shall be applied only by staff who have received training on the use of alternatives to physical restraint use and on the care of residents who are physically restrained according to Rule .0506 of this Subchapter and have been validated on ~~restraint use~~ the care of residents who are physically restrained and the use of care practices as alternative to restraints according to Rule .0504 of this Subchapter.

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

SUBCHAPTER 13G – LICENSING OF FAMILY CARE HOMES

SECTION .0200 - LICENSING

10A NCAC 13G .0206 CAPACITY

(a) Pursuant to G.S. ~~131D-2(a)(5)~~, 131D-2.1(5), family care homes may have a capacity of two to six residents. For the purposes of this Rule, "capacity" means the maximum number of residents permitted to live in a licensed family care home in accordance with the North Carolina Building Code and the evacuation capability of each resident.

(b) The total number of residents shall not exceed the number shown on the license. The license shall indicate the facility's capacity according to the number of ambulatory and non-

ambulatory individuals permitted to live in the home. For the purposes of this Rule, "ambulatory" means the individual is able to respond and evacuate from the facility without verbal or physical assistance from others in the event of an emergency. "Non-ambulatory" means the individual is not able to respond and evacuate from the facility without verbal or physical assistance from others in the event of an emergency.

(c) A request for an increase in capacity by adding rooms, remodeling remodeling, or without any building modifications shall be made to the county department of social services and submitted to the Division of Health Service Regulation, Regulation Construction Section and shall include accompanied by two copies of blueprints or floor plans. One plan shall show showing the existing building with the current use of rooms rooms, and the second plan indicating showing the addition, remodeling remodeling, or change in use of spaces spaces, and showing the use of each every room. If new construction, plans shall show how the addition will be tied into the existing building and all proposed changes in the structure.

(d) When licensed homes facilities increase their designed capacity by the addition to or remodeling of the existing physical plant, the entire home facility shall meet all current fire safety regulations.

(e) The licensee or the licensee's designee shall notify the Division of Health Service Regulation Adult Care Licensure Section if the overall evacuation capability capabilities of the residents changes from and the facility no longer complies with the evacuation capability facility's licensed capacity as listed on the homes facility's license, license or of the addition of any non-resident that will be residing within the home. facility. This information shall be submitted through the county department of social services and forwarded to the Construction Section of the Division of Health Service Regulation for review of any possible changes that may be required to the building.

(f) If there is a temporary change in the capacity of the facility due to a resident's short term illness or condition that renders the resident temporarily non-ambulatory, such as end of life condition, the licensee or the licensee's designee shall immediately notify the Division of Health Service Regulation Construction Section upon the knowledge of the change in the resident's ambulatory status to request approval for the resident to temporarily remain in the facility.

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

SECTION .0300 - THE BUILDING

10A NCAC 13G .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

The physical plant requirements for each A family care home shall be applied as follows meet the following physical plant requirements:

- (1) New construction and existing buildings proposed for use as a Family Care Home shall comply with the requirements of this Section; Section.
- (2) Except where otherwise specified, existing licensed homes or portions of existing licensed homes shall meet the licensure and code

requirements in effect at the time of licensure, construction, change in service or service, change in bed count, addition, modification, renovation or alteration; renovation, or alteration. however, in no case shall the requirements for any licensed home, where no addition or renovation has been made, be less than those requirements found in the 1971 "Minimum and Desired Standards and Regulations" for "Family Care Homes", copies of which are available at the Division of Health Service Regulation, 701 Barbour Drive, Raleigh, North Carolina 27603 at no cost;

(3) In no case shall the requirements for a licensed home, where no addition or renovation has been made, be less than those requirements found in the 1971 "Minimum and Desired Standards and Regulations" for "Family Care Homes", copies of which are available at no cost at the Division of Health Service Regulation, 1800 Umstead Drive, Raleigh, North Carolina 27603.

(3)(4) New additions, alterations, modifications modifications, and repairs shall meet the requirements of this Section; Section.

(4) Rules contained in this Section are minimum requirements and are not intended to prohibit buildings, systems or operational conditions that exceed minimum requirements;

(5) Equivalency: Alternate methods, procedures, design criteria and functional variations from the physical plant requirements shall be approved by the Division when the home can effectively demonstrate to the Division's satisfaction, that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the home; and The Division may grant an equivalency to allow alternate methods, procedures, design criteria, or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a facility submits a written equivalency request to the Division that states the following:

(a) the rule citation and the rule requirement that will not be met because strict conformance with current requirements would be:

- (i) impractical;
- (ii) unable to be met due to extraordinary circumstances;
- (iii) unable to be met due to new programs; or
- (iv) unable to be met due to unusual conditions;

(b) the justification for the equivalency; and

- (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- (6) Where rules, codes or standards have any conflict, the most stringent requirement shall apply. In determining whether to grant an equivalency request, the Division shall consider whether the request will reduce the safety and operational effectiveness of the facility. The facility shall maintain a copy of the approved equivalency issued by the Division, and
- (7) Where rules, codes or standards have any conflict, the more stringent requirement shall apply.

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

10A NCAC 13G .0302 DESIGN AND CONSTRUCTION

- (a) ~~Any~~ A building licensed for the first time as a family care ~~home~~ home, or a licensed family care home relicensed after the license is terminated for more than 60 days, shall meet the applicable requirements of the North Carolina State Building Code. ~~All new construction, additions and renovations to existing buildings shall meet the requirements of the North Carolina State Building Code for One and Two Family Dwellings and Residential Care Facilities if applicable. All applicable volumes of The North Carolina State Building Codes, which is incorporated by reference, including all subsequent amendments, may be purchased from the Department of Insurance Engineering Division located at 322 Chapanoke Road, Suite 200, Raleigh, North Carolina 27603 at a cost of three hundred eighty dollars (\$380.00). Code: Residential Code, and Licensed Residential Care Facilities, if applicable, in effect at the time of licensure or relicensure. Applicable volumes of The North Carolina State Building Codes, which are hereby incorporated by reference, including all subsequent amendments and editions, may be purchased from the International Code Council online at <https://shop.iccsafe.org/> at a cost of eight hundred fifty-eight dollars (\$858.00) or accessed electronically free of charge at <https://codes.iccsafe.org/codes/north-carolina>.~~
- (b) New construction, additions, alterations, modifications, and renovations to buildings shall meet the requirements of the North Carolina State Building Code: Residential Code, and Licensed Residential Care Facilities, if applicable, at the time of construction, alteration, modifications, and renovations.
- ~~(b) Each home shall be planned, constructed, equipped and maintained to provide the services offered in the home.~~
- (c) A family care home shall not offer services for which the home was not planned, constructed, equipped, or maintained.
- ~~(e)(d) Any existing~~ A building converted from another use to a family care home shall meet all the requirements of ~~a new facility.~~ Paragraph (a) of this Rule.
- ~~(d) Any existing licensed home when the license is terminated for more than 60 days shall meet all requirements of a new home prior to being relicensed.~~
- (e) Any existing A licensed home that plans to have new construction, remodeling or physical changes done to the facility shall have drawings submitted by the owner or his appointed

representative to the Division of Health Service Regulation for review and approval prior to commencement of the work.

(f) If the building is two stories in height, it shall meet the following requirements:

- (1) ~~Each~~ each floor shall be less than 2500 square feet in area if existing construction or, if new construction, shall not exceed the allowable area for Group R-4 occupancy in the North Carolina State Building Code; Codes;
- (2) ~~Aged~~ aged or disabled persons are not to be housed on any floor above or below grade level;
- (3) ~~Required~~ required resident facilities are not to be located on any floor above or below grade level; and
- (4) ~~A~~ a complete fire alarm system with pull system meeting the requirements of the National Fire Protection Association 72, NFPA 72: National Fire Alarm and Signaling Code, which is hereby incorporated by reference, including all subsequent amendments and editions. Copies of this code may be obtained from the National Fire Protection Association online at <http://www.nfpa.org/catalog/> or accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72>. For the purpose of this Rule, a "complete fire alarm system" is a system that consists of components and circuits arranged to monitor and annunciate the status of fire alarm and supervisory signal-initiating devices and to initiate the appropriate response to those signals. Pull stations shall be installed on each floor at each exit, and sounding Sounding devices which that are audible throughout the building shall be provided. provided on each floor. The fire alarm system shall be able to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. center that is legally committed to serving the area in which the facility is located. The alarm shall be transmitted either directly to a fire department or through a third-party service that shall transmit the alarm to the fire department. The method used to transmit the alarm shall be in accordance with local ordinances.

(g) The basement and the attic shall not ~~to~~ be used for storage or sleeping.

(h) The ceiling height throughout the family care home shall be at least seven and one-half feet from the floor.

(i) In homes licensed on or after April 1, 1984, all required resident areas shall be on the same floor level. Steps and ramps between levels are not permitted.

(j) The following shall have door width widths shall be a minimum of two feet and six inches in the kitchen, dining room, living rooms, bedrooms and bathrooms. inches:

- (1) the kitchen;

- (2) dining rooms;
- (3) living rooms;
- (4) bedrooms; and
- (5) bathrooms.

(k) All windows that are operable shall be maintained operable.
 (l) The local code enforcement official shall be consulted before starting any construction or renovations for information on required permits and construction requirements.
 (m) The building shall meet sanitation requirements as determined by the North Carolina Department of ~~Environment and Natural Resources; Division of Environmental Health.~~ Health and Human Services, Division of Public Health, Environmental Health Section.
 (n) The home shall maintain and have available for review current sanitation and fire ~~and building safety inspection reports which shall be maintained in the home and available for review.~~ reports.

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

10A NCAC 13G .0305 LIVING ROOM

(a) Family care homes licensed on or after April 1, 1984 shall have a living room or area of at least a minimum of 200 square feet.
 (b) All living rooms or areas shall have at least one operable ~~windows~~ window to meet meeting the North Carolina State Building Code Codes to view outdoors, and be lighted to provide 30 ~~foot-candles~~ foot-candles of light at floor level.

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

10A NCAC 13G .0306 DINING ROOM DINING ROOM OR DINING AREA

(a) Family care homes licensed on or after April 1, 1984 shall have a dining room or dining area of at least a minimum of 120 square feet. The dining room or dining area may be used for other activities during the day.
 (b) When the dining area is used in combination with a kitchen, an area five feet wide in front of the kitchen, including the sink, kitchen appliances, and any kitchen island used for food preparation, shall be ~~allowed as work space for the kitchen, in front of the kitchen work areas.~~ the work space shall not be used as calculations for the required minimum the dining area.
 (c) The dining room or dining area shall have at least one operable ~~windows~~ window meeting the North Carolina State Building Code Codes to view the outdoors, or a door unit with a vision panel directly to the outside. The dining room or dining area shall and be lighted to provide 30 ~~foot-candles~~ foot-candles of light at floor level.

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

10A NCAC 13G .0307 KITCHEN

(a) The kitchen in a family care home shall be large enough to provide for the preparation and preservation of food and the washing of dishes.
 (b) The cooking unit shall be mechanically ventilated to the outside or be an unvented, recirculating fan provided with ~~any special filter per the type of filter required by manufacturers' instructions for ventless use.~~

(c) The kitchen floor shall have a non-slippery water-resistant covering.

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

10A NCAC 13G .0308 BEDROOMS

(a) There shall be bedrooms ~~sufficient~~ in number and size to meet the individual needs according to age and sex of the residents, the administrator or supervisor-in-charge, other live-in ~~staff~~ staff, and ~~any~~ other persons living in a family care home. Residents ~~are~~ shall not to share bedrooms with staff or other live-in non-residents.
 (b) Only rooms authorized by the Division of Health Service Regulation as bedrooms shall be used for bedrooms.
 (c) A room where access is through a bathroom, ~~kitchen~~ kitchen, or another bedroom shall not be approved for a resident's bedroom.
 (d) ~~There shall be a minimum area of 100 square feet, excluding vestibule, closet or wardrobe space, in rooms occupied by one person and a minimum area of 80 square feet per bed, excluding vestibule, closet or wardrobe space, in rooms occupied by two persons. Private resident bedrooms shall provide not less than 100 square feet of net floor area excluding vestibules, closets, or wardrobes. For the purpose of this Rule, net floor area is the actual occupiable area not including unoccupied accessory areas such as vestibules, closets, wardrobes, and bathrooms.~~
 (e) Semi-private resident bedrooms shall provide not less than 80 square feet of net floor area per bed excluding vestibules, closets, or wardrobes. For the purpose of this Rule, net floor area is the actual occupiable area not including unoccupied accessory areas such as vestibules, closets, wardrobes, and bathrooms.
 (e)(f) The total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of Health Service Regulation for that particular bedroom.
 (f)(g) A bedroom shall not be occupied by more than two residents.
 (g)(h) ~~Each~~ A resident bedroom ~~must~~ shall have one or more operable windows meeting the requirements of the North Carolina State Building Codes for emergency egress, and be lighted to provide 30 ~~foot-candles~~ foot-candles of light at floor level. The window area shall ~~be equivalent to at least~~ not be less than eight percent of the floor ~~space.~~ space, and be equipped with insect-proof screens. ~~The windows~~ Windows in resident bedrooms shall have a maximum of 44 inch sill height.
 (h)(i) ~~Bedroom closets or wardrobes shall be large enough to provide each resident with a minimum of 48 cubic feet of clothing storage space (approximately two feet deep by three feet wide by eight feet high) of which at least one half shall be for hanging clothes with an adjustable height hanging bar. A resident bedroom shall provide one closet or wardrobe per resident. Closets or wardrobes shall have clothing storage space of not less than 48 cubic feet per bed, approximately two feet deep by three feet wide by eight feet high, of which one-half of this space shall be for hanging with an adjustable height hanging bar.~~

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

10A NCAC 13G .0309 BATHROOM

(a) ~~Adult~~ Family care homes licensed on or after April 1, 1984, shall have one full bathroom for ~~each~~ five or fewer ~~persons~~

~~persons, including live-in staff and family staff. For the purpose of this rule, a full bathroom is a room containing a sink, water closet (commode), and a bathtub, shower, spa tub, or similar bathing fixture.~~

~~(b) The bathrooms shall be designed to provide privacy. A bathroom Bathrooms with two or more water closets (commodes) shall have privacy partitions or curtains for each water closet. Each tub or shower Bathtubs, showers, spas, or similar bathing fixtures shall have privacy partitions or curtains. The requirements of this Paragraph shall apply to new and existing facilities.~~

~~(c) Entrance Entrances to the bathroom bathrooms shall not be through a kitchen, another person's bedroom, or another bathroom.~~

~~(d) The required Required residents' bathrooms shall be located so that there is no more than 40 feet from any residents' a resident's bedroom door to a resident use bathroom door.~~

~~(e) Hand grips shall be installed at all commodes, tubs and showers used by the residents. Water closets (commodes), bathtubs, showers, spas, and similar bathing fixtures shall have hand grips meeting the following requirements:~~

- ~~(1) be mechanically fastened or anchored to the walls;~~
- ~~(2) be located to assist in entering and exiting bathtubs, showers, spas, or similar bathing fixtures; and~~
- ~~(3) be within reach of water closets (commodes).~~

~~(f) Nonskid surfacing or strips must be installed in showers and bath areas. bathtubs, showers, spas, and similar bathing fixtures.~~

~~(g) The bathrooms Bathrooms shall meet the following requirements:~~

- ~~(1) be lighted to provide 30 foot candles foot-candles of light at floor level and have level;~~
- ~~(2) have mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor area. an exhaust system per the North Carolina State Building Code: Residential Code. These Exhaust vents shall vent directly to the outdoors. outdoors; and~~
- ~~(3) have floors that are water-resistant and slip-resistant.~~

~~(h) The bathroom floor shall have a non-slippery water-resistant covering.~~

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

10A NCAC 13G .0312 OUTSIDE ENTRANCE AND EXITS

(a) In family care homes, all floor levels shall have at least two exits. ~~If there are only two, the exit or exit access doors shall be so located and constructed to minimize the possibility that both may be blocked by any one fire or other emergency condition.~~ outside entrances/exits that are so located and constructed to minimize the possibility that both outside entrances/exits from the home may be blocked by a fire or other emergency condition. Exiting through another resident's bedroom is not permitted.

(b) At least one outside entrance/exit door shall be a minimum width of three feet and another shall be a minimum width of two feet and eight inches.

(c) At least one principal outside entrance/exit for the residents' use shall be at grade level or accessible by ramp with a one inch rise for each 12 inches of length of the ramp. For the purposes of this Rule, a principal outside entrance/exit is one that is most often used by residents for vehicular access. If the home has ~~any~~ a resident that must have physical assistance with evacuation, the home shall have two outside entrances/exits at grade level or accessible by a ramp.

(d) All ~~exit~~ outside entrance/exit door locks shall be ~~easily operable, operable~~ by a single hand ~~motion, motion~~ from the inside at all times without ~~keys, keys, tools, or special knowledge.~~ Existing ~~deadbolts or deadbolts and~~ turn buttons on the inside of ~~exit doors outside entrances/exit doors, including screen and storm doors,~~ shall be removed or disabled.

(e) All outside entrances/exits shall be free of all obstructions or impediments to allow for full instant use in case of fire or other emergency.

(f) All ~~steps, steps, porches, stoops~~ stoops, and ramps shall be ~~provided with~~ have handrails and ~~guardrails, guards.~~ Handrails shall be on both sides of steps and ramps, including sides bordered by the facility wall. Handrails shall extend the full length of steps and ramps. Guards shall be on open sides of steps, porches, stoops, and ramps. For the purposes of this Rule, guards are building components, or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from a walking surface to an adjacent change in elevation.

(g) In homes with at least one resident who is determined by a physician or is otherwise known to be ~~disoriented or a wanderer,~~ each exit door for resident use disoriented or exhibiting wandering behavior, all outside entrance/exit doors shall be equipped with have a continuously sounding device that is activated when the door is opened. The sound shall be of sufficient of such volume that it can be heard by staff. If a central system of remote sounding devices is provided, the control panel for the system shall be powered by the facility's electrical system, and be located in the bedroom of the person on call, the office area or in a location an area accessible only to staff authorized by the administrator to operate the control panel. to staff. The requirements of this Paragraph shall apply to new and existing facilities.

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

10A NCAC 13G .0313 LAUNDRY ROOM

The laundry equipment in a family care home shall be located out of the living, dining, and bedroom areas.

- (a) Laundry equipment shall be inside family care homes.
- (b) Laundry equipment shall be in a dedicated room or enclosure, and shall be located out of living rooms, dining rooms, dining areas, bathrooms, and bedrooms.
- (c) Laundry equipment shall be on the same floor level as required residents' facilities.
- (d) Laundry equipment shall be accessible to all residents, and shall be maintained operable.

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

10A NCAC 13G .0315 HOUSEKEEPING AND FURNISHINGS

- (a) Each ~~A~~ family care home shall:
 - (1) have walls, ceilings, and floors or floor coverings kept clean and in good repair;
 - (2) have no ~~chronic unpleasant odors; odors that are considered by the residents to be chronic and unpleasant;~~
 - (3) have furniture ~~clean and in good repair; that is clean, safe, and functional.~~
 - (4) have a North Carolina ~~Division of Environmental Health~~ Department of Health and Human Services, Division of Public Health, Environmental Health Section approved sanitation classification at all ~~times; times,~~ times, which is incorporated by reference including all subsequent amendments. The "Rules Governing the Sanitation of Residential Care Facilities", 15A NCAC 18A .1600, may be accessed electronically free of charge at <http://ehs.dph.ncdhs.gov/rules.htm>;
 - (5) be maintained in an uncluttered, ~~clean~~ clean, and orderly manner, free of all obstructions and hazards;
 - (6) have a supply on hand at all times of bath soap, clean towels, washcloths, sheets, pillowcases, blankets, and additional ~~coverings~~ adequate covers for resident ~~use on hand at all times; use;~~
 - (7) make available the following items as needed through ~~any~~ means other than charge to the personal funds of recipients of State-County Special Assistance:
 - (A) protective ~~sheets~~ mattress covers, and clean, absorbent, ~~soft~~ soft, and smooth mattress pads;
 - (B) ~~bedpans, urinals, hot water bottles, and ice caps; bedpans and urinals;~~ and
 - (C) bedside commodes, walkers, and wheelchairs.
 - (8) have one television and one radio ~~radio, each~~ in good working order;
 - (9) have curtains, ~~draperies~~ draperies, or blinds at windows in resident use areas to provide for resident privacy;
 - (10) have recreational equipment, supplies for games, books, ~~magazines~~ magazines, and a ~~current~~ weekly newspaper available for residents;
 - (11) have a clock that has numbers at least 1½ inches tall in ~~an area commonly used by the residents;~~ the living room or in the dining room or dining room area; and
 - (12) have at least one telephone that does not ~~depend on~~ require electricity or cellular service to operate.
- (b) Each bedroom shall have the following furnishings in good repair and clean for each resident:
 - (1) A bed equipped with box springs and mattress or solid link springs and no-sag innerspring or

foam mattress. Hospital bed appropriately equipped with all accessories required for use shall be arranged for as needed. A water bed is allowed if requested by a resident and permitted by the ~~home.~~ facility. Each bed is to have the following:

- (A) at least one pillow with a clean pillow case;
 - (B) a clean top and bottom ~~sheets~~ sheet on the bed, with bed changed ~~as often as necessary but~~ at least once a week; and week and when soiled; and
 - (C) a clean bedspread and other clean coverings as needed.
- (2) a bedside type table;
 - (3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents;
 - (4) a wall or dresser mirror that ~~can~~ may be used by each
 - (5) a minimum of one ~~comfortable chair (rocker or straight, arm or without arms, as preferred by resident), high enough from floor for easy rising;~~ chair that is comfortable as preferred by the resident, which may include a rocking or straight chair, with or without arms, that is high enough for the resident to easily rise without discomfort;
 - (6) additional chairs available, as needed, for use by visitors;
 - (7) individual clean towel, wash cloth, and towel bar within bedroom or adjoining bathroom; and
 - (8) a light overhead of bed with a switch ~~within reach of that may be reached by a person lying on the bed;~~ or a lamp. The light shall provide a minimum of 30 foot-candle power of illumination for reading.
- (c) The living room shall have ~~functional~~ living room furnishings for the comfort of aged and disabled persons, that are in good working order and provide comfort as preferred by residents with coverings that are easily cleanable.
 - (d) The dining room shall have the following furnishings:
 - (1) tables and chairs to seat all residents eating in the dining room; and
 - (2) chairs that are sturdy, non-folding, without rollers unless retractable or on front legs only, and designed to minimize tilting.
 - (e) This Rule shall apply to new and existing homes.

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

10A NCAC 13G .0317 BUILDING SERVICE EQUIPMENT

- (a) The building and all fire safety, electrical, mechanical, and plumbing equipment in a family care home shall be maintained in a safe and operating condition.
- (b) ~~There shall be a central heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions.~~ Built-in electric heaters, if used, shall be installed or protected so as to

avoid hazards to residents and room furnishings. Unvented fuel burning room heaters and portable electric heaters are prohibited.

(c) ~~Air conditioning or at least one fan per resident bedroom and living room and dining areas shall be provided when the temperature in the main center corridor exceeds 80 degrees F (26.7 degrees C).~~ The facility shall have heating and cooling systems such that environmental temperature controls are capable of maintaining temperatures in the home at 75 degrees F minimum in the heating season, and not exceed 80 degrees F during the non-heating season.

(d) ~~The hot water tank shall be of such size to provide an adequate supply of hot water supplied to the kitchen, bathrooms, and laundry. The hot water temperature at all fixtures used by residents shall be maintained at~~ maintain a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C). ~~degrees F at all fixtures used by or accessible to residents. This requirements of this Paragraph shall apply to new and existing facilities.~~

(e) All resident areas shall be well lighted for the safety and comfort of the residents. The minimum lighting required is:

- (1) ~~30 foot candle power foot-candles for reading;~~ reading; and
- (2) ~~10 foot candle power foot-candles for general lighting; and lighting.~~
- (3) ~~1 foot candle power at the floor for corridors at night.~~

(f) ~~Where the bedroom of the live-in staff is located in a separate area from residents' bedrooms, an electrically operated call system shall be provided connecting each resident bedroom to the live-in staff bedroom. The resident call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff. The call system activator shall be within reach of resident lying on his bed.~~

Where there is live-in staff in a family care home, a hard-wired, electrically operated call system meeting the following requirements shall be provided:

- (1) the call system shall connect residents' bedrooms to the live-in staff bedroom;
- (2) when activated, the resident call shall activate a visual and audible signal in the live-in staff bedroom;
- (3) a resident call system activator shall be in residents' bedrooms at the resident's bed;
- (4) the resident call system activator shall be within reach of a resident lying on the bed; and
- (5) the resident call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff at point of origin.

(g) Fireplaces, fireplace ~~inserts~~ inserts, and wood stoves shall be designed ~~or~~ and installed so as to avoid a burn hazard to residents. Fireplace inserts and wood stoves must be U.L. listed.

(h) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation instructions, approved through the local building ~~department~~ department, and protected by a guard or screen to prevent residents and furnishings from burns.

(i) ~~Alternate methods, procedures, design criteria and functional variations from the requirements of this Rule or other rules in this~~

~~Section because of extraordinary circumstances, new programs or unusual conditions, shall be approved by the Division when the facility can effectively demonstrate to the Division's satisfaction that the intent of the requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility.~~

(j) ~~This Rule shall apply to new and existing family care homes.~~

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

10A NCAC 13G .0318 OUTSIDE PREMISES

(a) The outside grounds of new and existing family care homes shall be maintained in a clean and safe condition. Creeks, ditches, ponds, pools, and other similar areas shall have safety protection.

(b) If the home has a fence around the premises, the fence shall not prevent residents from exiting or entering ~~freely~~ freely, or be ~~hazardous~~ have sharp edges, rusting posts, or other similar conditions that may cause injury.

(c) Outdoor stairways and ramps shall be illuminated by no less than five ~~foot candles~~ foot-candles of light at grade level.

(d) The requirements of Paragraphs (a) and (b) of this Rule shall apply to new and existing facilities.

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

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Medical Care Commission intends to amend the rule cited as 10A NCAC 13G .0316 and readopt with substantive changes the rules cited as 10A NCAC 13F .0309, .0801, .0802; 13G .0801 and .0802.

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

Proposed Effective Date: May 1, 2025

Public Hearing:

Date: July 24, 2024

Time: 10:00 a.m.

Location: Edgerton Building Room 026, 809 Ruggles 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 Subchapters 10A NCAC 13F, Licensing of Adult Care Homes of Seven or More Beds, and 10A NCAC 13G, Licensing of Family Care Homes, 40 proposed readoption rules were part of the 97 total rules determined as "Necessary With Substantive Public Interest," requiring readoption. With input from stakeholder groups, this package has proposed 40 rules for readoption, five rules proposed for amendment, and one rule repeal to update the process that has been followed in the regulation of licensed Adult Care Homes and Family Care Homes in N.C. Most of the rules for both types of assisted living residences, adult care homes of seven beds or more and family care homes, are the same with the primary exception of staffing

and physical plant requirements since they serve the same population based on need for care and services. Rules 10A 13F .1501 and 10A NCAC 13G .0316 are being amended with these rules to accommodate for changes made in the other rules in this package. This package has been broken up into three groups by effective date to allow time for facilities to adequately prepare to make the changes in these rules.

Comments may be submitted to: Taylor Corpening, 809 Ruggles Drive; 2701 Mail Service Center, Raleigh, NC 27699; email dhsr.rulescoordinator@dhhs.nc.gov

Comment period ends: August 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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.

- [X] State funds affected
[X] Local funds affected
[] Substantial economic impact (>= \$1,000,000)
[X] Approved by OSBM
[] No fiscal note required

CHAPTER 13 - NC MEDICAL CARE COMMISSION

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

SECTION .0300 - PHYSICAL PLANT

10A NCAC 13F .0309 FIRE SAFETY AND EMERGENCY PREPAREDNESS PLANS PLAN FOR EVACUATION

(a) A Each facility shall have a written fire evacuation plan (including a diagrammed drawing) that includes a diagrammed drawing. The plan shall have which has the written approval of the local Code Enforcement Official fire code enforcement official and shall be prepared in large legible print and be posted in a central location on each floor of an adult care home. the facility in a location visible to staff, residents, and visitors. The plan shall be reviewed with each resident on upon admission and shall be a part of included in the orientation for all new staff.

(b) There shall be unannounced rehearsals of the fire evacuation plan quarterly on each shift in accordance with the requirement of the local Fire Prevention Code Enforcement Official. fire prevention code enforcement official.

(c) Records of rehearsals shall be maintained by the administrator or their designee in the facility and be made available upon request to the Division of Health Service Regulation, county department of social services, and local officials. copies furnished to the county department of social services annually. The records shall include the date and time of the rehearsals, the shift, staff members present, and a short description of what the rehearsal involved. rehearsal.

(d) A Each facility shall develop and implement an emergency preparedness plan. written disaster plan, which has the written approval of or has been documented as submitted to the local emergency management agency and the local agency designated to coordinate special needs sheltering during disasters, shall be prepared and updated at least annually and shall be maintained in the facility. The administrator shall ensure emergency preparedness planning and the development and implementation of the facility's emergency preparedness plan in accordance with this Rule.

(e) The facility's emergency preparedness plan shall include the following:

- (1) An all-hazards plan which includes a basic emergency operations plan, using an all-hazards approach. For the purpose of this Rule, an "all-hazards approach" means addressing the facility's common operational functions in an emergency; the facility identifies and trains staff on tasks common to all emergency events; the facility identifies and trains the primary staff persons responsible for accomplishing those tasks; and the facility identifies how it will ensure continuity of operations, including designating alternate individuals to carry out those responsibilities and tasks in the event that the primary staff person is not available to do so. The plan shall address the following:
(A) procedures for collaborating with other healthcare facilities and services to include emergency medical services, hospitals, nursing homes, adult care homes when applicable and the community during an emergency or disaster;
(B) a plan for communicating with local emergency management, the Division of Health Service Regulation (DHSR), Department of Social Services (DSS), residents and their responsible parties, and staff;
(C) procedures for collaborating with local emergency management and healthcare coalitions;
(D) provision for subsistence needs for residents and staff, including food, water, medical and pharmaceutical supplies, and equipment including

- medication, and personal protective equipment;
 - (E) alternate source of energy to maintain temperatures to protect resident health and safety and for the safe and sanitary storage of food and medications, emergency lighting, fire detection, extinguishing, and alarm systems, sewage and waste disposal;
 - (F) a system for tracking residents and staff;
 - (G) procedures for sheltering-in-place;
 - (H) evacuation procedures that provide for safe evacuation of residents, staff, resident family or representatives, or other personnel who sought potential refuge at the facility;
 - (I) resident identification and resident records;
 - (J) emergency and standby power systems;
 - (K) transportation procedures to include prearranged transfer agreements, written agreements or contracted arrangements with other facilities and other providers to receive residents in the event of limitations or cessation of operations to maintain the continuity of services to residents;
 - (L) provisions for addressing potential staffing issues and ensuring staffing to meet the needs of residents during an emergency situation, including the provision of staff to care for residents while evacuated from the facility;
 - (M) coordination with the local and regional emergency management agency; and
 - (N) contact information for state and local resources for emergency response, facility staff, residents and responsible parties, vendors, contractors, utility companies, and local building officials such as the fire marshal and local health department.
- (2) A risk assessment that identifies potential hazards to the facility. The risk assessment shall be based on the county risk assessment established by the county emergency management agency and the hazard vulnerability assessment established by the regional healthcare coalition. The facility's risk assessment shall identify the top three to five risk areas to the facility and its residents and categorize the risk areas by the likelihood of occurrence. For each of the three to five risk areas identified, the facility shall develop a plan which addresses the factors listed in Parts

(e)(1)(A)-(N) of this Rule. The following are examples of types of emergencies or disasters that may pose a risk to a facility:

- (A) Natural disasters to include a hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought;
- (B) Man-made disasters to include fire, building structure failures, transport accidents, acts of terrorism, active assailant, incidents of mass violence, industrial accidents;
- (C) Infrastructure disruptions such as failures to structures, facilities, and equipment for roads, highways, bridges, ports, intercity passenger and freight railroads; freight and intermodal facilities, airport, water systems, sewer systems;
- (D) Resident care-related emergencies;
- (E) Equipment and utility failures, to include power, water, gas;
- (F) Interruptions in communication;
- (G) Unforeseen widespread communicable public health and emerging infectious diseases;
- (H) Loss of all or a portion of the facility; and
- (I) Interruptions to the normal supply of essential resources, such as water, food, fuel for heating and cooking, generators, medications, and medical supplies. For the purposes of this rule "emergency" means a situation which presents the risk of death or physical harm to residents.

(f) The facility's emergency preparedness plan shall be reviewed at least annually and updated as needed by the administrator and shall be submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters. Any changes to the plan shall be submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters within 30 days of the change. Documentation of submissions shall be maintained at the facility and made available for review upon request to the Division of Health Service Regulation and county department of social services.

(g) Newly licensed facilities and facilities that have changed ownership shall submit an emergency preparedness plan to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters within 30 days after obtaining the new license. Documentation of submissions shall be maintained at the facility and made available for review upon request to the Division of Health Service

Regulation and county department of social services. The facility's emergency preparedness plan shall be made available upon request to the Division of Health Service Regulation, county department of social services, and emergency management officials.

(h) The administrator shall ensure staff are trained on their roles and responsibilities related to emergencies in accordance with the facility's emergency preparedness plan as outlined in Paragraph (e) of this Rule. Staff shall be trained upon employment and annually in accordance with Rule .1211 of this Subchapter.

(i) The facility shall conduct at least one drill per year to test the facility's emergency plan. The facility shall maintain documentation of the annual drill which shall be made available upon request to the Division of Health Service Regulation, county department of social services, and emergency management officials.

(j) The emergency preparedness plan outlined in Paragraph (e) of this Rule shall be maintained in the facility and accessible to staff working in the facility.

(k) A facility that elects to be designated as a special care shelter during an impending disaster or emergency event as part of the county's emergency management plan shall follow the guidelines established by the latest Division of Social Services' State of North Carolina Disaster Plan which is available at no cost from the N.C. Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-2401, on the internet website, <https://files.nc.gov/ncdhhs/documents/files/dss/NCDSSDisasterPlanJuly2018.pdf> at no cost.

(l) If the facility evacuates residents for any reason, the administrator or their designee shall report the evacuation to the local emergency management agency, the local county department of social services, and the Division of Health Service Regulation Adult Care Licensure Section within four hours or as soon as practicable of the decision to evacuate, and shall notify the agencies within four hours of the return of residents to the facility.

(m) Any damage to the facility or building systems that disrupts the normal care and services provided to residents shall be reported to the Division of Health Service Regulation Construction Section to obtain technical assistance within three hours or as soon as practicable of the incidence occurring.

(n) If a facility has evacuated residents due to an emergency, the facility shall not re-occupy the building until local building officials have given approval to do so.

(o) In accordance with G.S. 131D-7, if a facility intends to shelter residents from an evacuating adult care home or desires to temporarily increase the facility's licensed bed capacity, the facility shall request a waiver from the Division of Health Service Regulation prior to accepting the additional residents into the facility. The waiver request form can be found on the Division of Health Service Regulation Adult Care Licensure Section website at <https://info.ncdhhs.gov/dhsr/acls/acforms.html#resident>.

(p) If a facility evacuates residents to a public emergency shelter, the facility remains responsible for the care, supervision, and safety of each resident, including providing required staffing and supplies in accordance with the Rules of this Subchapter. Evacuation to a public emergency shelter should be a last resort due to a failure of the facility's emergency preparedness plan, and the decision shall be made in consultation with the local

emergency management agency or the local agency designated to coordinate special needs sheltering during disasters. If a facility evacuates residents to a public emergency shelter, the facility shall notify the Division of Health Service Regulation Adult Care Licensure Section and the county department of social services within three hours of the decision to evacuate.

(q) This Rule shall apply to new and existing facilities.

Authority G.S. 131D.2.16; 131D-7; 143B-165.

SECTION .0800 - RESIDENT ASSESSMENT AND CARE PLAN

10A NCAC 13F .0801 RESIDENT ASSESSMENT

(a) An adult care home shall assure that an initial assessment of each resident is completed within 72 hours of admission using the Resident Register.

(b)(a) The facility shall assure complete an assessment of each resident is completed within 30 days following admission and at least annually thereafter thereafter, using an assessment instrument established by the Department or an instrument approved by the Department based on it containing at least the same information as required on the established instrument. The assessment to be completed within 30 days following admission and annually thereafter shall be a functional assessment to determine a resident's level of functioning to include psychosocial well-being, cognitive status and physical functioning in activities of daily living. Activities of daily living are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating. The assessment shall indicate if the resident requires referral to the resident's physician or other licensed health care professional, provider of mental health, developmental disabilities or substance abuse services or community resource.

(b) The facility shall use the assessment instrument and instructional manual established by the Department or an instrument developed by the facility that contains at least the same information as required on the instrument established by the Department. The assessment shall be completed in accordance with Rule .0508 of this Subchapter. If the facility develops its own assessment instrument, the facility shall ensure that the individual responsible for completing the resident assessment has completed training on how to conduct the assessment using the facility's assessment instrument. The assessment shall be a functional assessment to determine the resident's level of functioning to include psychosocial well-being, cognitive status, and physical functioning in activities of daily living. Activities of daily living are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating. The assessment instrument established by the Department shall include the following:

- (1) resident identification and demographic information;
- (2) current diagnoses;
- (3) current medications;
- (4) the resident's ability to self-administer medications;
- (5) the resident's ability to perform activities of daily living, including bathing, dressing,

- personal hygiene, ambulation or locomotion, transferring, toileting, and eating;
- (6) mental health history;
- (7) social history;
- (8) mood and behaviors;
- (9) nutritional status, including specialized diet or dietary needs;
- (10) skin integrity;
- (11) memory, orientation and cognition;
- (12) vision and hearing;
- (13) speech and communication;
- (14) assistive devices needed; and
- (15) a list of and contact information for health care providers or services used by the resident.

The assessment instrument established by the Department is available on the Division of Health Service Regulation website at https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/forms/dma-3050r-adult-care-home-personal-care-physician/@@display-file/form_file/dma-3050R.pdf.pdf at no cost.

(c) When a facility identifies a change in a resident's baseline condition based upon the factors listed in Parts (1)(A) through (M) of this Paragraph, the facility shall monitor the resident's condition for no more than 10 days to determine if a significant change in the resident's condition has occurred. For the purposes of this rule, "significant change" means a major decline or improvement in a resident's status related to factor in Parts (1)(A) through (M) of this Paragraph. The facility shall assure conduct an assessment of a resident is completed within 10 three days following after the facility identifies that a significant change in the resident's baseline condition has occurred. The facility shall use using the assessment instrument required in Paragraph (b) of this Rule. For the purposes of this Subchapter, significant change in the resident's condition is determined as follows:

- (1) Significant change is one or more of the following:
 - (A) deterioration in two or more activities of daily living; living including bathing, dressing, personal hygiene, toileting, or eating;
 - (B) change in ability to walk or transfer; transfer, including falls if the resident experiences repeated falls on the same day, recurrent falls overall several days to weeks, new onset of falls not attributed to a readily identifiable cause, or a fall with consequent change in neurological status, or findings suggesting a possible injury;
 - (C) change in the ability to use one's hands to grasp small objects; Pain worsening in severity, intensity, or duration, and/or occurring in a new location, or new onset of pain associated with trauma;
 - (D) deterioration in behavior or mood to the point where daily problems arise or relationships have become problematic; change in the pattern of

usual behavior, new onset of resistance to care, abrupt onset or progression of significant agitation or combative behavior, deterioration in affect or mood, or violent or destructive behaviors directed at self or others.

- (E) no response by the resident to the treatment intervention for an identified problem;
- (F) initial onset of unplanned weight loss or gain of five percent of body weight within a 30-day period or 10 percent weight loss or gain within a six-month period;
- (G) threat to life such as stroke, heart condition, or metastatic cancer; when a resident has been enrolled in hospice;
- (H) emergence of a pressure ulcer at Stage II, which is a superficial ulcer presenting an abrasion, blister or shallow crater, or higher; any pressure ulcer determined to be greater than Stage II;
- (I) a new diagnosis of a condition likely to affect the resident's physical, mental, or psychosocial well-being; well being such as initial diagnosis of Alzheimer's disease or diabetes;
- (J) improved behavior, mood or functional health status to the extent that the established plan of care no longer meets the resident's needs; matches what is needed;
- (K) new onset of impaired decision-making;
- (L) continence to incontinence or indwelling catheter; or
- (M) the resident's condition indicates there may be a need to use a restraint and there is no current restraint order for the resident.
- (2) Significant change is not any of does not include the following:
 - (A) changes that suggest slight upward or downward movement in the resident's status;
 - (B) changes that resolve with or without intervention;
 - (C) changes that arise from easily reversible causes;
 - (D) an acute illness or episodic event; event. For the purposes of this Rule "acute illness" means symptoms or a condition that develops quickly and is not a part of the resident's baseline physical health or mental health status;

- (E) an established, predictive, cyclical pattern; or
- (F) steady improvement under the current course of care.

(d) If a resident experiences a significant change as defined in Paragraph (c) of this Rule, the facility shall refer the resident to the resident's physician or other appropriate licensed health professional such as a mental health professional, nurse practitioner, physician assistant or registered nurse in a timely manner consistent with the resident's condition but no longer than 40 ~~three~~ days from the date of the significant change, change assessment, and document the referral in the resident's record. Referral shall be made immediately when significant changes are identified that pose an immediate risk to the health and safety of the resident, other residents, or staff of the facility.

(e) The assessments required in Paragraphs (a)(b) and (c) of this Rule shall be completed and signed by the person designated by the administrator to perform resident assessments.

Authority G.S. 131D-2.16; 131D-4.4; 131D-4.5; 143B-165.

10A NCAC 13F .0802 RESIDENT CARE PLAN

(a) ~~An adult care home~~ The facility shall assure a care plan is developed ~~develop and implement a care plan for each resident in conjunction with based on the resident~~ resident's assessment to be completed within 30 days following admission according to in accordance with Rule .0801 of this Section. ~~The care plan is an individualized, written program of personal care for each resident.~~ shall be resident-centered and include the resident's preferences related to the provision of care and services. A copy of each resident's current care plan shall be maintained in a location in the facility where it can be accessed by facility staff who are responsible for the implementation of the care plan.

(b) ~~The care plan shall be revised as needed based on further assessments of the resident according to Rule .0801 of this Section.~~ The resident shall be offered the opportunity to participate in the development of his or her care plan. If the resident is unable to participate in the development of the care plan due to cognitive impairment, the responsible person shall be offered the opportunity to participate in the development of the care plan.

(c) The care plan shall include the following:

- (1) ~~a statement of the care or service to be provided based on the assessment or reassessment; and description of services, supervision, tasks, and level of assistance to be provided to address the resident's needs identified in the resident's assessment in Rule .0801 of this Subchapter;~~ frequency of the service provision. Services or tasks to be performed;
- (2) revisions of tasks and frequency based on reassessments in accordance with Rule .0801 of this Subchapter;
- (3) licensed health professional tasks required according to Rule .0903 of this Subchapter;
- (4) a dated signature of the assessor upon completion; and
- (5) a dated signature of the resident's physician or physician extender within 15 days of

completion of the care plan certifying the resident as being under this physician's care with medical diagnoses justifying the tasks specified in the care plan. This shall not apply to residents assessed through the Medicaid State Plan Personal Care Services Assessment for the portion of the assessment covering tasks needed for each activity of daily living of this Rule for which care planning and signing are directed by Medicaid. The activities of daily living relevant to the Medicaid State Plan Personal Care Services Assessment are bathing, dressing, mobility, toileting, and eating.

~~(d) The assessor shall sign the care plan upon its completion.~~
~~(e) The facility shall assure that the resident's physician authorizes personal care services and certifies the following by signing and dating the care plan within 15 calendar days of completion of the assessment:~~

- (1) ~~the resident is under the physician's care; and~~
- (2) ~~the resident has a medical diagnosis with associated physical or mental limitations that justify the personal care services specified in the care plan.~~

~~(d) If the resident received home health or hospice services, the facility shall communicate with the home health or hospice agency to coordinate care and services to ensure the resident's needs are met.~~

~~(f)(e) The facility shall assure that the care plan for each resident who is under the care of a provider of mental health, developmental disabilities or substance abuse use services includes resident specific instructions regarding how to contact that provider, including emergency contact and after-hours contacts.~~ Whenever significant behavioral changes described in Rule .0801(c)(1)(D) of this Subchapter are identified, the facility shall refer the resident to a provider of mental health, developmental disabilities or substance abuse use services in accordance with Rule .0801(d) of this Subchapter.

~~(f) The care plan shall be revised as needed based on the results of a significant change assessment completed in accordance with Rule .0801 of this Section.~~

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 143B-165.

SUBCHAPTER 13G – LICENSING OF FAMILY CARE HOMES

SECTION .0300 - THE BUILDING

10A NCAC 13G .0316 FIRE SAFETY AND DISASTER EMERGENCY PREPAREDNESS PLAN

(a) Fire extinguishers shall be provided which meet these minimum requirements in a family care home:

- (1) one five pound or larger (net charge) "A-B-C" type ~~centrally located;~~ located in an area that can be accessed by staff and not stored in rooms with doors or the kitchen;
- (2) one five pound or larger "A-B-C" or CO/2 type located in the kitchen; and

(3) any other location as determined by the ~~code~~ local fire code enforcement official.

~~(b) The building shall be provided with smoke detectors as required by the North Carolina State Building Code and U.L. listed heat detectors connected to a dedicated sounding device located in the attic and basement. These detectors shall be interconnected and be provided with battery backup. The facility shall be provided with smoke detectors in locations as required by the North Carolina State Building Code; Residential Code and Licensed Residential Care Facilities, if applicable. All smoke detectors in the facility shall be hard-wired, interconnected, and provided with battery backup.~~

~~(c) Underwriters Laboratories, Incorporated (U.L.) listed heat detectors shall be installed in all attic spaces and in the basement of the facility. Heat detectors shall be hard-wired, interconnected, and connected to a dedicated sounding device located inside the living area of the facility. Heat detectors shall be of the rate of rise type as not to create nuisance alarms and be provided with battery backup.~~

~~(d) Any~~ All fire safety requirements required by city ordinances or county building inspectors shall be met.

~~(e) A written fire evacuation plan (including a diagrammed drawing) that includes a diagrammed drawing. The plan shall have which has the approval of the local fire prevention code enforcement official shall be official, prepared in large legible print and posted in a central location on each floor. every floor in a location visible to staff, residents, and visitors. The plan shall be reviewed with each resident all residents on admission and shall be a part of the orientation for all new staff.~~

~~(f) There shall be at least four rehearsals of the fire evacuation plan each year. every year on each shift. Records of rehearsals shall be maintained by the administrator or their designee in the facility and copies furnished to the county department of social services annually. The records shall include the date and time of the rehearsals, the shift staff members present, and a short description of what the rehearsal involved. rehearsal.~~

~~(g) Each facility shall develop and implement an emergency preparedness plan. The administrator shall ensure emergency preparedness planning and the development and implementation of the facility's emergency preparedness plan in accordance with this Rule. The emergency preparedness plan shall include the following:~~

- (1) An all-hazards plan which includes a basic emergency operations plan, using an all-hazards approach. For the purpose of this Rule, an "all-hazards approach" means addressing the facility's common operational functions in an emergency; the facility identifies and trains staff on tasks common to all emergency events; the facility identifies and trains the primary staff persons responsible for accomplishing those tasks; and the facility identifies how it will ensure continuity of operations, including designating alternate individuals to carry out those responsibilities and tasks in the event that the primary staff person is not available to do so. The plan shall address the following;

(A) procedures for collaborating with other healthcare facilities and services

to include emergency medical services, hospitals, nursing homes, adult care homes when applicable and the community during an emergency or disaster;

(B) a plan for communicating with local emergency management, the Division of Health Service Regulation (DHSR), Department of Social Services (DSS), residents and their responsible parties, and staff;

(C) procedures for collaborating with local emergency management and healthcare coalitions;

(D) provision for subsistence needs for residents and staff, including food, water, medical and pharmaceutical supplies, and equipment including durable medical equipment, medication, and personal protective equipment;

(E) alternate source of energy to maintain temperatures to protect resident health and safety and for the safe and sanitary storage of food and medications, emergency lighting, fire detection, extinguishing, and alarm systems, sewage and waste disposal;

(F) a system for tracking residents and staff;

(G) procedures for sheltering-in-place;

(H) evacuation procedures that provide for safe evacuation of residents, staff, resident family or representatives, or other personnel who sought potential refuge at the facility;

(I) resident identification and resident records;

(J) emergency and standby power systems;

(K) transportation procedures to include prearranged transfer agreements, written agreements or contracted arrangements with other facilities and other providers to receive residents in the event of limitations or cessation of operations to maintain the continuity of services to residents;

(L) provisions for addressing potential staffing issues and ensuring staffing to meet the needs of residents during an emergency situation, including the provision of staff to care for residents while evacuated from the facility;

(M) coordination with the local and regional emergency management agency; and

(N) contact information for state and local resources for emergency response.

facility staff, residents and responsible parties, vendors, contractors, utility companies, and local building officials such as the fire marshal and local health department.

- (2) A risk assessment that identifies potential hazards to the facility. The risk assessment shall be based on the county risk assessment established by the county emergency management agency and the hazard vulnerability assessment established by the regional healthcare coalition. The facility's risk assessment shall identify the top three to five risk areas to the facility and its residents and categorize the risk areas by the likelihood of occurrence. For each of the three to five risk areas identified, the facility shall develop a plan which addresses the factors listed in Parts (e)(1)(A)-(N) of this Rule. The following are examples of types of emergencies or disasters that may pose a risk to a facility:

- (A) Natural disasters to include a hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought;
- (B) Man-made disasters to include fire, building structure failures, transport accidents, acts of terrorism, active assailant, incidents of mass violence, industrial accidents;
- (C) Infrastructure disruptions such as failures to structures, facilities, and equipment for roads, highways, bridges, ports, intercity passenger and freight railroads; freight and intermodal facilities, airport, water systems, sewer systems;
- (D) Resident care-related emergencies;
- (E) Equipment and utility failures, to include power, water, gas;
- (F) Interruptions in communication;
- (G) Unforeseen widespread communicable public health and emerging infectious diseases;
- (H) Loss of all or a portion of the facility; and
- (I) Interruptions to the normal supply of essential resources, such as water, food, fuel for heating and cooking, generators, medications, and medical supplies. For the purposes of this rule "emergency" means a situation which presents the risk of death or physical harm to residents.

(h) The facility's emergency preparedness plan shall be reviewed at least annually and updated as needed by the administrator and shall be submitted to the local emergency management agency

and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters. Any changes to the plan shall be submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters within 30 days of the change. Documentation of submissions shall be maintained at the facility and made available for review upon request to the Division of Health Service Regulation and county department of social services.

(i) Newly licensed facilities and facilities that have changed ownership shall submit an emergency preparedness plan to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters within 30 days after obtaining the new license. Documentation of submissions shall be maintained at the facility and made available for review upon request to the Division of Health Service Regulation and county department of social services.

(j) The facility's emergency preparedness plan shall be made available upon request to the Division of Health Service Regulation, county department of social services, and emergency management officials.

(k) The administrator shall ensure staff are trained on their roles and responsibilities related to emergencies in accordance with the facility's emergency preparedness plan as outlined in Paragraph (g) of this Rule. Staff shall be trained upon employment and annually in accordance with Rule .1211 of this Subchapter.

(l) The facility shall conduct at least one drill per year to test the facility's emergency plan. The facility shall maintain documentation of the annual drill which shall be made available upon request to the Division of Health Service Regulation, county department of social services, and emergency management officials.

(m) The emergency preparedness plan outlined in Paragraph (g) of this Rule shall be maintained in the facility and accessible to staff working in the facility.

(n) If the facility evacuates residents for any reason, the administrator or their designee shall report the evacuation to the local emergency management agency, the local county department of social services, and the Division of Health Service Regulation Adult Care Licensure Section within four hours or as soon as practicable of the decision to evacuate, and shall notify the agencies within four hours of the return of residents to the facility.

(o) Any damage to the facility or building systems that disrupts the normal care and services provided to residents shall be reported to the Division of Health Service Regulation Construction Section to obtain technical assistance within three hours or as soon as practicable of the incidence occurring.

(p) If a facility has evacuated residents due to an emergency, the facility shall not re-occupy the building until local building officials have given approval to do so.

(q) In accordance with G.S. 131D-7, if a facility intends to shelter residents from an evacuating adult care home or desires to temporarily increase the facility's licensed bed capacity, the facility shall request a waiver from the Division of Health Service Regulation prior to accepting the additional residents into the facility. The waiver request form can be found on the Division of

Health Service Regulation Adult Care Licensure Section website at <https://info.ncdhhs.gov/dhsr/acls/acforms.html#resident>.

(r) If a facility evacuates residents to a public emergency shelter, the facility remains responsible for the care, supervision, and safety of each resident, including providing required staffing and supplies in accordance with the Rules of this Subchapter. Evacuation to a public emergency shelter should be a last resort due to a failure of the facility's emergency preparedness plan, and the decision shall be made in consultation with the local emergency management agency or the local agency designated to coordinate special needs sheltering during disasters. If a facility evacuates residents to a public emergency shelter, the facility shall notify the Division of Health Service Regulation Adult Care Licensure Section and the county department of social services within three hours of the decision to evacuate.

(h)(s) A written disaster plan which has the written approval of, or has been documented as submitted to, the local emergency management agency and the local agency designated to coordinate special needs sheltering during disasters, The emergency preparedness plan outlines in Paragraph (g) of this Rule shall be prepared and updated at least annually and shall be maintained in the home, facility and accessible to staff working in the facility. This written disaster plan requirement shall apply to new and existing homes.

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

SECTION .0800 - RESIDENT ASSESSMENT AND CARE PLAN

10A NCAC 13G .0801 RESIDENT ASSESSMENT

(a) A family care home shall assure that an initial assessment of each resident is completed within 72 hours of admission using the Resident Register.

(b)(a) The facility shall assure complete an assessment of each resident is completed within 30 days following admission and at least annually thereafter thereafter, using an assessment instrument established by the Department or an instrument approved by the Department based on it containing at least the same information as required on the established instrument. The assessment to be completed within 30 days following admission and annually thereafter shall be a functional assessment to determine a resident's level of functioning to include psychosocial well-being, cognitive status and physical functioning in activities of daily living. Activities of daily living are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating. The assessment shall indicate if the resident requires referral to the resident's physician or other licensed health care professional, provider of mental health, developmental disabilities or substance abuse services or community resource.

(b) The facility shall use the assessment instrument and instructional manual established by the Department or an instrument developed by the facility that contains at least the same information as required on the instrument established by the Department. The assessment shall be completed in accordance with Rule .0508 of this Subchapter. If the facility develops its own assessment instrument, the facility shall ensure that the individual responsible for completing the resident assessment has completed training on how to conduct the assessment using the facility's

assessment instrument. The assessment shall be a functional assessment to determine the resident's level of functioning to include psychosocial well-being, cognitive status, and physical functioning in activities of daily living. Activities of daily living are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating. The assessment instrument established by the Department shall include the following:

- (1) resident identification and demographic information;
- (2) current diagnoses;
- (3) current medications;
- (4) the resident's ability to self-administer medications;
- (5) the resident's ability to perform activities of daily living, including bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating;
- (6) mental health history;
- (7) social history;
- (8) mood and behaviors;
- (9) nutritional status, including specialized diet or dietary needs;
- (10) skin integrity;
- (11) memory, orientation and cognition;
- (12) vision and hearing;
- (13) speech and communication;
- (14) assistive devices needed; and
- (15) a list of and contact information for health care providers or services used by the resident.

The assessment instrument established by the Department is available on the Division of Health Service Regulation website at <https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/forms/dma-3050r-adult-care-home-personal-care-physician/@@display-file/form file/dma-3050R.pdf.pdf> at no cost.

(c) When a facility identifies a change in a resident's baseline condition based upon the factors listed in Parts (1)(A) through (M) of this Paragraph, the facility shall monitor the resident's condition for no more than 10 days to determine if a significant change in the resident's condition has occurred. For the purposes of this rule, "significant change" means a major decline or improvement in a resident's status related to factor in Parts (1)(A) through (M) of this Paragraph. The facility shall assure conduct an assessment of a resident is completed within 10 three days following after the facility identifies that a significant change in the resident's baseline condition has occurred. The facility shall use using the assessment instrument required in Paragraph (b) of this Rule. For the purposes of this Subchapter, significant change in the resident's condition is determined as follows:

- (1) Significant change is one or more of the following:
 - (A) deterioration in two or more activities of daily living; living including bathing, dressing, personal hygiene, toileting, or eating;
 - (B) change in ability to walk or transfer; transfer, including falls if the resident experiences repeated falls on the same

- (C) day, recurrent falls overall several days to weeks, new onset of falls not attributed to a readily identifiable cause, or a fall with consequent change in neurological status, or findings suggesting a possible injury; change in the ability to use one's hands to grasp small objects; Pain worsening in severity, intensity, or duration, and/or occurring in a new location, or new onset of pain associated with trauma;
- (D) deterioration in behavior or mood to the point where daily problems arise or relationships have become problematic; change in the pattern of usual behavior, new onset of resistance to care, abrupt onset or progression of significant agitation or combative behavior, deterioration in affect or mood, or violent or destructive behaviors directed at self or others.
- (E) no response by the resident to the treatment intervention for an identified problem;
- (F) initial onset of unplanned weight loss or gain of five percent of body weight within a 30-day period or 10 percent weight loss or gain within a six-month period;
- (G) threat to life such as stroke, heart condition, or metastatic cancer; when a resident has been enrolled in hospice;
- (H) emergence of a pressure ulcer at Stage II, which is a superficial ulcer presenting an abrasion, blister or shallow crater, or higher; any pressure ulcer determined to be greater than Stage II;
- (I) a new diagnosis of a condition likely to affect the resident's physical, mental, or psychosocial well-being; well-being such as initial diagnosis of Alzheimer's disease or diabetes;
- (J) improved behavior, mood or functional health status to the extent that the established plan of care no longer meets the resident's needs; matches what is needed;
- (K) new onset of impaired decision-making;
- (L) continence to incontinence or indwelling catheter; or
- (M) the resident's condition indicates there may be a need to use a restraint and there is no current restraint order for the resident.
- (2) Significant change is not any of does not include the following:
- (A) changes that suggest slight upward or downward movement in the resident's status;
- (B) changes that resolve with or without intervention;
- (C) changes that arise from easily reversible causes;
- (D) an acute illness or episodic event; event. For the purposes of this Rule "acute illness" means symptoms or a condition that develops quickly and is not a part of the resident's baseline physical health or mental health status;
- (E) an established, predictive, cyclical pattern; or
- (F) steady improvement under the current course of care.
- (d) If a resident experiences a significant change as defined in Paragraph (c) of this Rule, the facility shall refer the resident to the resident's physician or other appropriate licensed health professional such as a mental health professional, nurse practitioner, physician assistant or registered nurse in a timely manner consistent with the resident's condition but no longer than 10 three days from the date of the significant change, change assessment, and document the referral in the resident's record. Referral shall be made immediately when significant changes are identified that pose an immediate risk to the health and safety of the resident, other residents residents, or staff of the facility.
- (e) The assessments required in Paragraphs (a)(b) and (c) of this Rule shall be completed and signed by the person designated by the administrator to perform resident assessments.

Authority G.S. 131D-2.16; 131D-4.4; 131D-4.5; 143B-165.

10A NCAC 13G .0802 RESIDENT CARE PLAN

- (a) A family care home The facility shall assure a care plan is developed develop and implement a care plan for each resident in conjunction with based on the resident resident's assessment to be completed within 30 days following admission according to in accordance with Rule .0801 of this Section. The care plan shall be an individualized, written program of personal care for each resident. resident-centered and include the resident's preferences related to the provision of care and services. A copy of each resident's current care plan shall be maintained in a location in the facility where it can be accessed by facility staff who are responsible for the implementation of the care plan.
- (b) The care plan shall be revised as needed based on further assessments of the resident according to Rule .0801 of this Subchapter. The resident shall be offered the opportunity to participate in the development of his or her care plan. If the resident is unable to participate in the development of the care plan due to cognitive impairment, the responsible person shall be offered the opportunity to participate in the development of the care plan.
- (c) The care plan shall include the following:
- (1) a statement of the care or service to be provided based on the assessment or reassessment; and

description of services, supervision, tasks, and level of assistance to be provided to address the resident's needs identified in the resident's assessment in Rule .0801 of this Subchapter;

- (2) frequency of the ~~service provision~~ services or tasks to be performed;
- (3) revisions of tasks and frequency based on reassessments in accordance with Rule .0801 of this Subchapter;
- (4) licensed health professional tasks required according to Rule .0903 of this Subchapter;
- (5) a dated signature of the assessor upon completion; and
- (6) a dated signature of the resident's physician or physician extender within 15 days of completion of the care plan certifying the resident as being under this physician's care with medical diagnoses justifying the tasks specified in the care plan. This shall not apply to residents assessed through the Medicaid State Plan Personal Care Services Assessment for the portion of the assessment covering tasks needed for each activity of daily living of this Rule for which care planning and signing are directed by Medicaid. The activities of daily living relevant to the Medicaid State Plan Personal Care Services Assessment are bathing, dressing, mobility, toileting, and eating.

~~(d) The assessor shall sign the care plan upon its completion.~~

~~(e) The facility shall assure that the resident's physician authorizes personal care services and certifies the following by signing and dating the care plan within 15 calendar days of completion of the assessment:~~

- ~~(1) the resident is under the physician's care; and~~
- ~~(2) the resident has a medical diagnosis with associated physical or mental limitations that justify the personal care services specified in the care plan.~~

(d) If the resident received home health or hospice services, the facility shall communicate with the home health or hospice agency to coordinate care and services to ensure the resident's needs are met.

~~(e)~~ (e) The facility shall assure that the care plan for each resident who is under the care of a provider of mental health, developmental disabilities or substance abuse use services includes resident-specific instructions regarding how to contact that provider, including emergency contact, and after-hours contacts. Whenever significant behavioral changes described in Rule .0801(c)(1)(D) of this Subchapter are identified, the facility shall refer the resident to a provider of mental health, developmental disabilities or substance abuse use services in accordance with Rule .0801(d) of this Subchapter.

(f) The care plan shall be revised as needed based on the results of a significant change assessment completed in accordance with Rule .0801 of this Section.

Authority G.S. 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 143B-165.

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Medical Care Commission intends to readopt with substantive changes the rules cited as 10A NCAC 13F .1601-.1605 and 13G .1601-.1605.

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

Proposed Effective Date: August 1, 2025

Public Hearing:

Date: July 24, 2024

Time: 10:00 a.m.

Location: Edgerton Building Room 026, 809 Ruggles 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 Subchapters 10A NCAC 13F, Licensing of Adult Care Homes of Seven or More Beds, and 10A NCAC 13G, Licensing of Family Care Homes, 40 proposed readoption rules were part of the 97 total rules determined as "Necessary With Substantive Public Interest," requiring readoption. With input from stakeholder groups, this package has proposed 40 rules for readoption, five rules proposed for amendment, and one rule repeal to update the process that has been followed in the regulation of licensed Adult Care Homes and Family Care Homes in N.C. Most of the rules for both types of assisted living residences, adult care homes of seven beds or more and family care homes, are the same with the primary exception of staffing and physical plant requirements since they serve the same population based on need for care and services. Rules 10A 13F .1501 and 10A NCAC 13G .0316 are being amended with these rules to accommodate for changes made in the other rules in this package. This package has been broken up into three groups by effective date to allow time for facilities to adequately prepare to make the changes in these rules.

Comments may be submitted to: Taylor Corpening, 809 Ruggles Drive; 2701 Mail Service Center, Raleigh, NC 27699; email dhsr.rulescoordinator@dhhs.nc.gov

Comment period ends: August 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to

1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 13 - NC MEDICAL CARE COMMISSION

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

SECTION .1600 – STAR RATED CERTIFICATES

10A NCAC 13F .1601 SCOPE DEFINITIONS

~~(a) This Section applies to all licensed adult care homes for seven or more residents that have been in operation for more than one year.~~

~~(b) As used in this Section a "rated certificate" means a certificate issued to an adult care home on or after January 1, 2009 and based on the factors contained in G.S. 131D-10.~~

(a) As used in this Section, the following definitions shall apply:

- (1) "Demerits" means points which are subtracted from a facility's star rating calculation as set forth in the requirements of Rule .1604 of this Section.
- (2) "Merits" means points which are added to a facility's star rating calculation as set forth in the requirements of Rule .1604 of this Section.
- (3) "Standard deficiency" means a citation issued by the Division of Health Service Regulation to a facility for failure to comply with licensure rules and statutes governing adult care homes and the non-compliance does not meet the criteria for a Type A1, Type A2 or Type B violation defined in G.S. 131D-34.
- (4) "Star rated certificate" means a certificate issued by the Division of Health Service Regulation that includes a numerical score and corresponding number of stars issued to an adult care home based on the factors contained in G.S. 131D-10.
- (5) "Star rating" means the numerical score and corresponding number of stars a facility receives based on the factors contained in G.S. 131D-10.
- (6) "Star rating worksheet" means a document issued by the Division of Health Service Regulation which demonstrates how a facility's star rating was calculated.
- (7) "Type A1 violation" means the term as defined in G.S. 131D-34.

- (8) "Type A2 violation" means the term as defined in G.S. 131D-34.
- (9) "Type B violation" means the term as defined in G.S. 131D-34.

Authority G.S. 131D-4.5; 131D-10.

10A NCAC 13F .1602 ISSUANCE OF RATED CERTIFICATES A STAR RATING

(a) A star rated certificate and worksheet shall be issued to a facility by the Division of Health Service Regulation within 45 days ~~completion of a new rating calculation pursuant to Rule .1604 of this Subchapter.~~ from the date that the Division mails the survey or inspection report to the facility, except when a timely request has been made by the facility under G.S. 131D-2.11 for informal dispute resolution. If a facility makes a timely request for informal dispute resolution, the Division of Health Service Regulation shall issue a star rating to the facility within 15 days from the date the Division mails the informal dispute decision to the facility.

(b) If the ownership of the facility changes, the ~~rated certificate~~ star rating in effect at the time of the change of ownership shall remain in effect until the next annual or biennial survey or until a new certificate is issued pursuant to Rule .1604(b) of this Subchapter.

(c) The star rated certificate and any worksheet the Division used to calculate the ~~rated certificate~~ rating shall be displayed in a location visible to the public.

(d) The star rating worksheet shall be posted on the Division of Health Service Regulation website.

~~(d)(e)~~ (e) The facility may contest the ~~rated certificate~~ star rating by requesting a contested case hearing pursuant to Article 3 of G.S. 150B. The star rating ~~rated certificate~~ and any subsequent ~~certificates~~ star ratings shall remain in effect during any contested case hearing process.

Authority G.S. 131D-4.5; 131D-10.

10A NCAC 13F .1603 STATUTORY AND RULE REQUIREMENTS AFFECTING STAR RATED CERTIFICATES

The following Statutes and Rules comprise the standards that contribute to rated certificates:

- (1) G.S. 131D-21 Resident's Rights;
- (2) ~~10A NCAC 13F Section .0300 of this Subchapter Physical Plant Requirements;~~ Plant;
- (3) Section .0400 of this Subchapter Staff Qualifications;
- ~~(3)(4)~~ (4) ~~10A NCAC 13F Section .0700 of this Subchapter Admission and Discharge Requirements;~~ Discharge;
- ~~(4)(5)~~ (5) ~~10A NCAC 13F Section .0800 of this Subchapter Resident Assessment and Care Plan;~~
- ~~(5)(6)~~ (6) ~~10A NCAC 13F Section .0900 of this Subchapter Resident Care and Services;~~
- ~~(6)(7)~~ (7) ~~10A NCAC 13F Section .1000 of this Subchapter Medication Management;~~ Medications;

- ~~(7)~~(8) 40A NCAC Section 13F .1300 of this Subchapter Special Care Units for Alzheimer's and Related Disorders;
- (8) 40A NCAC 13F .1400 Special Care Units for Mental Health Disorders; and
- (9) 40A NCAC 13F Section .1500 of this Subchapter Use of Physical Restraints and Alternatives; Alternatives; and
- (10) Section .1800 of this Subchapter Infection Prevention and Control.

Authority G.S. 131D-4.5; 131D-10.

10A NCAC 13F .1604 RATING CALCULATION

(a) Ratings shall be based on:

- (1) Inspections completed pursuant to G.S. ~~131D-2(b)(1a)a~~; 131D-2.11(a) and (a)1;
- (2) Statutory and Rule requirements listed in Rule .1603 of this Section;
- (3) Type A A1, Type A2, or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and
- (4) Other items listed in Subparagraphs (c)(1) and (c)(2) of this Rule.

(b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a) of this Section.

(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual or biennial inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

(1) Merit Points

- (A) If the facility corrects ~~citations a~~ standard deficiency of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, ~~which are not related to the identification of a Type A violation or an uncorrected Type B violation~~, the facility shall receive 1.25 merit points for each corrected deficiency;
- (B) ~~If the facility receives citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one or zero stars the facility may request Division of Health Service Regulation to conduct a follow up inspection not less than 60 days after the date of the annual inspection. A follow up inspection shall be completed depending upon the availability of Division of Health Service Regulation staff. As determined by the follow up review, the facility shall receive 1.25 merit points for each corrected~~

deficiency; If the facility corrects a citation for which a Type B violation was identified, the facility shall receive 1.75 merit points;

(C) If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 2.5 merit points and shall receive an additional 2.5 merit points following the next annual inspection if no further Type A violations are identified; If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.75 merit points;

(D) If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.25 merit points; If the facility corrects the citation for which a Type A1 or Type A2 violation was identified, the facility shall receive 5 merit points;

(E) If the facility corrects a previously uncorrected Type A1 or Type A2 violation, the facility shall receive 5 merit points;

~~(E)~~(F) If the facility's admissions have been suspended, the facility shall receive 5 merit points if the suspension is removed;

(G) If the facility's license is restored to a full license after being downgraded to a provisional license, the facility shall receive 5 merit points;

~~(F)~~(H) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;

(G) ~~If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;~~

(I) If the facility establishes and implements a resident or family council which meets at least quarterly, the facility shall receive 1 merit point;

(J) If the facility's designated on-site staff member who directs the facility's infection control activities in accordance with G.S. 131D-4.4A has completed the "Infection Control in Long Term Care Facilities" course offered by the University of North Carolina Statewide Program for Infection Control and Epidemiology (SPICE) shall receive 1 merit point;

~~(H)~~(K) On or after the effective date of this Rule, if If the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential

functions of the facility, the facility shall receive 2 merit points. For purposes of this ~~Section~~, Rule, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 ~~hours~~, hours and include the fire alarm system, heating, lighting, refrigeration for medication storage, minimal cooking, elevators, medical equipment, computers, door alarms, special locking systems, sewage and well operation where applicable, sprinkler system, and telephones. If the facility has an existing permanently installed generator or an existing contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider; ~~and~~

~~(L)~~ (L) ~~On or after the effective date of this Rule, if~~ If the facility installs automatic sprinklers in compliance with the North Carolina Building Code, and maintains the system in working order, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2 merit points for subsequent ratings for maintaining the automatic sprinklers in good working order; and

(M) If the facility engages the services of a third-party company to conduct resident and family satisfaction surveys at least annually for the purpose of improving resident care, the facility shall receive 2 merit points. Resident and family satisfaction surveys shall not be conducted by any employees of the facility, or a third-party company affiliated with the facility. The satisfaction survey results shall be made available upon request and in a location accessible to residents and visitors in the facility.

(2) Demerit Points

(A) For each standard deficiency citation of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;

(B) For each citation of a Type A A1 or Type A2 violation, the facility shall receive a demerit of 10 ~~points; points,~~ and if the Type A1 or Type A2 violation remains uncorrected as result of a follow-up inspection, the facility shall receive an additional demerit of 10 points;

(C) For each citation of a Type B violation, the facility shall receive a demerit of 3.5 points and if the Type B violation remains uncorrected as the result of a follow-up inspection, the facility shall receive an additional demerit of 3.5 points;

(D) If the facility's admissions are suspended, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to ~~G.S. 131D-4.2,~~ G.S. 131D-2.7, the facility shall not receive any demerit points; and

(E) If the facility's license is downgraded to a provisional license pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 10 points;

~~(E)~~ (F) If the facility receives a notice of revocation against its ~~license,~~ license pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 31 points.

(G) If the facility's license is summarily suspended pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 31 points.

(d) Facilities shall be given a rating of zero to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:

- (1) Four stars shall be assigned to any facility whose score is 100 points or greater on two consecutive annual or biennial inspections;
- (2) Three stars shall be assigned for scores of 90 to 99.9 points, or for any facility whose score is 100 points or greater on one annual or biennial inspection;
- (3) Two stars shall be assigned for scores of 80 to 89.9 points;
- (4) One star shall be assigned for scores of 70 to 79.9 points; and
- (5) Zero stars shall be assigned for scores of 69.9 points or lower.

Authority G.S. 131D-4.5; 131D-10.

10A NCAC 13F .1605 CONTENTS OF STAR RATED CERTIFICATE

- (a) The certificate shall contain a rating determined pursuant to Rule .1604 of this Subchapter.
- (b) The certificate or accompanying worksheet from which the score is derived shall contain a breakdown of the point merits and

demerits by the factors listed in Rules .1603 and .1604(c) of this Subchapter in a manner that the public can determine how the rating was assigned and the factors that contributed to the rating.
~~(e) The certificate shall be printed on the same type of paper that is used to print the facility's license.~~
~~(d)(c)~~ The Division of Health Service Regulation shall issue the certificate pursuant to Rule .1602 of this Subchapter.

Authority G.S. 131D-4.5; 131D-10.

SUBCHAPTER 13G – LICENSING OF FAMILY CARE HOMES

SECTION .1600 – STAR RATED CERTIFICATES

10A NCAC 13G .1601 SCOPE DEFINITIONS

~~(a) This Section applies to all licensed family care homes for two to six residents that have been in operation for more than one year.~~
~~(b) As used in this Section a "rated certificate" means a certificate issued to a family care home on or after January 1, 2009 and based on the factors contained in G.S. 131D-10.~~

(a) As used in this Section, the following definitions shall apply:

- (1) "Demerits" means points which are subtracted from a facility's star rating calculation as set forth in the requirements of Rule .1604 of this Section.
- (2) "Merits" means points which are added to a facility's star rating calculation as set forth in the requirements of Rule .1604 of this Section.
- (3) "Standard deficiency" means a citation issued by the Division of Health Service Regulation to a facility for failure to comply with licensure rules and statutes governing adult care homes and the non-compliance does not meet the criteria for a Type A1, Type A2 or Type B violation defined in G.S. 131D-34.
- (4) "Star rated certificate" means a certificate issued by the Division of Health Service Regulation that includes a numerical score and corresponding number of stars issued to an adult care home based on the factors contained in G.S. 131D-10.
- (5) "Star rating" means the numerical score and corresponding number of stars a facility receives based on the factors contained in G.S. 131D-10.
- (6) "Star rating worksheet" means a document issued by the Division of Health Service Regulation which demonstrates how a facility's star rating was calculated.
- (7) "Type A1 violation" means the term as defined in G.S. 131D-34.
- (8) "Type A2 violation" means the term as defined in G.S. 131D-34.
- (9) "Type B violation" means the term as defined in G.S. 131D-34.

Authority G.S. 131D-4.5; 131D-10.

10A NCAC 13G .1602 ISSUANCE OF RATED CERTIFICATES A STAR RATING

(a) A star rated certificate and worksheet shall be issued to a facility by the Division of Health Service Regulation within 45 days completion of a new rating calculation pursuant to Rule .1604 of this Subchapter. from the date that the Division mails the survey or inspection report to the facility, except when a timely request has been made by the facility under G.S. 131D-2.11 for informal dispute resolution. If a facility makes a timely request for informal dispute resolution, the Division of Health Service Regulation shall issue a star rating to the facility within 15 days from the date the Division mails the informal dispute decision to the facility.

(b) If the ownership of the facility changes, the ~~rated certificate~~ star rating in effect at the time of the change of ownership shall remain in effect until the next annual or biennial survey or until a new certificate is issued pursuant to Rule .1604(b) of this Subchapter.

(c) The star rated certificate and ~~any~~ worksheet the Division used to calculate the rated certificate shall be displayed in a location visible to the public.

(d) The star rating worksheet shall be posted on the Division of Health Service Regulation website.

~~(d)(e)~~ The facility may contest the ~~rated certificate~~ star rating by requesting a contested case hearing pursuant to Article 3 of G.S. 150B. The star rating ~~rated certificate~~ and any subsequent ~~certificates~~ star ratings shall remain in effect during any contested case hearing process.

Authority G.S. 131D-4.5; 131D-10.

10A NCAC 13G .1603 STATUTORY AND RULE REQUIREMENTS AFFECTING STAR RATED CERTIFICATES

The following Statutes and Rules comprise the standards that contribute to rated certificates:

- (1) G.S. 131D-21 Resident's Rights;
- (2) ~~10A NCAC 13G Section .0300 of this Subchapter.~~ The Building;
- (3) Section .0400 of this Subchapter Staff Qualifications;
- ~~(3)(4) 10A NCAC 13G Section .0700 of this Subchapter Admission and Discharge Requirements; Discharge;~~
- ~~(4)(5) 10A NCAC 13G Section .0800 of this Subchapter Resident Assessment and Care Plan;~~
- ~~(5)(6) 10A NCAC 13G Section .0900 of this Subchapter Resident Care and Services;~~
- ~~(6)(7) 10A NCAC 13G Section .1000 of this Subchapter Medications; and~~
- ~~(7)(8) 10A NCAC 13G Section .1300 of this Subchapter Use of Physical Restraints and Alternatives; Alternatives; and~~
- (9) Section .1700 of this Subchapter Infection Prevention and Control.

Authority G.S. 131D-4.5; 131D-10.

10A NCAC 13G .1604 RATING CALCULATION

(a) Ratings shall be based on:

- (1) Inspections completed pursuant to G.S. ~~131D-2(b)(1a)a~~; 131D-2.11(a) and (a1);
- (2) Statutory and Rule requirements listed in Rule .1603 of this Section;
- (3) Type A A1, Type A2, or uncorrected Type B penalty violations identified pursuant to G.S. 131D-34; and
- (4) Other items listed in Subparagraphs (c)(1) and (c)(2) of this Rule.

(b) The initial rating a facility receives shall remain in effect until the next inspection. If an activity occurs which results in the assignment of additional merit or demerit points, a new certificate shall be issued pursuant to Rule .1602(a) of this Section.

(c) The rating shall be based on a 100 point scale. Beginning with the initial rating and repeating with each annual or biennial inspection, the facility shall be assigned 100 points and shall receive merits or demerits, which shall be added or subtracted from the 100 points, respectively. The merits and demerits shall be assigned as follows:

- (1) Merit Points
 - (A) If the facility corrects ~~citations a~~ standard deficiency of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, ~~which are not related to the identification of a Type A violation or an uncorrected Type B violation~~, the facility shall receive 1.25 merit points for each corrected deficiency;
 - (B) ~~If the facility receives citations on its annual inspection with no Type A or Type B violations and the rating from the annual inspection is one or zero stars, the facility may request Division of Health Service Regulation to conduct a follow up inspection not less than 60 days after the date of the annual inspection. A follow up inspection shall be completed depending upon the availability of Division of Health Service Regulation staff. As determined by the follow up review, the facility shall receive 1.25 merit points for each corrected deficiency; If the facility corrects a citation for which a Type B violation was identified, the facility shall receive 1.75 merit points;~~
 - (C) ~~If the facility corrects the citation for which a Type A violation was identified, the facility shall receive 2.5 merit points and shall receive an additional 2.5 merit points following the next annual inspection if no further Type A violations are identified; If the facility corrects a previously~~

- (D) ~~uncorrected Type B violation, the facility shall receive 1.75 merit points; If the facility corrects a previously uncorrected Type B violation, the facility shall receive 1.25 merit points; If the facility corrects the citation for which a Type A1 or Type A2 violation was identified, the facility shall receive 5 merit points;~~
- (E) If the facility corrects a previously uncorrected Type A1 or A2 violation, the facility shall receive 5 merit points;
- ~~(E)~~(F) If the facility's admissions have been suspended, the facility shall receive 5 merit points if the suspension is removed;
- (G) If the facility's license is restored to a full license after being downgraded to a provisional license, the facility shall receive 5 merit points;
- ~~(F)~~(H) If the facility participates in any quality improvement program pursuant to G.S. 131D-10, the facility shall receive 2.5 merit points;
- ~~(G)~~ If the facility receives NC NOVA special licensure designation, the facility shall receive 2.5 merit points;
- (I) If the facility establishes an ongoing resident council which meets at least quarterly, the facility shall receive .5 merit point;
- (J) If the facility establishes an ongoing family council which meets at least quarterly, the facility shall receive .5 merit point;
- (K) If the facility's designated on-site staff member who directs the facility's infection control activities in accordance with G.S. 131D-4.4A has completed the "Infection Control in Long Term Care Facilities" course offered by the University of North Carolina Statewide Program for Infection Control and Epidemiology (SPICE) every two years, the facility shall receive .5 merit point;
- ~~(H)~~(L) On or after the effective date of this Rule, if If the facility permanently installs a generator or has a contract with a generator provider to provide emergency power for essential functions of the facility, the facility shall receive 2 merit points. For purposes of this Section, Rule, essential functions mean those functions necessary to maintain the health or safety of residents during power outages greater than 6 hours, six hours and include the fire alarm

system, heating, lighting, and refrigeration for medication storage, minimal cooking, elevators, medical sprinkler system, and telephones. If the facility has an existing permanently installed generator or an existing contract with a generator provider, the facility shall receive 1 merit point for maintaining the generator in working order or continuing the contract with a generator provider; ~~and~~

~~(M)~~ On or after the effective date of this Rule, if If the facility installs automatic sprinklers in compliance with the North Carolina Building Code, and maintains the system in working order, the facility shall receive 3 merit points. If the facility has an existing automatic sprinkler, the facility shall receive 2 merit points for subsequent ratings for maintaining the automatic sprinklers in ~~good working order.~~ order; and

~~(N)~~ If the facility engages the services of a third-party company to conduct resident and family satisfaction surveys at least annually for the purpose of improving resident care, the facility shall receive 1 merit point. Resident and family satisfaction surveys shall not be conducted by any employees of the facility, or a third-party company affiliated with the facility. The satisfaction survey results shall be made available upon request and in a location accessible to residents and visitors in the facility.

(2) Demerit Points

(A) For each ~~standard deficiency citation~~ of noncompliance with the statutes or rules listed in Rule .1603 of this Subchapter, the facility shall receive a demerit of 2 points. The facility shall receive demerit points only once for citations in which the findings are identical to those findings used for another citation;

(B) For each citation of a Type A ~~A1 or Type A2~~ violation, the facility shall receive a demerit of 10 ~~points;~~ points, and if the Type A1 or Type A2 violation remains uncorrected as result of a follow-up inspection, the facility shall receive an additional demerit of 10 points;

(C) For each citation of a Type B violation, the facility shall receive a demerit of 3.5 points and if the Type B

violation remains uncorrected as the result of a follow-up inspection, the facility shall receive an additional demerit of 3.5 points;

(D) If the facility's admissions are suspended, the facility shall receive a demerit of 10 points; however, if the facility's admissions are suspended pursuant to ~~G.S. 131D-4.2,~~ G.S. 131D-2.7, the facility shall not receive any demerit points; ~~and~~

~~(E)~~ If the facility's license is downgraded to a provisional license pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 10 points;

~~(F)~~ If the facility receives a notice of revocation against its ~~license,~~ license pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 31 ~~points.~~ points; and

~~(G)~~ If the facility's license is summarily suspended pursuant to G.S. 131D-2.7, the facility shall receive a demerit of 31 points.

(d) Facilities shall be given a rating of zero to four stars depending on the score assigned pursuant to Paragraph (a), (b) or (c) of this Rule. Ratings shall be assigned as follows:

- (1) Four stars shall be assigned to any facility whose score is 100 points or greater on two consecutive annual or biennial inspections;
- (2) Three stars shall be assigned for scores of 90 to 99.9 points, or for any facility whose score is 100 points or greater on one annual or biennial inspection;
- (3) Two stars shall be assigned for scores of 80 to 89.9 points;
- (4) One star shall be assigned for scores of 70 to 79.9 points; and
- (5) Zero stars shall be assigned for scores of 69.9 points or lower.

Authority G.S. 131D-4.5; 131D-10.

10A NCAC 13G .1605 CONTENTS OF STAR RATED CERTIFICATE

(a) The certificate shall contain a rating determined pursuant to Rule .1604 of this Subchapter.

(b) The certificate or accompanying worksheet from which the score is derived shall contain a breakdown of the point merits and demerits by the factors listed in Rules .1603 and .1604(c) of this Subchapter in a manner that the public can determine how the rating was assigned and the factors that contributed to the rating.

~~(c) The certificate shall be printed on the same type of paper that is used to print the facility's license.~~

~~(d)~~(c) The Division of Health Service Regulation shall issue the certificate pursuant to Rule .1602 of this Subchapter.

Authority G.S. 131D-4.5; 131D-10.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Care Commission intends to adopt the rules cited as 10A NCAC 13S .0101, .0104, .0201, .0207, .0212 and .0318-.0331.

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

Proposed Effective Date: October 1, 2024

Public Hearing:

Date: July 24, 2024

Time: 10:00 a.m.

Location: Lineberger Building Room 134, 1205 Umstead Drive Raleigh, NC 27603

Reason for Proposed Action: On May 16, 2023, Senate Bill 20 became law as SL 2023-14. This new law entitled "An Act to Make Various Changes to Health Care Laws and to Appropriate Funds for Health Care Programs" revised various state laws governing abortions in North Carolina ("New Law"). In response to Senate Bill 20 the Department of Health and Human Services proposes to amend existing temporary rules set forth at 10A NCAC 13S Rules Governing the Licensure of Suitable Facilities For the Performance of Surgical Abortions as permanent rules. The rule amendments presented in this package are the result of consultation with various stakeholders, including physicians from various clinical backgrounds, owners, and operators of currently licensed clinics. The proposed adoptions strengthen and clarify existing regulations to assure quality of care, improve patient safety and provide consistency with operational standards of care. In addition to addressing the provisions of the session law, numerous technical and formatting revisions have been made as well. Rule language has been amended to be consistent with current medical terminology, standard best practices, and to align with the requirements in SL 2023-14. Session Law 2023-14 s. 2.4 requires the North Carolina Medical Care Commission to amend the existing rules to conform with the provisions of SL 2023-14. The adoption of these rules will ensure continuity of care for patients and will protect the health and safety of women in obtaining lawful abortions in a clinic regulated by the Division.

Comments may be submitted to: Taylor Corpening, 809 Ruggles Drive; 2701 Mail Service Center, Raleigh, NC 27699; email dhsr.rulescoordinator@dhhs.nc.gov

Comment period ends: August 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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

SUBCHAPTER 13S - LICENSURE OF SUITABLE FACILITIES FOR THE PERFORMANCE OF SURGICAL ABORTIONS

SECTION .0100 - LICENSURE PROCEDURE

10A NCAC 13S .0101 DEFINITIONS

The following definitions will apply throughout this Subchapter:

- "Abortion" means the termination of a pregnancy as defined in G.S 90-21.81(1c).
"Clinic" means a freestanding facility neither physically attached nor operated by a licensed hospital for the performance of abortions completed during the first 12 weeks of pregnancy.
"Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
"Gestational age" means the length of pregnancy as indicated by the date of the first day of the last normal monthly menstrual period, if known, or as determined by ultrasound.
"Governing authority" means the individual, agency, group, or corporation appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the abortion clinic is vested pursuant to Rule .0318 of this Subchapter.
"Health Screening" means an evaluation of an employee or contractual employee, including tuberculosis testing, to identify any underlying conditions that may affect the person's ability to work in the clinic.
"New clinic" means one that is not certified as an abortion clinic by the Division as of July 1, 2023, and has not been certified or licensed within the previous six months of the application for licensure.
"Registered Nurse" means a person who holds a valid license issued by the North Carolina Board of Nursing to practice professional

nursing in accordance with the Nursing Practice Act, G.S. 90, Article 9A.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0104 PLANS AND SPECIFICATIONS

(a) Prior to issuance of a license pursuant to Rule .0107 of this Section, an applicant for a new clinic shall submit one copy of construction documents and specifications to the Division for review and approval.

(b) Any license holder or prospective applicant desiring to make alterations or additions to a clinic or to construct a new clinic, before commencing such alteration, addition or new construction shall submit construction documents and specifications to the Division for review and approval with respect to compliance with this Subchapter.

(c) Approval of construction documents and specifications shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.

Authority G.S. 131E-153.5; 143B-165.

SECTION .0200 - MINIMUM STANDARDS FOR CONSTRUCTION AND EQUIPMENT

10A NCAC 13S .0201 BUILDING CODE REQUIREMENTS

(a) The physical plant for a clinic shall meet or exceed minimum requirements of the North Carolina State Building Code for Group B occupancy (business office facilities) which is incorporated herein by reference including subsequent amendments and editions. Copies of the Code can be obtained from the International Code Council online at <https://shop.iccsafe.org/catalogsearch/result/?cat=1010&q=+North+Carolina+Building+code> for a cost of eight hundred fifty eight dollars (\$858.00) or accessed electronically free of charge at <https://www.ncosfm.gov/codes/codes-current-and-past>.

(b) The requirements contained in this Section shall apply to new clinics and to any alterations, repairs, rehabilitation work, or additions which are made to a previously licensed facility.

Authority G.S. 131E-153.5; 143B-165.

10A NCAC 13S .0207 AREA REQUIREMENTS

The following areas shall comply with Rule .0212 of this Section, and are minimum requirements for clinics that are licensed by the Division to perform abortions:

- (1) reception and waiting room;
- (2) designated area or areas for pre-procedure and post-procedure activities;
- (3) procedure room;
- (4) a clean area for self-contained secure medication storage complying with security requirements of state and federal laws;
- (5) area compliant with Clinical Laboratory Improvement Amendments (CLIA) requirements in which laboratory testing can be performed;

- (6) separate areas for storage and handling of clean and soiled materials;
- (7) patient toilet;
- (8) personnel toilet facilities;
- (9) janitor's closets;
- (10) space and equipment for assembling, sterilizing and storing medical and surgical supplies;
- (11) storage space for medical records of all media types used by the facility; and
- (12) space for charting, communications, counseling, business functions, and other administrative activities.

Authority G.S. 131E-153.5; 143B-165.

10A NCAC 13S .0212 ELEMENTS AND EQUIPMENT

The physical plant shall provide equipment to carry out the functions of the clinic with the following requirements:

- (1) Mechanical requirements.
 - (a) All fans serving exhaust systems shall be located at the discharge end of the system.
 - (b) The ventilation system shall be designed and balanced to provide the pressure relationships detailed in Sub-Item (f) of this Rule.
 - (c) All ventilation or air conditioning systems shall have a minimum of one filter bed with a minimum filter efficiency of a MERV 8.
 - (d) Ventilation systems serving the procedure rooms shall not be tied in with toilets, soiled holding, or janitors' closets if the air is to be recirculated in any manner.
 - (e) Air handling duct systems shall not have duct linings.
 - (f) The following general air pressure relationships to adjacent areas and ventilation rates shall apply:

<u>Area</u>	<u>Pressure Relationship</u>	<u>Minimum Total Air Changes/Hour</u>
<u>Toilets</u>	<u>N</u>	<u>4</u>
<u>Janitor's closet</u>	<u>N</u>	<u>6</u>
<u>Soiled holding</u>	<u>N</u>	<u>6</u>
<u>Clean holding</u>	<u>NR</u>	<u>2</u>

(P = positive pressure N = negative pressure NR = No Requirement)

- (2) Plumbing And Other Piping Systems.
 - (a) Piped-in medical gas and vacuum systems, if installed, shall meet the requirements of NFPA-99, category 2 system, which is hereby incorporated by reference including subsequent amendments and editions. Copies of NFPA-99 may be purchased from the National Fire Protection Association online at <https://www.nfpa.org/product/nfpa->

- 99-code/p0099code at a cost of one hundred forty-nine dollars (\$149.00) or accessed electronically free of charge at <http://www.nfpa.org>.
- (b) Lavatories and sinks for use by medical personnel shall have the water supply spout mounted so that its discharge point is a minimum distance of ten (10) inches above the bottom of the basin with mixing type fixture valves that can be operated without the use of the hands.
- (c) Hot water distribution systems shall provide hot water at hand washing facilities at a minimum temperature of 100 degrees F. and a maximum temperature of 116 degrees F.
- (3) Electrical Requirements.
 - (a) The facility's paths of egress to the outside shall have at a minimum, listed battery backup lighting units of one and one-half hour capability that will automatically provide at least 1 foot candle of illumination at the floor in the event needed for a utility or local lighting circuit failure.
 - (b) Electrically operated medical equipment necessary for the safety of the patient shall have, at a minimum, battery backup.
- (4) Buildings systems and medical equipment shall have preventative maintenance conducted as recommended by the equipment manufacturers' or installers' literature to assure operation in compliance with manufacturer's instructions.

Authority G.S. 131E-153.5; 143B-165.

10A NCAC 13S .0318 GOVERNING AUTHORITY

- (a) The governing authority, as defined in Rule .0101(6) of this Subchapter, shall appoint a chief executive officer or a designee of the clinic to represent the governing authority and shall define his or her authority and duties in writing. This person shall be responsible for the management of the clinic, implementation of the policies of the governing authority and authorized and empowered to carry out the provisions of these Rules.
- (b) The chief executive officer or designee shall designate, in writing, a person to act on his or her behalf during his or her absence. In the absence of the chief executive officer or designee, the person on the grounds of the clinic who is designated by the chief executive officer or designee to be in charge of the clinic shall have access to all areas in the clinic related to patient care and to the operation of the physical plant.
- (c) When there is a planned change in ownership or in the chief executive officer, the governing authority of the clinic shall notify the Division in writing of the change.
- (d) The clinic's governing authority shall adopt operating policies and procedures that shall:

- (1) specify the individual to whom responsibility for operation and maintenance of the clinic is delegated and methods established by the governing authority for holding such individuals responsible;
- (2) provide for at least annual meetings of the governing authority, for which minutes shall be maintained; and
- (3) maintain a policies and procedures manual designed to ensure safe and adequate care for the patients which shall be reviewed, and revised when necessary, at least annually, and shall include provisions for administration and use of the clinic, compliance, personnel quality assurance, procurement of outside services and consultations, patient care policies, and services offered.
- (e) When the clinic contracts with outside vendors to provide services such as laundry or therapy services, the governing authority shall be responsible to assure the supplier meets the same local and State standards the clinic would have to meet if it were providing those services itself using its own staff.
- (f) The governing authority shall provide for the selection and appointment of the professional staff and the granting of clinical privileges and shall be responsible for the professional conduct of these persons.
- (g) The governing authority shall be responsible for ensuring the availability of supporting personnel to meet patient needs and to provide safe and adequate treatment.
- (h) The governing authority shall certify that the physical facilities to be used are adequate to safeguard the health and safety of patients; of note one area may accommodate various aspects of the patient's visits.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0319 POLICIES AND PROCEDURES AND ADMINISTRATIVE RECORDS

- (a) The following essential documents and references shall be on file in the administrative office of the clinic:
 - (1) documents evidencing control and ownerships, such as deeds, leases, or incorporation or partnership papers;
 - (2) policies and procedures of the governing authority, as required by Rule .0318 of this Section;
 - (3) minutes of the governing authority meetings;
 - (4) minutes of the clinic's professional and administrative staff meetings;
 - (5) a current copy of the rules of this Subchapter;
 - (6) reports of inspections, reviews, and corrective actions taken related to licensure; and
 - (7) contracts and agreements related to care and services provided by the clinic is a party.
- (b) All operating licenses, permits, and certificates shall be displayed on the licensed premises.
- (c) The governing authority shall prepare a manual of clinic policies and procedures for use by employees, medical staff, and physicians to assist them in understanding their responsibilities

within the organizational framework of the clinic. These shall include:

- (1) patient selection and exclusion criteria;
- (2) clinical discharge criteria;
- (3) emergency protocols as required by Rule .0326 of this Section;
- (4) policy and procedure for validating the full and true name of the patient;
- (5) policy and procedure for abortion procedures performed at the clinic;
- (6) policy and procedure for the provision of patient privacy in the recovery area of the clinic;
- (7) protocol for determining gestational age as defined in Rule .0101(4) of this Subchapter;
- (8) protocol for referral of patients for whom services have been declined; and
- (9) protocol that defines use of space to include opportunities that one area may accommodate various aspects of patient visits.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0320 ADMISSION AND DISCHARGE

(a) There shall be on the premises throughout all hours of operation an employee authorized to receive patients and make administrative decisions regarding patients.

(b) All patients shall be admitted only under the care of a physician who is currently licensed to practice medicine in North Carolina.

(c) Any patient not discharged within 12 hours following the abortion procedure shall be transferred to a hospital licensed pursuant to Chapter 131E, Article 5 of the General Statutes.

(d) Following admission and prior to obtaining the consent for the procedure, representatives of the clinic's management shall provide to each patient the following information:

- (1) a fee schedule and any extra charges routinely applied;
- (2) the name of the attending physician or physicians and hospital admitting privileges, if any. In the absence of admitting privileges a statement to that effect shall be included;
- (3) instructions for post-procedure problems and questions as outlined in Rule .0329(d) of this Section;
- (4) grievance procedures a patient may follow if dissatisfied with the care and services rendered; and
- (5) the telephone number for Complaint Intake of the Division.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0321 MEDICAL RECORDS

(a) The clinic shall maintain a complete and permanent record for all patients including:

- (1) the date and time of admission and discharge;
- (2) the patient's full and true name;
- (3) the patient's address;

- (4) the patient's date of birth;
- (5) the patient's emergency contact information;
- (6) the patient's diagnoses;
- (7) the patient's duration of pregnancy;
- (8) the patient's condition on admission and discharge;
- (9) a voluntarily-signed consent for each procedure and signature of the physician performing the procedure witnessed by a family member, other patient representative, or facility staff member;
- (10) a copy of the signed 72 hour consent and physician declaration;
- (11) the patient's history and physical examination including identification of pre-existing or current illnesses, drug sensitivities or other idiosyncrasies that may impact the procedure or anesthetic to be administered; and
- (12) documentation that indicates all items listed in Rule .0320(d) of this Section were provided to the patient.

(b) The clinic shall record and authenticate by signature, date, and time all other pertinent information such as pre- and post-procedure instructions, laboratory reports, drugs administered, report of abortion procedure, and follow-up instruction, including family planning advice.

(c) If Rh is negative, the clinic shall explain the significance to the patient and shall record the explanation. The patient in writing may reject Rh immunoglobulin. A written record of the patient's decision shall be a permanent part of her medical record.

(d) An ultrasound examination shall be performed by a technician qualified in ultrasonography and the results, including gestational age, placed in the patient's medical record for any patient who is scheduled for an abortion procedure.

(e) The clinic shall maintain a daily procedure log of all patients receiving abortion services. This log shall contain at least the following:

- (1) the patient name;
- (2) the estimated length of gestation;
- (3) the type of procedure;
- (4) the name of the physician;
- (5) the name of the Registered Nurse on duty; and
- (6) the date and time of procedure.

(f) Medical records shall be the property of the clinic and shall be preserved or retained in the State of North Carolina for a period of not less than 10 years from the date of the most recent discharge, unless the client is a minor, in which case the record must be retained until three years after the client's 18th birthday, regardless of change of clinic ownership or administration. Such medical records shall be made available to the Division upon request and shall not be removed from the premises where they are retained except by subpoena or court order.

(g) The clinic shall have a written plan for destruction of medical records to identify information to be retained and the manner of destruction to ensure confidentiality of all material.

(h) Should a clinic cease operation, the clinic shall arrange for preservation of records for at least 10 years. The clinic shall send written notification to the Division of these arrangements.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0322 PERSONNEL RECORDS

(a) Personnel Records:

- (1) A record of each employee shall be maintained that includes the following:
 - (A) the employee's identification;
 - (B) the application or resume for employment that includes education, training, experience and references; and
 - (C) a copy of a valid license (if required).
- (2) Personnel records shall be confidential.
- (3) Representatives of the Division conducting an inspection of the clinic shall have the right to inspect personnel records.

(b) Job Descriptions:

- (1) The clinic shall have a written description that describes the duties of every position.
- (2) Each job description shall include position title, authority, specific responsibilities, and minimum qualifications. Qualifications shall include education, training, experience, special abilities, and valid license or certification required.
- (3) The clinic shall review annually and, if needed, update all job descriptions. The clinic shall provide the updated job description to each employee or contractual employee assigned to the position.

(c) All persons having direct responsibility for patient care shall be at least 18 years of age.

(d) The clinic shall provide an orientation program to familiarize each new employee or contractual employee with the clinic, its policies, and the employee's job responsibilities.

(e) The governing authority shall be responsible for implementing health standards for employees, as well as contractual employees, which are consistent with recognized professional practices for the prevention and transmission of communicable diseases.

(f) Employee and contractual employee records for health screening as defined in Rule .0101(6) of this Subchapter, education, training, and verification of professional certification shall be available for review by the Division.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0323 CLINIC STAFFING

(a) The clinic shall have an organized clinical staff under the supervision of a nursing supervisor who is currently licensed as a Registered Nurse and who has responsibility for all nursing services.

(b) The nursing supervisor shall report to the chief executive officer or designee and shall be responsible for:

- (1) provision of nursing services to patients; and
- (2) developing a nursing policy and procedure manual and written job descriptions for nursing personnel.

(c) The clinic shall have the number of licensed and ancillary nursing personnel on duty to assure that staffing levels meet the

total nursing needs of patients based on the number of patients in the clinic and their individual nursing care needs.

(d) There shall be at least one Registered Nurse who is currently licensed to practice professional nursing in North Carolina, or other health care practitioner as defined in G.S. 90-640(a) practicing within the scope of their license or certification who is basic life support (BLS) certified and authorized by state laws to administer medications as required for analgesia, nausea, vomiting, or other indications on duty at all times patients are in the procedure rooms and recovery area.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0324 QUALITY ASSURANCE

(a) The governing authority shall establish a quality assurance program for the purpose of providing standards of care for the clinic. The program shall include the establishment of a committee that shall evaluate compliance with clinic procedures and policies.

(b) The committee shall determine corrective action, if necessary to achieve and maintain compliance with clinic procedures and policies.

(c) The committee shall consist of one physician who is not an owner, the chief executive officer or designee, and other health professionals.

(d) The frequency of meetings and details of data collection shall be defined by the governing authority.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0325 LABORATORY SERVICES

(a) Each clinic shall have the capability to provide or obtain laboratory tests required in connection with the procedure to be performed, and will perform laboratory tests appropriate to their Clinical Laboratory Improvement Amendments (CLIA) certification.

(b) The governing authority shall establish written policies regarding which surgical specimens require examination by a pathologist.

(c) Each patient shall have laboratory testing as determined to be clinically necessary by the physician, or as required by law. A record of the results of any tests performed will be included in the patient's medical record.

(d) The clinic shall maintain a manual in a location accessible by employees, that meets requirements for the level of clinic's CLIA certification. This includes the procedures, instructions, and manufacturer's instructions for each test procedure performed including:

- (1) sources of reagents, and quality control procedures; and
- (2) information concerning the basis for the listed "normal" ranges.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0326 EMERGENCY BACK-UP SERVICES

(a) Each clinic shall have a written plan for the transfer of emergency cases from the clinic to the closest hospital when

hospitalization becomes necessary. Emergency case is defined as a condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of bodily organs.

(b) The clinic shall have written protocols, personnel, and equipment to handle medical emergencies as defined above which may arise in connection with services provided by the clinic.

(c) All clinics shall have written emergency instructions for clinic staff to carry out in the event of an emergency. All clinic personnel shall be familiar and capable of carrying out written emergency instructions:

- (1) Instructions shall be followed in the event of an emergency, any untoward anesthetic, medical or procedural complications, or other conditions making transfer to an emergency department and/or hospitalization of a patient necessary.
- (2) The instructions shall include arrangements for immediate contact of emergency medical services when indicated and when advanced cardiac life support is needed.
- (3) When emergency medical services are not indicated, the instructions shall include procedures for timely escort of the patient to the hospital or to an appropriate licensed health care professional.

(d) The clinic shall provide intervention for emergency situations. These provisions shall include:

- (1) basic cardio-pulmonary life support;
- (2) emergency protocols for:
 - (A) administration of intravenous fluids;
 - (B) establishing and maintaining airway support;
 - (C) oxygen administration;
 - (D) utilizing a bag-valve-mask resuscitator with oxygen reservoir; and
 - (E) utilizing an automated external defibrillator.
- (3) emergency lighting available in the procedure room as set forth in Rule .0212 of this Subchapter; and
- (4) ultrasound equipment.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0327 OUTPATIENT PROCEDURAL SERVICES

(a) The clinic shall establish procedures for infection control and universal precautions, including cleaning of all patient care areas including procedure rooms.

(b) Tissue Examination:

- (1) The physician performing the abortion is responsible for examination of all products of conception (P.O.C.) prior to patient discharge. Such examination shall note specifically the

presence or absence of chorionic villi and fetal parts, or the amniotic sac. The results of the examination shall be recorded in the patient's medical record.

- (2) If adequate tissue is not obtained based on the gestational age, the physician performing the procedure shall evaluate for ectopic pregnancy, or an incomplete procedure.
- (3) The clinic shall establish procedures for obtaining, identifying, storing, and transporting specimens.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0328 MEDICATIONS AND SEDATION

(a) No medication or treatment shall be given except on written order of a physician.

(b) Medications, including injections shall be administered by a physician, Registered Nurse, and other health care practitioners as defined in G.S. 90-640(a) practicing within the scope of their license or certification authorized by state laws to administer medications. All medications shall be recorded in the patient's permanent record.

(c) The sedation shall be administered only under the direct supervision of a licensed physician. Direct supervision means the physician must be present in the clinic and immediately available to furnish assistance and direction throughout the administration of the sedation. It does not mean the physician must be present in the room when the sedation is administered.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0329 POST PROCEDURAL CARE

(a) A patient whose pregnancy is terminated shall be observed in the clinic to ensure that no post procedural complications are present. Thereafter, patients may be discharged according to a physician's order and the clinic's protocols.

(b) Any patient having a complication known or suspected to have occurred during or after the performance of the abortion shall be transferred to a hospital for evaluation or admission.

(c) The following criteria shall be documented prior to discharge:

- (1) the patient shall be able to move independently with a stable blood pressure and pulse; and
- (2) bleeding and pain are assessed to be stable and not a concern for discharge.

(d) Written instructions shall be issued to all patients in accordance with the orders of the physician in charge of the abortion procedure and shall include the following:

- (1) symptoms and complications to be looked for; and
- (2) a dedicated telephone number to be used by the patients should any complication occur or question arise. This number shall be answered by a person 24 hours a day, seven days a week.

(e) The clinic shall have a defined protocol for triaging post-operative calls and complications. This protocol shall establish a pathway for physician contact to ensure ongoing care of complications that the clinic's physician is incapable of managing.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0330 CLEANING OF MATERIALS AND EQUIPMENT

(a) All supplies and equipment used in patient care shall be cleaned or sterilized between use for different patients.

(b) Methods of cleaning, handling, and storing all supplies and equipment shall be such as to prevent the transmission of infection through their use as determined by the clinic through their governing authority.

Authority G.S. 131E-153; 131E-153.5; 143B-165.

10A NCAC 13S .0331 FOOD SERVICE

Nourishments, such as crackers and soft drinks, shall be available and offered to all patients.

Authority G.S. 131E-153; 131E-153.2; 131E-153.5; 143B-165.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09B .0201, .0305; 09C .0306; 09G .0304 and repeal the rules cited as 12 NCAC 09E .0105; and 09G .0203.

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

Proposed Effective Date: November 1, 2024

Public Hearing:

Date: August 16, 2024

Time: 10:00 a.m.

Location: Microsoft Teams. Meeting information will be published on agency's website.

Reason for Proposed Action: To repeal redundant rules, and to update certification requirements for criminal justice officers and instructors.

Comments may be submitted to: Michelle S. Schilling, 1770 Tryon Park Drive, Raleigh, No 27602; phone (919) 779-8205; email MSchilling@ncdoj.gov

Comment period ends: August 20, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

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

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0201 ADMINISTRATION OF CRIMINAL JUSTICE SCHOOLS

(a) The executive officer or officers of the institution or agency sponsoring any criminal justice training program or course of instruction shall have primary responsibility for implementation of all of the rules contained in Subchapter 09B Section .0200 and for administration of the school. The executive officer or officers of the institution or agency shall secure School Accreditation pursuant to 12 NCAC 09C .0401 prior to offering any criminal justice training course.

(b) The executive officers shall designate one compensated staff member for each commission-accredited program for which the institution or agency has been granted accreditation. Such staff member shall be certified by the Commission under Section .0500 of this Subchapter to be the criminal justice School Director. The School Director shall have administrative responsibility for planning, scheduling, presenting, coordinating, reporting, and managing each sponsored accredited criminal justice training course. If the accredited institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of an accredited basic recruit training course, a qualified assistant must be designated to assist the School Director in the administration of the course. This person must be selected by the School Director and must attend a course orientation conducted by Standards Division staff and attend the annual School Directors' Conference.

(c) The School Director shall permanently maintain records of all criminal justice training courses sponsored or delivered by the school, reflecting:

- (1) course title;

- (2) delivery hours of course;
- (3) course delivery dates;
- (4) names and addresses of instructors utilized within designated subject-matter areas;
- (5) a roster of enrolled trainees, showing class attendance and designating whether each trainee's course participation was successful or unsuccessful;
- (6) copies of all rules, regulations and guidelines developed by the School Director;
- (7) documentation of any changes in the initial course outline, including substitution of instructors; and
- (8) documentation of make-up work achieved by each individual trainee, including test scores and methods.

(d) The executive officers of the accredited institution or agency offering any criminal justice training program or course of instruction shall meet or exceed the following specifications:

- (1) acquire and allocate sufficient financial resources to provide commission certified instructors and to meet other necessary program expenses; and
- (2) provide one designated clerical support person to assist the School Director in maintaining required records, complete reports, and provide other clerical needs as required by the School Director.

(e) In the event an accredited institution or agency does not own all facilities required for training delivery, written agreements between entities involved shall be in place in order to ensure access to and use of such facilities. A copy of such agreement must be on file for review by Standards Division staff.

~~(f) Each institution or agency accredited to deliver basic recruit training shall ensure that supplies and equipment for trainees are utilized during course delivery as specified in the Basic Law Enforcement Training Course Management Guide as referenced in 12 NCAC 09B .0205(d).~~

(f) The North Carolina Justice Academy is the only accredited criminal justice school to administer Specialized Instructor Programs, with the exception of the North Carolina State Highway Patrol, who may also administer the Specialized Driving Instructor Program.

(g) The North Carolina Department of Adult Correction (DAC) Office of Staff Development and Training is the only accredited criminal justice school to administer the DAC-Firearms Instructor and DAC-Controls, Restraints, and Defensive Techniques programs.

Authority G.S. 17C-6.

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for Specialized Instructor Certification as set forth in Rule .0304 of this Section shall be issued a certification to expire three years from the date

of issuance. The applicant shall apply for certification as a Specialized Instructor within 60 days after the date the applicant achieved a passing score on the state comprehensive exam for the respective Specialized Instructor training course.

~~(b) Where certification for both General Probationary Instructor as set forth in Rule .0303 of this Section and Specialized Instructor Certification are issued on the same date, the The instructor is required to instruct, within three years after Specialized Instructor Certification is issued, certification, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. The instructor may satisfy the teaching requirement, as outlined in 12 NCAC 09B .0303(b)(2), for the General Probationary Instructor certification by teaching any specialized topic for which certification has been issued.~~

~~(c) When Specialized Instructor Certification is issued during an existing period of General Probationary Instructor Certification, the specialized instructor may satisfy the teaching requirement for the General Probationary Certification by teaching the specialized subject for which certification has been issued.~~

~~(d)~~(c) The term of certification as a specialized instructor shall be three years. An application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include the following:

- (1) proof that the applicant has, within the three-year period preceding application for renewal, instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators and written certification from a School Director or In-Service Training Coordinator;
- (2) proof that the applicant has, within the three-year period preceding application for renewal, attended and completed all instructor updates that have been issued by the Commission. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators, or copies of certificates of completion issued by the institution which provided the instructor updates; and
 - (A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on a Commission Application for Instructor and Professional Lecturer

Certification Form (Form F-12) stating the instructor taught at least 12 hours in each of the topics for which Specialized Instructor Certification was granted. The teaching shall have been provided in a Commission-accredited basic training, Specialized Instructor Training course, pursuant to Rule 12 NCAC 09C .0401, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 09F .0101, 12 NCAC 09H, 12 NCAC 10B .0601, .1302, or .2005;

- (B) a favorable written evaluation by a School Director, Qualified Assistant, In-Service Training Coordinator, or another Specialized Instructor certified in the same specialized subject, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or in-service training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005 during the three-year period of Specialized Instructor Certification. Such evaluation shall be certified on a Criminal Justice Instructor Evaluation Form F-16, located on the agency's website:
<http://www.ncdoj.gov/getdoc/c2eba6a-a-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>;
- (C) proof that the applicant has met the requirement set forth in Rule .0303(d) of this Section;
- (D) proof that the individual applying for renewal as a Specialized Firearms Instructor has achieved a minimum score of 92 on the day and night Basic Law Enforcement Training firearms qualification courses, administered by a certified Specialized Firearms Instructor, within the three-year period preceding the application for renewal;
- (E) proof that the individual applying for renewal as a Specialized Physical Fitness Instructor has passed the Basic Law Enforcement Training Police Officer Physical Abilities Test, administered by a certified Specialized Physical Fitness Instructor, within the three-year period preceding the application for renewal.
- (F) proof that the individual applying for renewal as a Specialized Driver

Instructor has achieved the following minimum scores in accordance with the procedural and evaluative requirements listed in the "Course Description Packet (CDP) for Driver Instructor Certification Renewal" as published by the North Carolina Justice Academy within the three-year period preceding the application for renewal. The individual applying for renewal must achieve a minimum score of 85 on two out of three attempts for the "Off-Set Lane Maneuver" and "Serpentine" courses during the daytime, a minimum score of 85 on two out of three attempts for the "Precision" course during both day and night evaluation, a score of "Pass" on two out of three attempts for each command for the "Evasive Action/Maneuver" course during the daytime, and a score of Pass on two out of three attempts in each direction for the "Fixed Radius Curve" course during the daytime. Evaluations will be administered by a certified Specialized Driving Instructor.

- (G) proof that the individual applying for renewal as a Specialized Subject Control Arrest Techniques Instructor has satisfactorily completed the technique evaluations skills of the Basic Law Enforcement Training SCAT courses, administered by a certified Specialized SCAT Instructor, within the three-year period preceding the application for renewal.
- (e) Certification as a Specialized Instructor in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topic areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) of this Section shall remain in effect for 36 months from the date of issuance. During the 36 month term all non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for Specialized Instructor certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas shall be maintained.
- (f) Those individuals who have previously held Specialized Instructor Certification and have not exceeded a three year time period from when his or her Specialized Instructor Certification expired are eligible to reapply for re-issuance of the previously held Specialized Instructor Certification. An application for re-issuance shall contain documentation that the applicant:
 - (1) holds a current General Instructor certification;
 - (2) has completed all pre-qualification requirements for that specialty;
 - (3) has passed the state examination for that specialty with a minimum score of 75;

(4) has completed eight hours of evaluated instruction in the specialty where re-issuance of certification is taught, as documented on an F-16 located on the agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>. The eight hours of instruction shall be taught within 60 days of the Specialized Instructor Certification being reissued and evaluated by a Specialized Instructor certified in that specialty. Failure to complete the required eight hours of evaluated instruction will result in the reissued Specialized Instructor Certification being revoked; and

(5) has maintained non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for Specialized Instructor certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas.

(g) Applicants for re-issuance of the Specialized Instructor Certification shall have one opportunity to pass the prequalification skills assessment and the state examination for that specialty. Should an applicant not achieve a passing score on either the prequalification skills assessment or the state examination for that specialty, the applicant shall complete the specific Specialized Instructor Course in its entirety.

(h) Applicants whose Specialized Instructor Certification is suspended or revoked shall not qualify for re-issuance. The applicant shall complete the specific Specialized Instructor Course in its entirety.

(i) The use of guest participants in a delivery of the "Basic Law Enforcement Training Course" shall be permissible. However, such guest participants are subject to the on-site supervision of a Commission-certified instructor and shall be authorized by the School Director. A guest participant shall be used only to complement the primary certified instructor of the block of instruction and shall not replace the primary instructor.

Authority G.S. 17C-6.

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0300 - CERTIFICATION OF CRIMINAL JUSTICE OFFICERS

12 NCAC 09C .0306 LATERAL TRANSFER OF IN-STATE LAW ENFORCEMENT OFFICERS

(a) A North Carolina law enforcement officer with probationary or general certification from either the Criminal Justice Education and Training Standards Commission or the Sheriffs' Education and Training Standards Commission may transfer from one law enforcement agency to another law enforcement agency with less than a 12 month break in law enforcement service. Before certification, the employing agency shall submit a Lateral Report of Appointment, Form F-5D, to the Criminal Justice Standards Division (Division) reporting that the agency has accomplished

~~the following: Prior to employing an officer who has been separated from his previous agency for more than 30 days, the employing agency shall:~~

~~(1) verify verified the certification of the officer with the Criminal Justice Standards Division or the Sheriffs' Standards Division; Division and reviewed all previous actions by either commission regarding the certification of the officer;~~

~~(2) submit a new fingerprint check to the North Carolina State Bureau of Investigation, in compliance with the requirements set forth in 12 NCAC 09B .0103(a) and (b), in the same manner as prescribed for non-certified new applicants. No certification shall be transferred if the holder has been convicted since initial certification of any offense for which revocation or suspension of certification is authorized; and received and reviewed the criminal history records check received from the North Carolina State Bureau of Investigation in compliance with the requirements set forth in 12 NCAC 09B .0103(a) and (b), in the same manner as prescribed for non-certified new applicants; and~~

~~(3) notify the Commission by submitting a Report of Appointment that the officer is being employed and stating the date on which employment will commence; reviewed the officer's personnel records with the previous agency, including specifically the prior Background Report (Form F-8), Separation Report (Form F-5B), and any internal investigations from the date of the applicant's prior certification with the Standards Division.~~

~~(4) obtain a signed and notarized Release Authorization Form from the transferring officer. The employing agency shall obtain the full personnel file from the previous agency(ies) worked during the previous 24 months and include this content in the background file, minus any medically protected or sensitive material; and~~

~~(5) complete a background investigation on all applicants for employment as set forth in 12 NCAC 09B .0102.~~

~~(b) For officers who have been separated from their previous agency for more than 30 days, prior to transfer of certification law enforcement officers with more than a 30 day gap in employment by an agency shall:~~

~~(1) comply with the requirements of 12 NCAC 09B .0104~~

~~(2) submit results of the physical examination to the employing agency for placement in the officer's permanent personnel file;~~

~~(3) produce a negative result on a drug screen administered according to the specifications outlined in 12 NCAC 09C .0310; and~~

~~(4) either:~~

- (A) ~~submit a copy of the Firearms Qualification Record Instructions Form F 9A to the employing agency for placement in the officer's permanent personnel file when the duty and off duty weapons remain the same as those previously used to qualify. The Form F 9A shall contain the date(s) and instructors signature indicating the law enforcement officer's successful completion of the mandatory firearms classroom training, and the firearms range qualification scores for the duty and off duty weapons assigned to the law enforcement officer. Such in service training compliance shall have occurred within the 12 month period preceding transfer; or~~
- (B) ~~satisfactorily complete the employing agency's in service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106.~~

- (5) ~~satisfactorily complete the employing agency's in service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106.~~

~~(d) Officers previously certified who were not previously required to meet the educational or basic training requirements shall not be required to meet such requirements when laterally transferring to another agency with less than a 12 month break in law enforcement service.~~

~~(e) For currently certified full time officers with no break in service, upon written request from the department head of the hiring agency, the Division shall waive for a period of no more than 60 days from the receipt of the Report of Appointment by the Standards Division the requirements of Subparagraphs of (b)(1), (b)(2), (b)(3), and (b)(4) of this Rule.~~

~~(b) Under this rule, no North Carolina certification shall be transferred if the record reflects previously undetected or unadjudicated criminal activity or if any offense was not properly reported to either commission as required in 12 NCAC 09B .0101 or 12 NCAC 10B .0301.~~

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

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING

~~(a) The following topics, specifications, and hours shall be included in each law enforcement officer's annual in service training courses. For the purposes of this Subchapter, a credit shall be equal to one hour of traditional classroom instruction. All sworn law enforcement officers shall complete a minimum of 24 in service training credits. The following topics, totaling 16 22 credits, shall be specifically required:~~

- (1) ~~2022 Domestic Violence: The Psychology of Whether to Stay or Go (2 hours/credits);~~
- (2) ~~2022 Creating a Safety Net (2 hours/credits; Juvenile Minority Sensitivity Training);~~
- (3) ~~2022 Firearms and Qualification (4 hours/credits);~~
- (4) ~~2022 Legal Update (4 hours/credits);~~
- (5) ~~2022 Ethics: Preempting Misconduct and Increasing Integrity (2 hours/credits); and~~
- (6) ~~2022 Practicing Proactive Wellness (2 hours/credits);~~
- (7) ~~Topics of Choice (8 12 hours/credits);~~
 - (A) ~~Incorporating a Co Response: Partnering with Community Professionals (2 hours/credits);~~
 - (B) ~~The Process of De-escalation: Listening, Talking, Defensive Tactics (2 4 hours/credits);~~
 - (C) ~~Civil Unrest: Local Leaders Discuss Lessons Learned (2 hours/credits);~~

~~(c) Prior to employing an officer who has been separated from his previous agency for 30 days or less, the employing agency shall:~~

- (1) ~~verify the certification of the officer with the Criminal Justice Standards Division or the Sheriffs' Standards Division;~~
- (2) ~~review the Form F 5B, Affidavit of Separation from the previous employed agency;~~
- (3) ~~submit a new fingerprint check to the North Carolina State Bureau of Investigation, in compliance with the requirements set forth in 12 NCAC 09B .0103(a) and (b), in the same manner as prescribed for non certified new applicants. This fingerprint check will be waived once all officers are enrolled in the Federal Bureau of Investigation's Next Generation Identification System and Criminal Justice Record of Arrest and Prosecution Background (RapBack) Service. No certification shall be transferred if the holder has been convicted since initial certification of any offense for which revocation or suspension of certification is authorized;~~
- (4) ~~notify the Commission by submitting a Name/Status Change, Form F 19, that the officer is being employed and stating the date on which the employment will commence. The Name/Status Change, Form f 19, shall contain the officers name, date of birth and Social Security Number on file, and any changes to that information, the agency's name, officer's current status and status changed to, the effective date of change, whether the officer is undercover or not, and the signature and printed name of the submitting agency head or authorized representative, and~~

- (D) ~~Subversive Groups: Maneuvering Encounters with Fringe Groups (2 hours/credits); and~~
- (E) ~~Raising the Bar: Enhancing Community Engagement (2 hours/credits).~~

(b) ~~All sworn law enforcement officers shall complete a minimum of 10 in service credits, in topics identified by their respective agency heads. The agency head may choose any topic, provided the lesson plan is written in Instructional Systems Design format and is taught by an instructor who is certified by the Commission. Alternatively, topics delivered pursuant to Rule .0104(1) of this Section and National Certification Programs administered by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) completed during the mandated in service year, shall satisfy in part or in whole the topic requirements set forth by the agency head. To satisfy this requirement these topics shall not be required to be written in Instructional Systems Design format or delivered by an instructor certified by the Commission.~~

(c) ~~The "Specialized Firearms Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in service firearms training program. Copies of this publication may be inspected at the office of the:~~

~~Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Raleigh, North Carolina 27610~~

~~and may be obtained at the cost of printing and postage from the Academy at the following address:
North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385~~

(d) ~~The "In Service Lesson Plans" published by the North Carolina Justice Academy shall be applied as a minimum curriculum for conducting the annual in service training program. Copies of this publication may be inspected at the office of the:~~

~~Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Raleigh, North Carolina 27610~~

~~and may be obtained at the cost of printing and postage from the Academy at the following address:
North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385~~

(e) ~~Lesson plans are designed to be delivered in hourly increments. A student who completes an online in service training topic shall receive the number of credits that correspond to the number of hours of traditional classroom training, regardless of the amount of time the student spends completing the course.~~

(f) ~~Completion of training shall be demonstrated by passing a written test for each in service training topic, as follows:~~

- (1) ~~A written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in service training topic requiring testing. The Firearms and Qualifications in~~

~~service course and topics delivered pursuant to Rule .0104 of this Section shall be exempt from this written test requirement;~~

- (2) ~~A student shall pass each test by achieving at least 70 percent correct answers; and~~
- (3) ~~A student who completes a topic of in service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re test. If the student fails the exam a second time, the student shall complete the in service training topic in a traditional classroom setting before taking the exam a third time.~~

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

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

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

12 NCAC 09G .0203 AGE

(a) ~~Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall be at least 20 years of age.~~

(b) ~~Candidates shall document age through documents issued by any county, state, or federal government agency.~~

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

SECTION .0300 - CERTIFICATION OF CORRECTIONAL OFFICERS, PROBATION/PAROLE OFFICERS, AND INSTRUCTORS

12 NCAC 09G .0304 GENERAL CERTIFICATION

(a) The Commission shall grant an officer General Certification when evidence is received by the Standards Division that an officer has completed the training requirements of 12 NCAC 09G .0410, .0411, .0412, within the officer's probationary period and the officer has met all requirements for General Certification as specified in Rules .0202, .0203, .0204, .0205, and .0303 of this Subchapter.

(b) General Certification is continuous from the date of issuance, so long as the certified officer remains employed as a correctional officer or probation/parole officer in good standing with the North Carolina Department of Adult Correction, and the certification has not been suspended or revoked pursuant to Rule .0503 of this Subchapter.

(c) Certified officers who, through promotional opportunities, or non-disciplinary transfer, move into non-certified positions within the Department, may have their certification reinstated without re-completion of the basic training requirements of 12 NCAC 09G .0410, .0411, or .0412, ~~or .0413~~, and are exempted from reverification of employment standards of 12 NCAC 09G .0202, .0205, .0208 (except 12 NCAC 09G .0208(4)), and .0209 (except

12 NCAC 09G .0209(4)) when returning to a position requiring certification if they have maintained employment within the Department.

(d) Documentation of General Certification shall be maintained with the officer's personnel records with the North Carolina Department of Adult Correction and the Commission.

(e) Upon transfer of a certified officer from one type of corrections officer position to another, the North Carolina Department of Adult Correction shall submit a Notice of Transfer to the Standards Division.

- (1) Upon receipt of the Notice of Transfer, the Standards Division shall cancel the officer's current General Certification and upon receipt of documentary evidence that the officer has met the requisite standards for the specified type of corrections officer certification, the Commission shall issue Probationary Certification reflecting the officer's new corrections position.
(2) The Commission shall grant an officer General Certification as the new type of corrections officer when evidence is received by the Standards Division that an officer has completed the training requirements of 12 NCAC 09G .0410, .0411, or .0412, or .0413 within the officer's probationary period and the officer has met all other requirements for General Certification.

Authority G.S. 17C-2; 17C-6; 17C-10.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09B .0202-.0205, .0232, .0404-.0406, .0414, .0415; 09C .0212, and .0403.

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

Proposed Effective Date: January 1, 2025

Public Hearing:

Date: August 16, 2024

Time: 10:00 a.m.

Location: Microsoft Teams. Meeting information will be posted on agency website.

Reason for Proposed Action: To update which medical providers can complete required forms and to update requirements for administration of the Basic Law Enforcement Training program.

Comments may be submitted to: Michelle S. Schilling, 1770 Tryon Park Drive, Raleigh, No 27602; phone (919) 779-8205; email MSchilling@ncdoj.gov

Comment period ends: August 20, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

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

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR

(a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course, the School Director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter;
(2) Select and schedule instructors who are certified by the Commission;
(3) Provide each instructor with a current Commission course outline and all necessary additional information concerning the instructor's duties and responsibilities;
(4) Notify each instructor that he or she shall comply with the Basic Law Enforcement Training Course Management Guide and provide him or her access to the most current version of the Course Management Guide;

- (5)(3) Ensure each instructor utilizes Commission approved lesson plans and instructional materials;
- (6)(4) Arrange for the availability of appropriate audiovisual aids and materials, publications, facilities, and equipment for training in all topic areas;
- (7)(5) Develop, adopt, reproduce, and distribute any supplemental rules 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 or sponsoring course trainees; and
- (C) regulating trainee participation and demeanor, ensuring trainee attendance, and maintaining performance records;
- (8)(6) If appropriate, recommend housing and dining facilities for trainees;
- (9)(7) Administer the course delivery in accordance with Commission approved lesson plans; ~~plans and course management guides~~;
- (10)(8) 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. The State comprehensive ~~final~~ examination shall be administered by the Criminal Justice Education and Training Standards ~~Commission~~; Commission (CJETS); and
- (11)(9) Report the completion of each presentation of a Commission-certified criminal justice training course to the Commission, utilizing forms required for submission, which are located on the Agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>.
- (b) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified Basic Law Enforcement Training Course, the School Director shall:
- (1) ~~Deliver training in accordance with the most current version of the Basic Law Enforcement Training Course Management Guide as published by the North Carolina Justice Academy;~~
- (2)(1) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks, except that there may be as many as three one-week breaks until course requirements are completed. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:
- (A) Whether instruction has begun in the course or whether course initiation may be postponed;
- (B) The risk of harm to students that may be caused by continuation of the course;
- (C) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (D) The specific need for the waiver; and
- (E) The degree of benefit to the public in allowing a break in instruction.
- Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency;
- (3)(2) Schedule only specialized instructors certified by the Commission to teach those high-liability areas as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors or role players;
- (4)(3) With the exception of the First Responder, ~~Physical Fitness, Officer Health and Wellness, Explosives and Hazardous Materials, Materials Emergencies,~~ and topical areas outlined in Rule .0304(a) of this Subchapter, schedule one specialized instructor certified by the Commission for every six trainees while engaged in a practical performance exercise;
- (5)(4) Schedule one specialized instructor certified by the Commission for every eight trainees while engaged in a practical performance exercise in the topical area "~~Subject Control Arrest Techniques~~"; Compliance and Control Tactics;
- (6)(5) Schedule no single individual to instruct more than ~~35~~ 25 percent of the total hours of the curriculum during any one delivery of the Basic Law Enforcement Training Course presentation;
- (7)(6) Not less than 30 days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation pursuant to 12 NCAC 09C .0211. The Pre-Delivery Report (Form F-10A) shall indicate a requested date and location for the administration of the State comprehensive exam, and include the following attachments:
- (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments; and

- (B) a copy of any rules and requirements for the school. A copy of those rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course;
- ~~(8)~~(7) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each instructor once during each three year certification period in each topic taught by the instructor and prepare a written evaluation on the instructor's performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure that the instructor is using the Instructional System Design model, 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 evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluations of the instructor. For probationary instructors, the evaluations conducted by another instructor shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16) and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16), 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. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated;
- ~~(9)~~(8) Administer or designate a ~~staff person~~ Qualified Assistant to administer course specific tests during course delivery:
- (A) to determine and record the level of trainee comprehension and retention of instructional subject matter;
- (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
- (C) to determine subject or topic areas of deficiency for the application of Rule .0405(a)(3) of this Subchapter; and
- ~~(10)~~(9) Not more than 10 days after the conclusion of a school's offering of Basic Law Enforcement Training, ensure all student test scores and class documents have been uploaded to the Acadis platform, and submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B) that shall include:
- (A) a "Student Course Completion" form for each individual enrolled on the day of orientation;
- (B) a "Certification and Test Score Release" form; and
- (C) the "Police Officer Physical Ability Test (POPAT) Post-Course" ~~final form; and final~~.
- ~~(D) the orientation class enrollment roster.~~
- (c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified "Criminal Justice Instructor Training Course," the School Director shall:
- (1) Schedule course presentation pursuant to Rule .0209 of this Subchapter;
- (2) Schedule evaluators as follows:
- (A) each evaluator, as well as the instructors, shall have completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
- (B) each instructor and evaluator shall document successful participation in a program presented by the North Carolina Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation;
- (3) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation ~~[Form F-10A(ITC)]~~ Presentation, Form F-10A, with the following attachments:
- (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments;
- (B) the names and ~~last four digits of the social security~~ Acadis identification numbers of all instructors and evaluators; and
- (C) a copy of any rules and requirements for the school; and

- (4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report ~~{Form F-10B(ITC)}~~ Report, Form F-10B, containing the following:
- (A) class enrollment roster;
 - (B) a course schedule with the designation of instructors and evaluators utilized in delivery;
 - (C) scores recorded for each trainee on the 70 minute skill presentation; and
 - (D) designation of trainees who completed the course in its entirety and whom the School Director finds to be competent to instruct.
- (d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or recertification course, the School Director shall:
- (1) select and schedule speed measurement instrument instructors who are certified by the Commission as instructors for the specific speed measurement instruments in which the trainees are to receive instruction as follows:
 - (A) provide to the instructor the Commission form(s) for motor skill examination on each trainee;
 - (B) require the instructor to complete the motor skill examination form on each trainee indicating the level of proficiency obtained on each specific instrument; and
 - (C) require each instructor to sign each individual form and submit the original to the School Director;
 - (2) not fewer than 30 days before the scheduled starting date, submit to the Director of the Standards Division a Pre-Delivery Report of Speed Measuring Instrument Course ~~Presentation {Form F-10A(SMI)}~~ Presentation, Form F-10A(SMI), that shall contain a period of course delivery including the proposed starting date, course location, requested date and location for the administration of the State exam, and the number of trainees to be trained on each type of approved speed measurement instrument. The Director of the Standards Division shall review the request and notify the School Director within thirty business days if the request is approved or denied; and
 - (3) upon completing delivery of the Commission-certified course, and not more than 10 days after the conclusion of a school's offering of a certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or recertification course, the School Director shall notify the Commission regarding the progress and achievements of each trainee by submitting

a Post-Delivery Report of Training Course ~~Presentation {Form F-10B(SMI)}~~ Presentation, Form F-10B(SMI). This report shall include the original motor-skill examination form(s) completed and signed by the certified instructor responsible for administering the motor-skill examination to the respective trainee.

Authority G.S. 17C-6.

12 NCAC 09B .0203 ADMISSION OF TRAINEES

- (a) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course who is not a citizen of the United States.
- (b) The school shall not admit any individual younger than 20 years of age as a trainee in any non-academic basic criminal justice training course. Individuals under 20 years of age may be granted authorization for early enrollment as trainees in a presentation of the Commission-accredited Basic Law Enforcement Training Course with prior written approval from the Director of the Standards Division. The Director shall approve early enrollment if the individual will be 20 years of age prior to the date of the State Comprehensive Examination for the course.
- (c) The school shall give priority admission in certified criminal justice training courses to individuals holding full-time employment with criminal justice agencies.
- (d) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Criminal Justice Instructor Training Course ~~"Criminal Justice Instructor Training Course"~~ who does not meet the education and experience requirements for instructor certification under Rule .0302 of this Subchapter within 60 days of successful completion of the Instructor Training State Comprehensive Examination.
- (e) The school shall not admit an individual, including partial or limited enrollees, as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual, within one year prior to admission to the Commission-accredited Basic Law Enforcement Training Course, scores at or above mastery level on the NROC Edready™ Skills Inventory for English or places into course DRE 098 or above at a North Carolina Community College as a result of taking the Reading and English component of the North Carolina Diagnostic Assessment and Placement test as approved by the State Board of Community Colleges on October 17, 2014, (<http://www.nccommunitycolleges.edu/state-board-community-colleges/meetings/october-17-2014>), or has taken the reading component of a nationally standardized test and has scored at or above the tenth grade level or the equivalent. For the purposes of this Rule:
 - (1) Partial or limited enrollee does not include enrollees who hold or have held within 12 months prior to the date of enrollment, general certification pursuant to 12 NCAC 09C .0304.
 - (2) A "nationally standardized test" means a test that:
 - (A) reports scores as national percentiles, stanines, or grade equivalents; and

(B) compares student test results to a national norm.

(f) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual has provided to the School Director a medical examination report, completed by a ~~physician licensed to practice medicine in North Carolina~~, physician, a physician's assistant, or a nurse practitioner, who holds a current license to practice medicine, to determine the individual's fitness to perform the essential job functions of a criminal justice officer. The Director of the Standards Division shall grant an exception to this standard for a period of time not to exceed the commencement of the physical fitness topical area when failure to receive the medical examination report is not due to neglect on the part of the trainee.

(g) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual is a high school, college, or university graduate or has received a high school equivalency credential recognized by the issuing state. High school diplomas earned through correspondence enrollment in an entity that charges a fee and requires the individual to complete little or no education or coursework to obtain a high diploma shall not be recognized toward the educational requirements.

(h) The school shall not admit any individual trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual has provided the School Director one of the following types of record checks in the manner set forth in Paragraph (i) of this Rule:

- (1) a written notification, known as a "Criminal Record Conviction History for B.L.E.T. Enrollment," Form F-25, located at <https://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>, from a department head stating that a criminal record check for local and state records has been conducted and no criminal convictions as listed in Paragraph (j) of this Rule were found that prohibit the individual trainee's enrollment in a presentation of the Commission-accredited Basic Law Enforcement Training Course. The hiring agency or the individual trainee shall also provide certified court documentation for each criminal conviction;
- (2) a certified criminal record check for local and state records, and certified court documentation for each criminal conviction. For the purpose of this Rule "Certified court documentation" and "record check" mean a document with either a raised seal or other visible verification that the document is authentic as a copy of the court's official record as authorized by law;
- (3) if the individual trainee has only resided in North Carolina since obtaining the age of majority, provide a fingerprint-based criminal

history background check known as a "Right to Review" performed by the North Carolina State Bureau of Investigation. For the purpose of this Rule "Resided in" means any place the trainee has lived, worked, attended school, or participated in an internship. The individual shall also provide certified court documentation for each criminal conviction;

- (4) a fingerprint-based criminal history background check known as a "Right to Review" performed by a federal agency including all locations where the trainee has lived since obtaining the age of majority. The individual shall also provide certified court documentation for each criminal conviction; or
- (5) trainees who have served in the United States Armed Forces, in addition to one of the types of criminal records checks listed in Subparagraphs (1) through (4) of this Paragraph shall provide a copy of their Certificate of Discharge, DD Form 214, that shows their "Character of Service" and "Narrative Reason for Separation." Individuals showing a "Character of Service" as "Bad Conduct" or "Dishonorable" shall provide certified copies of their court-martial proceedings to include the final disposition. Trainees shall also provide documentation to show that they have requested their official military personnel file, which shall be provided upon receipt.
- (6) A trainee who has been naturalized as a United States Citizen is exempt from providing the criminal record checks for locations where they resided outside of the United States prior to naturalization.
- (7) A trainee who has resided outside the United States, other than those described in Subparagraph (5) and (6), who cannot obtain a criminal record check from any location outside the United States shall document the following, to be forwarded to the Standards Division for review on a case by case basis:
 - (A) the name of the agencies contacted,
 - (B) the date the agencies were contacted,
 - (C) the contact information for the agencies contacted, and
 - (D) the reason the information cannot be provided.
- (i) Documents obtained in accordance with Paragraph (h) of this Rule shall meet the following requirements:
 - (1) any records provided shall fall within the time period beginning when the trainee obtains the age of majority and continuing through the date of application;
 - (2) any records provided shall include all locations where the trainee has resided since obtaining the age of majority; and

(3) any records provided shall include all legal names utilized by the trainee since obtaining the age of majority.

(j) The school shall not admit any individual as a trainee in a presentation of the Commission-accredited Basic Law Enforcement Training Course 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 application for employment, unless the individual intends to seek certification through the North Carolina Sheriffs' Education and Training Standards Commission;
- (4) four or more crimes or unlawful acts 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 date 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, unless the individual intends to seek certification through the North Carolina Criminal Justice Education and Training Standards Commission.

(k) Individuals charged with crimes specified in Paragraph (j) of this Rule may be admitted into the Commission-accredited Basic Law Enforcement Training Course if such offenses were dismissed or the person was found not guilty, but completion of the Commission-accredited Basic Law Enforcement Training Course does not ensure that certification as a law enforcement officer or justice officer through the North Carolina Criminal Justice Education and Training Standards Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course shall notify the School Director of all criminal offenses the trainee is arrested for or charged with, pleads no contest to, pleads guilty to, or is found guilty of, and of all Domestic Violence Protective Orders (G.S. 50B) that are issued by a judicial official after a hearing that provides an opportunity for both parties to be present. This includes all criminal offenses except minor traffic offenses and includes any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A "minor traffic offense" is defined, for the purposes of this Paragraph, as an offense where the maximum punishment allowable by law is 60 days or fewer. Other offenses under G.S. 20 (Motor Vehicles) or similar laws of other jurisdictions that shall be reported to the School Director are G.S. 20-138.1 (driving while under the influence), G.S. 20-28 (driving while license permanently revoked or permanently suspended), G.S. 20-30(5)(fictitious name or address in application for license or learner's permit), G.S. 20-37.8 (fraudulent use of a fictitious name for a special identification card), G.S. 20-102.1 (false report of theft or conversion of a motor

vehicle), G.S. 20-111(5)(fictitious name or address in application for registration), G.S. 20-130.1 (unlawful use of red or blue lights), G.S. 20-137.2 (operation of vehicles resembling law enforcement vehicles), G.S. 20-141.3 (unlawful racing on streets and highways), G.S. 20-141.5 (speeding to elude arrest), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Paragraph shall be in writing and specify the nature of the offense, the court where the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Protective Order (50B), 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 are applicable at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

(l) The school shall not admit any individual as a trainee in the presentation of the Commission-accredited Basic Law Enforcement Training Course unless the individual has provided to the School Director:

- (1) copies of all active Domestic Violence Orders of Protection and Civil Non-Contact Orders issued to the individual; or
- (2) a signed and dated written statement from the individual certifying that no such active Orders exist related to the individual.

(m) The school shall not admit any individual as a trainee in the presentation of the Basic Law Enforcement Training Course unless the individual has provided to the School Director a copy of their valid driver's license.

Authority G.S. 17C-6; 17C-10; 93B-9.

12 NCAC 09B .0204 TRAINING COURSE ENROLLMENT

(a) Any school offering a Commission-accredited Basic Law Enforcement Training Course shall have enrolled 10 trainees in the offering.

(b) Any school may make written request to the Director of the Standards Division to deliver the Commission-accredited Basic Law Enforcement Training Course with no fewer than eight enrolled trainees. The Director shall approve the request if it includes a summary of the efforts the school has made to notify its respective community of the availability of the course and the reasons supporting the school's need to enroll fewer than 10 trainees.

(c) The school may not enroll any trainee later than the initial day of delivery of a certified training course unless the trainee's enrollment is pursuant to an authorization of limited enrollment in a subsequent course pursuant to Rule .0405 of this Subchapter or pursuant to prescribed supplementary or remedial training required pursuant to Rule .0402 of this Subchapter.

(d) The school may not enroll more than 18 trainees in a presentation of the "Criminal Justice Instructor Training Course" as constituted under Rule .0209 of this Section.

Authority G.S. 17C-6.

12 NCAC 09B .0205 BASIC LAW ENFORCEMENT TRAINING

(a) The basic training course for law enforcement officers shall consist of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function in law enforcement.

(b) The course entitled "Basic Law Enforcement Training" shall consist of a minimum of ~~640~~ 868 hours of instruction and shall include the following identified topical areas and minimum instructional hours for each:

(1)	LEGAL UNIT	
	(A) Motor Vehicle Laws	20 Hours
	(B) Controlled Substance	12 Hours
	(C) Elements of Criminal Law	24 Hours
	(D) Juvenile Laws and Procedures	8 Hours
	(E) Arrest, Search and Seizure/Constitutional Law	28 Hours
	(F) Alcohol Beverage Control (ABC)Laws and Procedures	4 Hours
	UNIT TOTAL	96 Hours
(2)	PATROL DUTIES UNIT	
	(A) Techniques of Traffic Law Enforcement	24 Hours
	(B) Explosives and Hazardous Materials Emergencies	12 Hours
	(C) Traffic Crash Investigation	24 Hours
	(D) In-Custody Transportation	8 Hours
	(E) Crowd Management	12 Hours
	(F) Patrol Techniques	28 Hours
	(G) Law Enforcement Communication and Information Systems	8 Hours
	(H) Anti-Terrorism	4 Hours
	(I) Rapid Deployment	8 Hours
	UNIT TOTAL	128 Hours
(3)	LAW ENFORCEMENT COMMUNICATION UNIT	
	(A) Responding to Victims and the Public	10 Hours
	(B) Domestic Violence Response	16 Hours
	(C) Ethics for Professional Law Enforcement	4 Hours
	(D) Individuals with Mental Illness and Developmental Disabilities	24 Hours
	(E) Crime Prevention Techniques	6 Hours
	(F) Communication Skills for Law Enforcement Officers	8 Hours
	(G) Preparing for Court and Testifying in Court	12 hours
	UNIT TOTAL	80 Hours
(4)	INVESTIGATION UNIT	
	(A) Fingerprinting and Photographing Arrestee	6 Hours
	(B) Field Note taking and Report Writing	12 Hours
	(C) Criminal Investigation	34 Hours
	(D) Interviews	16 Hours
	(E) Human Trafficking	2 Hours
	UNIT TOTAL	70 Hours
(5)	PRACTICAL APPLICATION UNIT	
	(A) First Responder	32 Hours
	(B) Firearms	48 Hours
	(C) Law Enforcement Driver Training	40 Hours
	(D) Physical Fitness (classroom instruction)	8 Hours
	(E) Fitness Assessment and Testing	12 Hours
	(F) Physical Exercise 1 hour daily, 3 days a week	34 Hours
	(G) Subject Control Arrest Techniques	40 Hours
	UNIT TOTAL	214 Hours
(6)	SHERIFF SPECIFIC UNIT	
	(A) Civil Process	24 Hours
	(B) Sheriffs' Responsibilities: Detention Duties	4 Hours
	(C) Sheriffs' Responsibilities: Court Duties	6 Hours
	UNIT TOTAL	34 Hours
(7)	COURSE ORIENTATION	2 Hours
(8)	TESTING	16 Hours
	TOTAL COURSE HOURS	640 Hours
(1)	<u>Module 1</u>	
	(A) <u>Orientation</u>	<u>8 Hours</u>

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	<u>(B) Ethical Problem Solving</u>	<u>16 Hours</u>
	<u>(C) Communication and De-escalation Skills</u>	<u>24 Hours</u>
	<u>(D) Crisis Intervention: Interacting With Special Needs Populations</u>	<u>24 Hours</u>
	<u>(E) Officer Health and Wellness</u>	<u>54 Hours</u>
	<u>(F) Field Notes and Report Writing</u>	<u>16 Hours</u>
	<u>(G) Arrest, Search, Seizure, and Constitutional Law</u>	<u>24 Hours</u>
	<u>(H) Interviews and Interrogations</u>	<u>24 Hours</u>
	<u>(I) Compliance and Control Tactics</u>	<u>64 Hours</u>
	<u>(J) Firearms</u>	<u>96 Hours</u>
	<u>(K) Law Enforcement Driver Training</u>	<u>48 Hours</u>
	<u>(L) First Responder</u>	<u>24 Hours</u>
<u>(2)</u>	<u>Module 2</u>	
	<u>(A) Criminal Investigations</u>	<u>40 Hours</u>
	<u>(B) Testifying in Court</u>	<u>16 Hours</u>
	<u>(C) Responding to Crime Victims</u>	<u>8 Hours</u>
	<u>(D) Person Crimes</u>	<u>16 Hours</u>
	<u>(E) Property Crimes</u>	<u>16 Hours</u>
	<u>(F) Crimes Against the Public</u>	<u>16 Hours</u>
	<u>(G) Juvenile Laws and Procedures</u>	<u>12 Hours</u>
	<u>(H) Domestic Violence</u>	<u>16 Hours</u>
	<u>(I) Sexual Assaults</u>	<u>16 Hours</u>
	<u>(J) Human Trafficking</u>	<u>4 Hours</u>
	<u>(K) Hate Crimes</u>	<u>8 Hours</u>
	<u>(L) Controlled Substances</u>	<u>16 Hours</u>
	<u>(M) Missing Persons</u>	<u>4 Hours</u>
	<u>(N) Deceased Persons</u>	<u>4 Hours</u>
<u>(3)</u>	<u>Module 3</u>	
	<u>(A) Motor Vehicle Law</u>	<u>20 Hours</u>
	<u>(B) Traffic Law Enforcement</u>	<u>24 Hours</u>
	<u>(C) Traffic Crash Investigations</u>	<u>24 Hours</u>
	<u>(D) Standardized Field Sobriety Testing</u>	<u>28 Hours</u>
<u>(4)</u>	<u>Module 4</u>	
	<u>(A) Patrol Techniques</u>	<u>28 Hours</u>
	<u>(B) Crowd Management</u>	<u>16 Hours</u>
	<u>(C) Courtroom Security</u>	<u>8 Hours</u>
	<u>(D) Homeland Security</u>	<u>8 Hours</u>
	<u>(E) Rapid Deployment to an Active Attacker</u>	<u>16 Hours</u>
	<u>(F) Civil Process</u>	<u>24 Hours</u>
	<u>(G) Transporting and Processing</u>	<u>8 Hours</u>
	<u>(H) Crime Prevention</u>	<u>4 Hours</u>
	<u>(I) Explosives and Hazardous Materials Emergencies</u>	<u>16 Hours</u>
<u>(5)</u>	<u>Testing</u>	<u>30 Hours</u>
	<u>Total Course Hours</u>	<u>868 Hours</u>

(c) The "Basic Law Enforcement Training Manual" published by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive

Post Office Drawer 149 Raleigh, North Carolina 27602
and may be obtained at the cost of printing and postage from the North Carolina Justice Academy at the following address:

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

(d) The "Basic Law Enforcement Training Course Management Guide" published by the North Carolina Justice Academy shall be used by school directors in planning, implementing, and

delivering basic training courses. Copies of this guide may be obtained at the cost of printing and postage from the Justice Academy.

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

12 NCAC 09B .0232 SPECIALIZED COMPLIANCE AND CONTROL TACTICS SUBJECT CONTROL ARREST TECHNIQUES INSTRUCTOR TRAINING

(a) The instructor training course required for Specialized Compliance and Control Tactics Subject Control Arrest Techniques Instructor Certification shall consist of a minimum of 29 hours of classroom instruction plus time required to complete the tasks associated with Compliance and Control Tactics Subject Control Arrest Techniques Instructional Methods and Demonstration presented during a continuous period of not more

than two weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow ~~additional~~ breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Specialized Compliance and Control Tactics ~~Subject Control Arrest Techniques~~ Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice Specialized Compliance and Control Tactics ~~Subject Control Arrest Techniques~~ Instructor in a ~~the Commission-accredited~~ Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

(c) Each applicant for Specialized Compliance and Control Tactics ~~Subject Control Arrest Techniques~~ Instructor Training shall:

- (1) have completed the Criminal Justice Instructor Training course;
- (2) present a letter from a ~~licensed physician~~ physician, physician assistant, or nurse practitioner, who holds a current license to practice medicine, stating the applicant's physical fitness to participate in the course;
- (3) present a written endorsement by either
 - (A) a certified School Director indicating the student is qualified to instruct Compliance and Control Tactics ~~subject control arrest techniques~~ in the Commission-accredited Basic Law Enforcement Training ~~Courses~~; Course; or
 - (B) a Department Head, certified School Director, or In-Service Training Coordinator indicating the student may be utilized to instruct Compliance and Control Tactics ~~subject control arrest techniques~~ for the Law Enforcement Officers' Annual In-Service Training program; and
- (4) Within 365 days prior to enrollment in the Compliance and Control Tactics ~~Subject Control Arrest Techniques~~ Instructor Training course the prospective student shall complete

the following assessments administered by the North Carolina Justice Academy:

- (A) a qualification requiring the individual to demonstrate 100 percent proficiency on the Basic Law Enforcement Training Compliance and Control Tactics; ~~Subject Control Arrest Techniques~~; and
- (B) achieve at least the 60th percentile on a physical fitness assessment.

(d) Each Specialized Compliance and Control Tactics ~~Subject Control Arrest Techniques~~ Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

(1)	Orientation	1 Hour
(2)	Response to Injury	4 Hours
(3)	Combat Conditioning	4 Hours
(4)	Safety Guidelines/Rules	2 Hours
(5)	Fundamentals of Professional Liability	4 Hours
(6)	Practical Skills Enhancement	4 Hours
(7)	Student Instructional Practicum	6 Hours
(8)	BLET Lesson Plan Review	4 Hours
(9)	Completion of tasks associated with <u>Compliance and Control Tactics</u> Subject Control Arrest Techniques Instructional Methods and Demonstrations.	

The number of hours required to complete this portion of the curriculum shall be based on the number of enrolled students, available facilities, and number of instructors.

~~(e) The "Specialized Subject Control Arrest Techniques Instructor Training Manual" as published by the North Carolina Justice Academy shall be the curriculum for the Specialized Subject Control Arrest Techniques Instructor Training course. Copies of this publication may be inspected at the:~~

~~Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27610~~

~~and may be obtained at the cost of printing and postage from the Academy at the following address:~~

~~North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385~~

~~(f) The Commission certified school that is certified to offer the "Specialized Subject Control Arrest Techniques Instructor Training" course is the North Carolina Justice Academy.~~

Authority G.S. 17C-6.

SECTION .0400 - MINIMUM STANDARDS FOR COMPLETION OF TRAINING

12 NCAC 09B .0404 TRAINEE ATTENDANCE

(a) Each trainee enrolled in a ~~certified~~ Commission-accredited Basic Law Enforcement Training Course shall attend all class sessions. The school director shall monitor the trainee's

attendance at criminal justice training courses in which the trainee is enrolled.

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

(c) If the school director grants an excused absence from a class session, he or she shall schedule make-up work and ensure the completion of such work during the current course presentation. The school director shall schedule instructors and reimburse those instructors for the purpose of completion of the make-up work. Absences that occur during the last 40 hours of the training course may be made up in a subsequent delivery; however, the school director shall notify the Standards Division prior to scheduling the make-up work. Make-up work shall consist of an in-person, one-hour instruction period for each hour of missed training, in the lesson plan where the missing training occurred, and shall be taught by an instructor certified to teach that block of instruction.

(d) If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in instruction for an individual trainee in a specific course delivery, not to exceed 90 hours, when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to this Section shall be posted on the CJETS website at <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(e) the School Director shall provide the following information to the Director of the Criminal Justice Standards Division for consideration of a waiver under Paragraph (d) of this Rule:

- (1) a memorandum justifying the absence waiver;
- (2) specific documentation related to the trainee's request; and
- (3) a training completion plan pursuant to Paragraph (c) of this Rule.

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

(g) Where a trainee is enrolled in a program as required in 12 NCAC 09B .0212, .0213, .0214, .0215, .0218, .0219, .0220, .0221, .0222, .0237, .0238, .0239, or .0240, and the scheduled course hours exceed the requirements of the Commission, the trainee, upon the authorization of the school director, may be

deemed to have satisfactorily completed the required number of hours for attendance provided the trainee's attendance is not less than 100 percent of the instructional hours as required by the Commission.

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

(i) A trainee, enrolled in a presentation of the "Specialized Firearms Instructor Training" course under Rule .0226 of this Subchapter, the "Specialized Driver Instructor Training" course under Rule .0227 of this Subchapter, the "~~Specialized Subject Control Arrest Techniques~~ Compliance and Control Tactics Instructor Training" course under Rule .0232 of this Subchapter, ~~or~~ the "Specialized Physical Fitness Instructor Training" course under Rule .0233 of this Subchapter, the "Specialized Explosives and Hazardous Materials Emergencies Instructor Training" course under Rule .0417 of this Subchapter, or the "Juvenile Justice Specialized Instructor Training – Restraints, Controls and Defensive Techniques" course under Rule .0241 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism. Make-up work shall consist of an in-person, one-hour instruction period for each hour of missed training, in the lesson plan where the missing training occurred, and shall be taught by an instructor certified to teach that block of instruction.

(j) The Director of the Criminal Justice Standards Division may grant a waiver for completion of course requirements in a course delivery scheduled within 12 months, for just cause based upon the circumstances that created the need for the absence. For the purposes of this Rule, "just cause" includes an accident, illness, emergency, or course cancellation that precluded the student from completing the entire course in one continuous course delivery.

(k) A trainee, enrolled in a presentation of the "RADAR Instructor Training Course" under Rule .0210 of this Subchapter, the "Time-Distance Instructor Training Course" under Rule .0211 of this Subchapter, or the "LIDAR Instructor Training Course" under Rule .0237 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism. Make-up work shall consist of an in-person, one-hour instruction period for each hour of missed training, in the lesson plan where the missing training occurred, and shall be taught by an instructor certified to teach that block of instruction.

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

12 NCAC 09B .0405 COMPLETION OF BASIC LAW ENFORCEMENT TRAINING COURSE

(a) Each delivery of ~~an accredited basic training course~~ a Commission-accredited Basic Law Enforcement Training Course (BLET) includes all ~~units~~ modules as specified in Rule .0205 of this Subchapter. Each trainee shall attend and satisfactorily complete the full course as specified in Paragraph (b) of this Rule

during a scheduled delivery. The school director may develop supplemental rules as set forth in Rule .0202(a)(7) of this Subchapter, but may not add substantive courses, or change or expand the substance of the courses as set forth in Rule .0205 of this Subchapter for purposes of Commission credit. 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 of the Standards Division may issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the trainee provides evidence that:

- (1) the trainee attended and satisfactorily completed specified class hours and topics of ~~Basic Law Enforcement Training Course~~ BLET but through extended absence occasioned by illness, accident, emergency, or other good cause was absent for more than five 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 five percent of the total class hours for the course offering and the school director has obtained approval from the Standards Division pursuant to Rule .0404 of this Section for make up work to be completed in a subsequent enrollment; or
- (3) the trainee participated in a ~~BLET~~ BLET ~~an accredited~~ course but had an identified deficiency in essential knowledge or skill in no more than two of the specific topic areas incorporated in course content as prescribed under Rule .0205 of this Subchapter;

The trainee who is deficient in more than two topical areas shall be dismissed from the course delivery and shall be required to complete a subsequent training delivery in its entirety.

(b) The trainee shall demonstrate proficiency in the school's cognitive topical area tests by achieving a minimum score of 70 percent on each topical area test and shall also demonstrate proficiency in the motor skills and performance subjects:

- (1) a trainee who fails to achieve a passing score on the first attempt shall have one opportunity for reexamination following remediation;
- (2) a trainee shall be allowed failure, remediation, and reexamination in no more than four topical area tests;
- (3) upon initial failure of a fifth topical area test, the trainee shall not be allowed remediation or reexamination and shall be immediately dismissed from the course and shall be required to complete a subsequent delivery of ~~the Basic Law Enforcement Training~~ BLET in its entirety.

(c) An authorization of limited enrollment in a subsequent delivery of the ~~Basic Law Enforcement Training Course~~ BLET may not be issued by the Standards Division unless in addition to the evidence required by Paragraph (a) of this Rule:

- (1) The school director of the previous course offering submits to the Standards Division a certification of the particular topics and class

hours attended and satisfactorily completed by the trainee during the original enrollment; and

- (2) The school director makes written application to the Standards Division for authorization of the trainee's limited enrollment.

(d) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of ~~the Basic Law Enforcement Training Course~~ BLET commencing within 120 calendar days from the date of administration of the state comprehensive examination in the trainee's prior course delivery.

- (1) The trainee shall attend and satisfactorily complete in its entirety each topical area identified by the school director as an area of trainee deficiency in the prior course participation with the exception of the ~~"Physical Fitness"~~ "Officer Health and Wellness" topical area.

(2) There are two options available for satisfying a deficiency in the ~~"Physical Fitness"~~ "Officer Health and Wellness" topical area with the school director's approval:

- (A) the student shall be allowed to make up the deficiency at the original training site without enrolling in a subsequent delivery of BLET. Under this option, the student shall be given 120 calendar days from the date that the comprehensive state examination was administered to the original BLET course in order to successfully satisfy this deficiency. Students who select this option shall be allowed two attempts to complete the entire Police Officer Physical Abilities Test (POPAT) Course with a minimum of 24 hours of rest between attempts during the 120-day period to satisfy the deficiency; or

- (B) the student shall be allowed to enroll in a subsequent delivery of BLET as a "limited enrollee." This delivery shall begin within 120 calendar days from the date that the comprehensive state examination was administered to the original BLET course in order to successfully satisfy this deficiency. Students who select this option shall be allowed two attempts to complete the entire POPAT Course with a minimum of 24 hours of rest between attempts during the delivery period of the subsequent BLET course.

A certified ~~"Physical Fitness"~~ "Officer Health and Wellness" instructor is the only person qualified to administer and grade the fitness re-test. At the time of the re-test, the school director or the Qualified Assistant shall be present.

- (3) Following limited enrollment in the subsequent course offering, scheduled class attendance,

and active participation with passing grades on all required topic and motor-skill tests, and having no deficiencies, the trainee shall be eligible for administration of the State comprehensive written examination by the Commission, as set forth in Rule .0406 of this Section.

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

12 NCAC 09B .0406 COMPREHENSIVE WRITTEN STATE EXAMINATION – BASIC LAW ENFORCEMENT TRAINING

(a) Within 60 days of the conclusion of a school's offering of the Commission-accredited Basic Law Enforcement Training Course, the Commission shall administer a comprehensive written state examination online via the Acadis platform to each trainee who has completed all of the required course work pursuant to Rule .0405 of this Section. A trainee shall not be administered the comprehensive written state examination until such time as all of the course work is completed or he or she is granted a medical waiver by the Director of the Criminal Justice Standards Division in accordance with Paragraph ~~(f)~~(e) of this Rule.

~~(b) The examination shall be comprised of six units as specified in 12 NCAC 09B .0205(b).~~

~~(e)(b)~~ The Commission's representative shall submit to the school director within five business days of the administration of the examination a report of the results of the test for each trainee examined.

~~(d)(c)~~ A trainee shall achieve a passing score on the comprehensive written state examination upon answering a minimum of 70 percent of the questions correctly, ~~correctly on~~ each of the six units as prescribed in Paragraph (b) of this Rule.

~~(e)(d)~~ A trainee who has participated in a scheduled delivery of an accredited training course the Commission-accredited Basic Law Enforcement Training Course and has achieved a passing score in each motor-skill or performance area of the course curriculum and has achieved a minimum score of 60 percent but below the passing score of 70 percent on no more than two units of the Commission's comprehensive written state examination may request the Director of the Standards Division to authorize a re-examination of the trainee; trainee in only those units for which he or she failed to make a passing score of 70 percent:

- (1) The trainee's request for re-examination shall be made in writing on the Commission's Re-Examination Request ~~form~~ form (F-23), and shall be received by the Standards Division within 30 days of the examination. ~~The Re-examination Request form is located on the agency's website: http://nedoj.gov/getdoc/ceb72ee9-fa01-4664-a7a0-ef33ac0941cc/Exam-Admission-Form_F_23_4_19-17.aspx.~~ The examination request form shall include the following information:
 - (A) first-time examination training type;
 - (B) trainee information; and

- (C) school information and appropriate signatures.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the course(s).
- (3) A trainee shall have, within 60 days of the original examination(s), only one opportunity for re-examination and shall achieve a passing score of 70 percent. ~~score on the subsequent unit examination.~~
- (4) The trainee shall be assigned in writing by the Director of the Standards Division a place, time, and date for re-examination.
- (5) Should the trainee on re-examination not achieve a minimum score of 70 percent on the examination, the trainee shall not be eligible for probationary certification, as prescribed in 12 NCAC 09C .0303(d). The trainee shall enroll and complete a subsequent offering of the Basic Law Enforcement Training Course before further examination is permitted.

~~(f)(e)~~ A trainee who sustains injury prior to the final POPAT attempt and who achieved a passing score on the last attempt, who has completed the required coursework with the exception of the final POPAT, may request from the Director of the Criminal Justice Standards Division a medical waiver to take the comprehensive written examination prior to completion of the final POPAT. The medical waiver request shall include the following information:

- (1) a memorandum from the School Director justifying a ~~medical waiver;~~ waiver;
- (2) copies of the last POPAT assessment; and
- (3) medical documentation from a ~~surgeon,~~ practitioner practitioner, holding a current medical license, showing the diagnosis of the injury and the estimated medical release date.

Upon receipt of the information contained in this Paragraph, the Director of the Criminal Justice Standards Division shall approve the medical waiver request. The School Director shall submit the medical waiver approval from the Director of the Criminal Justice Standards Division with the comprehensive state examination admission form. The trainee must complete the final POPAT attempt within 120 calendar days of the original comprehensive state written examination date.

~~(g)(f)~~ A trainee who fails to achieve a passing minimum score of ~~70~~ 60 percent on ~~three or more of the units as set forth in Rule .0205(b) of this Subchapter~~ the comprehensive state examination shall not be given the opportunity for re-examination, ~~and shall enroll in a complete a subsequent offering of the Commission-accredited Basic Law Enforcement Training Course.~~

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

12 NCAC 09B .0414 COMPREHENSIVE WRITTEN STATE EXAM -SPECIALIZED INSTRUCTOR TRAINING

(a) The Commission shall administer a comprehensive written state examination within 60 days of the completed required course work for the following courses:

- (1) Specialized Firearms Instructor Training;
- (2) Specialized Driver Instructor Training;
- (3) Specialized ~~Subject Control Arrest Techniques~~ Compliance and Control Tactics Instructor Training;
- (4) Specialized Physical Fitness Instructor Training;
- (5) Specialized Explosives and Hazardous Materials Emergencies Instructor Training;
- (6) Radar Instructor Training;
- (7) Criminal Justice Time-Distance/Speed Measurement Instrument (TD/SMI) Instructor Training;
- (8) LIDAR Instructor Training;
- (9) Re-Certification Training for Radar Instructors;
- (10) Re-Certification Training for TD/SMI Instructors; and
- (11) Re-Certification Training for LIDAR Instructors.

(b) The examination shall be an objective test covering the topic areas contained in the certified course curriculum.

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

(d) A trainee shall achieve a passing score on the comprehensive written state examination if he or she achieves 75 percent correct answers.

(e) A trainee who fails to achieve a minimum score of 75 percent on the Commission's comprehensive written state examination shall enroll and complete a subsequent offering of the specialized instructor training course before further examination may be permitted.

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

12 NCAC 09B .0415 SATISFACTION OF MINIMUM TRAINING - SPECIALIZED INSTRUCTOR

(a) To acquire successful completion of the "Specialized Firearms Instructor Training," "Specialized Driver Instructor Training," "Specialized Compliance and Control Tactics ~~Subject Control Arrest Techniques~~ Instructor Training," "Specialized Physical Fitness Instructor," and the "Specialized Explosives and Hazardous Materials Emergencies Instructor Training" courses, the trainee ~~shall~~ shall satisfactorily complete all required coursework and demonstrate proficiency in all required motor-skill and performance subjects as specified in 12 NCAC 09B .0226, 09B .0227, 09B .0232, 09B .0233, or 09B .0417 of this Section.

- (1) ~~satisfactorily complete all required coursework as specified in the course abstract of the "Specialized Firearms Instructor Training Manual," the "Specialized Driver Instructor~~

~~Training Manual," the "Specialized Subject Control Arrest Techniques Instructor Training Manual," the "Specialized Physical Fitness Instructor Training Manual," and the "Specialized Explosives and Hazardous Materials Instructor Training Manual " as published by the North Carolina Justice Academy and~~

- (2) ~~demonstrate proficiency in all required motor-skill and performance subjects as specified in each specialized instructor training manual.~~

(b) Should a trainee fail to meet the minimum criteria on a motor skill or performance area, he or she shall be authorized one opportunity for a re-test at the discretion of the school director. Such re-test must be completed during the original course and prior to the trainee's being administered the comprehensive written state examination. Failure to meet the required criteria on a re-test requires enrollment in a subsequent course.

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

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0200 - FORMS

12 NCAC 09C .0212 POST-DELIVERY REPORT OF TRAINING COURSE PRESENTATION

The Post-Delivery Report of Training Course Presentation, is a form on which the School Director notifies the Commission of the completion of the ~~"Basic Law Enforcement Training" course,~~ Commission-accredited Basic Law Enforcement Training Course, together with the achievement and performance level attained by each enrolled trainee. The information requested includes ~~a roster of all trainees enrolled and their employing agencies,~~ a listing of each instructor used in delivering the training with topics presented, and the trainees' scores on each written, oral or motor-skill examination administered by the school. The Student Course Completion form, a part of the Post-Delivery Training Course Report, shall include student name; date of birth; ~~Social Security Number;~~ Acadis individual identification number, enrollment status; accredited school identification number; course identification number; student scores in each of the topical areas; and score on the State Comprehensive Examination.

Authority G.S. 17C-6; 150B-21.2.

SECTION .0400 - ACCREDITATION OF CRIMINAL JUSTICE SCHOOLS AND TRAINING COURSES

12 NCAC 09C .0403 REPORTS OF TRAINING COURSE PRESENTATION AND COMPLETION

(a) Each presentation of the ~~"Basic Law Enforcement Training" course~~ a Commission-accredited training 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 notify the Commission of the school's intent to offer the training course

by submitting a Form ~~F-10A~~ ~~F-10A(LE)~~ Pre-delivery Report of Training Course Presentation; and

- (2) Not more than 10 days after completing delivery of the accredited course, the school director shall notify the Commission regarding the progress and achievement of each enrolled trainee by submitting a Form ~~F-10B~~ ~~F-10B(LE)~~ Post-delivery Report of Training Course ~~Presentation~~. Presentation and entering all student scores and class documents in the Acadis platform.

~~Forms F-10A(LE) and F-10B(LE) are located on the agency's website at: <http://www.ncdoj.gov/AboutDOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>.~~

~~Note: Special arrangements shall be made between the Standards Division and the school director for the reporting of law enforcement achievement in a Public Safety Officer course.~~

(b) Upon completion of a Commission-accredited training course by Juvenile Justice Officer and Chief/Juvenile Court Counselor trainees, the director of the school conducting such course shall notify the Commission of the achievement of trainees by submitting a Report of Training Course Completion (Form F-11). ~~This form is located on the agency's website: <http://www.ncdoj.gov/getattachment/fbf3480e-05a1-4e0e-a81a-04070dea6199/F-11-Form-10-2-14.pdf.aspx>.~~

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

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 33 - MIDWIFERY JOINT COMMITTEE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Midwifery Joint Committee intends to adopt the rules cited as 21 NCAC 33 .0112, .0114-.0120 and amend the rules cited as 21 NCAC 33 .0101, .0103 - .0105, and .0111.

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

Proposed Effective Date: October 1, 2024

Public Hearing:

Date: July 9, 2024

Time: 1:00 p.m.

Location: 4516 Lake Boone Trail, Raleigh, NC 27607

Reason for Proposed Action: *In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 permanent rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the*

Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law became effective October 1, 2023. Temporary rules were adopted by the MJC to protect the health and safety of the public, clarify the MJC’s requirements for midwifery practice and meet the legislature’s charge to promulgate rules to carry out this Law. Permanent rules are proposed for adoption to replace the current temporary rules.

Comments may be submitted to: Angela Ellis, PO Box 2129, Raleigh, NC 27602-2129; email lawsrules@ncbon.com

Comment period ends: August 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 – MIDWIFERY JOINT COMMITTEE

21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS

(a) The responsibility for administering the provisions of G.S. 90, Article 10A, shall be assumed by an administrative body, the Midwifery Joint Committee, hereinafter referred to as the "Committee." The certified nurse midwife shall hereinafter be referred to as "~~midwife.~~" "CNM".

(b) In addition to the definitions set forth in G.S. 90-178.2, the following shall apply to the rules in this Chapter:

- (1) "~~Primary Supervising Physician~~" means a ~~physician with an active unencumbered license~~

with the North Carolina Medical Board who, by signing the midwife application, shall be held accountable for the on going supervision, consultation, collaboration, and evaluation of the medical acts performed by the midwife, as defined in the site specific written clinical practice guidelines. A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician. A physician in a graduate medical education program who is also practicing in a non training situation may supervise a midwife in the non training situation if he or she is fully licensed. "American Midwifery Certification Board (AMCB)" means the national certifying body for candidates in nurse-midwifery and midwifery who have received their graduate level education in programs accredited by the Accreditation Commission for Midwifery Education.

- (2) "~~Back up Primary Supervising Physician~~" means a physician licensed by the North Carolina Medical Board who, by signing an agreement with the midwife and the primary supervising physician or physicians shall be held accountable for the supervision, consultation, collaboration, and evaluation of medical acts by the midwife in accordance with the site specific written clinical practice guidelines when the primary supervising physician is not available. The signed and dated agreements for each back up primary supervising physician or physicians shall be maintained at each practice site. A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up primary supervising physician. A physician in a graduate medical education program who is also practicing in a non training situation may be a back up primary supervising physician to a midwife in the non training situation if he or she is fully licensed and has signed an agreement with the midwife and the primary supervising physician. "Accreditation Commission for Midwifery Education (ACME)" means an accreditation agency established to advance and promote midwifery education.
- (3) "American College of Nurse-Midwives (ACNM)" means the professional association that represents CNMs and certified midwives (CMs) in the United States. ACNM sets the standard for midwifery education and practice in the United States.
- (4) "American College of Obstetricians and Gynecologists (ACOG)" means the

professional membership organization for obstetrician-gynecologists that produces practice guidelines for healthcare professionals and educational materials for patients, provides practice management and career support, facilitates program and initiatives to improve women's health, and advocates for members and patients.

- (3)(5) "Obstetrics" means a branch of medical science that deals with birth and with its antecedents and sequels, including prenatal, intrapartum, postpartum, newborn or gynecology, and otherwise unspecified primary health services for women.

Authority G.S. 90-178.4.

21 NCAC 33 .0103 ELIGIBILITY AND APPLICATION AND ANNUAL RENEWAL

(a) Applications are posted on the Board of Nursing's website at www.ncbon.com. The following information shall appear on the application:

- (1) the applicant's name, telephone number and email address;
- (2) the applicant's primary address of residence;
- (3) the educational degrees obtained by the applicant with the program name and completion date;
- (4) the number and expiration date of the applicant's national certification from the AMCB;
- (5) other professional or occupational licenses with the license number and jurisdiction in which the license was issued, if applicable;
- (6) the name, license number, telephone number, email address, and practice location of the collaborating provider, if applicable;
- (7) the full address of the practice location where the applicant intends to practice midwifery; and
- (8) the approval to practice number shall be provided on the application if the application is for the renewal or reinstatement of an existing approval to practice.

(a)(b) To be eligible for an approval to practice independently as a midwife, CNM, an applicant shall:

- (1) submit a completed application for approval to practice, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. ~~Application is posted on the Board of Nursing's website at www.ncbon.com;~~ application;
- (2) ~~submit information on the applicant's education, evidence of the applicant's certification by the American College of Nurse Midwives, identification of the physician or physicians who will supervise the applicant,~~

- ~~(3)~~(2) ~~and the sites where the applicant intends to practice midwifery;~~ submit the approval to practice application fee as established in ~~90-178.4(b)(1); G.S. 90-178.4(b)(1) and Rule .0102 of this Section;~~
- ~~(4)~~(3) ~~have an unencumbered registered nurse RN license and midwifery license or approval privilege to practice in all jurisdictions in which a license/approval to practice license is or has ever been held;~~ have an unencumbered registered nurse RN license or midwifery license or approval privilege to practice in all jurisdictions in which a license/approval to practice license is or has ever been held;
- (4) hold an active, unencumbered North Carolina RN license or privilege to practice;
- (5) hold an unencumbered CNM license or an approval to practice in all jurisdictions in which a license or an approval to practice is or has ever been held;
- (6) provide an official copy of the educational transcript and certification from AMCB;
- (7) attest by oath or affirmation to completion of at least 24 months experience and 4,000 practice hours as a CNM. Documentation of successful completion of this requirement shall be provided to the Committee upon request; and
- ~~(5)~~(8) ~~have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee may use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6 and 90-171.37; 90-178.6.~~ have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee may use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6 and 90-171.37; 90-178.6.
- (6) ~~submit a written explanation and all related documents if the midwife has ever been listed as a nurse aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Committee may take these findings into consideration when determining if an approval to practice should be denied pursuant to G.S. 90-178.6. In the event findings are pending, the Committee may withhold taking any action until the investigation is completed; and~~ submit a written explanation and all related documents if the midwife has ever been listed as a nurse aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Committee may take these findings into consideration when determining if an approval to practice should be denied pursuant to G.S. 90-178.6. In the event findings are pending, the Committee may withhold taking any action until the investigation is completed; and
- (7) ~~complete a criminal background check in accordance with G.S. 90-171.48.~~ complete a criminal background check in accordance with G.S. 90-171.48.

~~In the event that any of the information required in accordance with this Paragraph should indicate a concern about the applicant's qualifications, an applicant may be required to appear in person for an interview with the Committee if the Committee determines in its discretion that more information is needed to evaluate the application.~~

~~(b)(c) Each midwife shall annually renew their An applicant seeking approval to practice with the Committee no later than the last day of the midwife's birth month by: with less than 24 months experience and 4,000 hours of practice as a CNM is required to practice in collaboration with a collaborating provider and shall:~~ Each midwife shall annually renew their An applicant seeking approval to practice with the Committee no later than the last day of the midwife's birth month by: with less than 24 months experience and 4,000 hours of practice as a CNM is required to practice in collaboration with a collaborating provider and shall:

- (1) submitting a completed submit an application for renewal, an approval to practice, attesting

- (2) under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. Applications are located on the Board of Nursing's website at www.ncbon.com;
- (2) attest to having completed the requirements of the Certificate Maintenance Program of the American College of Nurse Midwives, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Section; submit the approval to practice application fee as established in G.S. 90-178.4(b) and Rule .0102 of this Chapter;
- (3) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2); hold an unencumbered license or privilege to practice in all jurisdictions in which a license is or has ever been held;
- (4) hold an active, unencumbered North Carolina RN license or privilege to practice;
- (5) hold an unencumbered CNM license or an approval to practice in all jurisdictions in which a license or an approval to practice is or has ever been held;
- (6) provide an official copy of the education transcript and certificate from AMCB;
- (7) submit the name and licensure number of the collaborating provider with whom the applicant will collaborate;
- (8) have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee may use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6.

(d) Once a CNM has attained 24 months experience and 4,000 hours of practice as a CNM, the CNM shall apply for independent practice by submitting an application attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application and required fee.

(e) All educational transcripts and certification shall be submitted directly to the Committee from the primary source.

(f) An applicant shall be required to appear in person for an interview with the Committee if there is a discrepancy in the information submitted.

Authority G.S. 90-178.4(b); 90-178.5.

21 NCAC 33 .0104 PHYSICIAN SUPERVISION PROVIDER COLLABORATION REQUIRED

The applicant shall furnish the committee evidence that the applicant will perform the acts authorized by the Midwifery Practice Act under the supervision of a physician who is actively

engaged in the practice of obstetrics in North Carolina. Such evidence shall include a description of the nature and extent of such supervision and a delineation of the procedures to be adopted and followed by each applicant and the supervising physician responsible for the acts of said applicant for rendering health care services at the sites at which such services will be provided. Such evidence shall include:

- (1) mutually agreed upon written clinical practice guidelines that define the individual and shared responsibilities of the midwife and the supervising physician or physicians in the delivery of health care services;
- (2) mutually agreed upon written clinical practice guidelines for ongoing communication that provide for and define appropriate consultation between the supervising physician or physicians and the midwife;
- (3) periodic and joint evaluation of services rendered, such as chart review, case review, patient evaluation, and review of outcome statistics; and
- (4) periodic and joint review and updating of the written medical clinical practice guidelines.

(a) A CNM who has practiced fewer than 24 months and 4,000 hours of practice as a CNM shall practice in consultation with a collaborating provider in accordance with a collaborative provider agreement in compliance with Rule .0116 of this Chapter.

(b) The approval to practice of the CNM practicing under the supervision of a collaborative provider agreement is terminated when the CNM discontinues working within the approved collaborative provider agreement or experiences an interruption in their RN licensure status. The CNM shall notify the Committee in writing within five days of the termination of the collaborative provider agreement.

(c) The CNM shall have 90 days to submit a newly-executed collaborative provider agreement with a collaborative provider to the Committee. During this 90-day period, the CNM may continue to practice midwifery in accordance with the Midwifery Practice Act and this Chapter. Should the 90-day period expire without a newly-executed collaborative provider agreement being submitted to the Committee, the approval to practice is rendered inactive and the CNM shall be required to submit an application for reinstatement of the approval to practice consistent with Rule .0103 and Rule .0115 of this Chapter. The Committee shall notify the CNM when the application has been approved and the approval to practice is reinstated.

(d) To be eligible a collaborative provider shall:

- (1) hold an active, unencumbered approval to practice as a CNM and have a minimum of 4 years and 8,000 hours of practice as a CNM; or
- (2) hold an active, unencumbered license to practice medicine in North Carolina and be actively engaged in the practice of obstetrics.

(e) A CNM who has practiced over 24 months and has 4,000 hours of practice as a CNM shall be issued an approval to practice midwifery independently and shall consult and collaborate with and refer patients to such other healthcare providers as appropriate for the care of the patient.

Authority G.S. 90-178.4(b).

21 NCAC 33 .0105 DISCIPLINARY ACTION

(a) The midwife CNM is subject to G.S. 90-171.37; 90-171.37, 90-171.48 and 21 NCAC 36 .0217 by virtue of the license to practice as a registered nurse, RN.

(b) After notice and hearing in accordance with provisions of G.S. 150B, Article 3A, the Committee may take disciplinary action if it finds one or more of the following:

- (1) practicing without a valid approval to practice as a CNM;
- (2) presenting false information to the Committee in procuring or attempting to procure an approval to practice as a CNM;
- (3) the CNM is adjudicated mentally incompetent by a court of competent jurisdiction or the CNM's mental or physical condition renders the CNM unable to safely function as a CNM;
- (4) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the prevailing standards for CNMs as set forth by ACNM;
- (5) conviction of a criminal offense where the CNM has deceived or defrauded the public;
- (6) soliciting or attempting to solicit payments for the CNM practice with false representations;
- (7) failure to maintain professional competence as a CNM such that the CNM would no longer be eligible for certification by the AMCB;
- (8) exploiting the patient, including the promotion of the sale of services, appliances, or drugs, for the financial gain of the CNM or of a third party;
- (9) failure to respond to inquiries of the Committee for investigation and discipline;
- (10) the CNM has engaged or attempted to engage in the performance of midwifery acts other than according to the collaborative provider agreement or without being approved by the Committee to practice independently;
- (11) failure to obtain a written, informed consent agreement from a patient;
- (12) practiced or offered to practice beyond the scope of CNM practice as defined in Rule .0112 of this Chapter;
- (13) failure to comply with any order of the Committee;
- (14) violating any term of probation, condition, or limitation imposed on the CNM by the Committee; or
- (15) any violation within this Chapter.

(b)(c) After an investigation is completed, the Committee may recommend one of the following:

- (1) dismiss the case;
- (2) issue a private letter of concern;
- (3) enter into negotiation for a Consent Order; or
- (4) a disciplinary hearing in accordance with G.S. 150B, Article 3A.

(d) Upon a finding of a violation of Chapter 90, Article 10A of the General Statutes and the rules of this Chapter, the Committee may utilize the range of disciplinary actions as enumerated in G.S. 90-178.6 and 90-178.7.

Authority G.S. 90-178.6.

21 NCAC 33 .0111 CONTINUING EDUCATION (CE)

(a) In order to maintain an approval to practice midwifery, a midwife CNM shall meet the requirements of the Certificate Maintenance Program of the American College of Nurse-Midwives, AMCB, including continuing education requirements. Every midwife who prescribes controlled substances shall complete at least one hour of continuing education (CE) hours annually consisting of CE designated specifically to address controlled substances prescribing practices, signs of the abuse or misuse of controlled substances, and controlled substance prescribing for chronic pain management. Documentation of continuing education shall be maintained by the midwife for the previous five calendar years and made available upon request to the Committee. These requirements are hereby incorporated by reference, including subsequent amendments or editions, and may be accessed at no cost at: <https://www.amcbmidwife.org/certificate-maintenance-program/purpose-objectives>.

(b) Prior to prescribing Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Act, CNMs shall complete a minimum of one CE hour within the preceding 12 months on 1 or more of the following topics:

- (1) Controlled substances prescription practices;
- (2) Prescribing controlled substances for chronic pain management;
- (3) Recognizing signs of controlled substance abuse or misuse; or
- (4) Non-opioid treatment options as an alternative to controlled substances.

(c) CNMs who complete the federally required training under the Medication Access and Training Expansion Act (MATE, 21 U.S.C. 823(1)) shall be deemed in compliance with the controlled substance prescribing requirements of this Rule for the two year CE period in which the MATE training is completed.

(d) CNMs shall maintain documentation of all CE completed within the previous five years and provide a copy to the Committee upon request.

Authority: G.S. 90-5.1; 90-14(a)(15); 90-178.5(2); S.L. 2015-241, s. 12F .16(b).

21 NCAC 33 .0112 SCOPE OF PRACTICE

The CNM's scope of practice is defined by academic educational preparation and national certification and maintained competence. Scope of practice is set by ACNM at https://www.midwife.org/acnm/files/acnmlibrarydata/uploadfile/name/000000000266/Definition%20Midwifery%20Scope%20of%20Practice_2021.pdf, is available at no cost, and is hereby incorporated by reference, including subsequent amendments and editions. Scope of practice includes:

- (1) diagnosing, treating, and managing a full range of primary healthcare services to the patient throughout the lifespan, including gynecologic care, family planning services, preconception care, prenatal and postpartum care, childbirth, and care of the newborn;
- (2) treating patients and their partners for sexually transmitted diseases and reproductive health;
- (3) providing care in home, hospital, birth center, and a variety of ambulatory care settings including private offices and community and public health clinics;
- (4) prescribing, administering, and dispensing therapeutic measures, tests, procedures, and drugs;
- (5) planning for situations beyond the CNM's scope of practice and expertise by collaborating, consulting with, and referring to other healthcare providers as appropriate; and
- (6) evaluating health outcomes.

Authority G.S. 90-18.8; 90-178.3.

21 NCAC 33 .0114 ANNUAL RENEWAL

(a) The CNM shall renew the approval to practice annually no later than the last day of the applicant's birth month by:

- (1) maintaining an active, unencumbered North Carolina RN license or privilege to practice;
- (2) submitting a completed application as outlined in Rule .0103 of this Chapter for renewal, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application;
- (3) attesting to having completed the requirements of the Certificate Maintenance Program of the AMCB or its successor, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Chapter; and
- (4) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2) and this Chapter.

(b) It shall be the duty of the CNM to keep the Committee informed of a current mailing address, telephone number, and email address.

(c) If the CNM has not renewed by the end of his or her birth month and submitted the annual fee, the approval to practice shall expire.

Authority G.S. 90-178.4(b); 90-178.5.

21 NCAC 33 .0115 INACTIVE STATUS

(a) Any CNM who wishes to place their approval to practice on an inactive status shall notify the Committee in writing of the effective date which the CNM will no longer practice.

(b) A CNM with an inactive approval to practice status shall not practice as a CNM.

(c) A CNM with an inactive approval to practice status who reapplies for an approval to practice shall meet the qualifications for an approval to practice in Rule .0103 of this Chapter and shall not resume practicing until notification is received that the Committee has approved the application.

(d) A CNM who has not practiced as a CNM in more than two years immediately preceding the filing of an application for reinstatement of the approval shall follow the Reentry Guidelines for CNMs which are hereby incorporated by reference, including subsequent amendments or editions and are available at no cost at: <http://www.midwife.org/Re-entry-Guidelines-for-CNMs/CMs>.

Authority G.S. 90-178.3; 90-178.5.

21 NCAC 33 .0116 COLLABORATIVE PROVIDER AGREEMENT

(a) A CNM with less than 24 months and 4,000 hours of practice as a CNM is required to have a written collaborative provider agreement to practice midwifery. The collaborative provider agreement shall:

- (1) be agreed upon, signed, and dated by both the collaborating provider and the CNM, and maintained in each provider site;
- (2) be reviewed at least annually, to ensure that the CNM and collaborating provider continue to practice under the terms of the agreement and determine whether any changes to the agreement are necessary. This review shall be acknowledged by a dated signature sheet, signed by both the collaborating provider and the CNM, appended to the collaborative provider agreement, and available for inspection by the Committee;
- (3) include mutually agreed upon written clinical practice guidelines for the drugs, devices, medical treatments, tests, and procedures that may be prescribed, ordered, and performed by the CNM; and
- (4) include a pre-determined plan for emergency services.

(b) The collaborating provider and the CNM shall be available to each other for consultation by in-person communication or telecommunication.

(c) The CNM shall maintain copies of all collaborative provider agreements executed within the previous five years and make available to the Committee upon request.

Authority G.S. 90-18.8; 90-178.3; 90-178.4; 90-178.5.

21 NCAC 33 .0117 PRESCRIBING AUTHORITY

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

(b) A CNM must possess a valid United States Drug Enforcement Administration ("DEA") registration in order to prescribe controlled substances.

(c) To act as a collaborating provider for a CNM, the DEA registration of the collaborating provider shall include the same schedule(s) of controlled substances as the CNM practicing under a collaborative provider agreement.

(d) Prescribing and dispensing stipulations for the CNM authorized to practice under a collaborative provider agreement are as follows:

- (1) The collaborative provider agreement outlined in Rule .0116 of this Chapter shall include the drugs and devices that the CNM may prescribe.
- (2) The CNM has an assigned DEA number that is entered on each prescription for a controlled substance.
- (3) Refills may be issued consistent with Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) as defined by the State and Federal Controlled Substances Act.
- (4) The collaborative provider shall possess a schedule(s) of controlled substances equal to or greater than the CNM's DEA registration.
- (5) The CNM may prescribe a drug or device not included in the collaborative provider agreement only as follows:
 - (A) Upon a specific written or verbal order obtained from the collaborating provider before the prescription or order is issued by the CNM; and
 - (B) The written or verbal order as described in Part (d)(5)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a collaborating provider and signed by the CNM and the collaborating provider.

(e) All prescribing requirements shall be written in the patient's chart and shall include the medication and dosage, the amount prescribed, the directions for use, the number of refills, and the signature of the CNM.

(f) The prescriptions issued by the CNM shall contain:

- (1) the name of the patient;
- (2) the CNM's name, approval to practice number issued by the Committee, and telephone number; and
- (3) the CNM's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed.

(g) A CNM shall not prescribe controlled substances for the CNM's own use, the use of the CNM's collaborating provider, the use of the CNM's immediate family, the use of any other person living in the same residence as the CNM, or the use of any person with whom the CNM is having a sexual relationship. As used in this Paragraph, "immediate family" means a spouse, parent, child, sibling, parent-in-law, son-in-law or daughter-in-law, brother-in-law or sister-in-law, step-parent, step-child, or step-sibling.

Authority G.S. 90-18.8; 90-178.3.

21 NCAC 33 .0118 BIRTH OUTSIDE HOSPITAL SETTING

(a) Prior to initiating care for a patient planning a home birth outside of a hospital setting, the CNM shall be required to:

- (1) obtain a signed, written informed consent agreement with the patient that details:
 - (A) identifying information of the patient to include name, date of birth, address, phone number, and email address if available;
 - (B) identifying information of the CNM to include the name, RN license number, approval to practice number, practice name, if applicable, and email address;
 - (C) information about the procedures, benefits, and risks of planned births outside of hospital settings;
 - (D) an acknowledgment and understanding of the clear assumption of these risks by the patient;
 - (E) when and if deemed necessary by the CNM, an acknowledgment by the patient to consent to transfer to a healthcare facility licensed under Chapter 122C or Chapter 131E of the General Statutes that has at least one operating room; and
 - (F) a disclosure that the CNM is not covered under a policy of liability insurance, if applicable.
- (2) The CNM shall provide a detailed, written plan of care consistent with G.S. 90-178.4(a2).
- (3) After a decision of non-emergent transfer of care has been made, the CNM shall:
 - (A) call the relevant receiving healthcare facility to notify them of transfer;
 - (B) provide a copy of the patient's medical record to the receiving healthcare facility; and
 - (C) provide a verbal summary of the care provided by the CNM to the patient and newborn, if applicable, to the receiving healthcare facility.
- (4) In an emergent situation, the CNM shall initiate emergency care as indicated by the situation and immediately transfer care by making a reasonable effort, dependent upon the circumstances and nature of the emergency, to contact the healthcare professional or facility to whom the patient(s) will be transferred and to follow the healthcare professional's instructions; remain with the patient(s) until transfer of care is completed; and continue emergency care as needed while:
 - (A) transporting the patient(s) by private vehicle; or
 - (B) calling 911 and reporting the need for immediate transfer.

(b) Copies of the informed consent agreement and emergent and non-emergent transfer of care plans shall be maintained in the patient's record and provided to the Committee upon request.

(c) In addition to the requirements in this Rule, a CNM who attends and provides midwifery services for a planned home birth are prohibited from providing services in the following settings/situations:

- (1) fetal malpresentation;
- (2) multiple gestation; and
- (3) prior cesarean.

Authority G.S. 90-18.8; 90-178.3; 90-178.4.

21 NCAC 33 .0119 PETITIONING FOR RULEMAKING

(a) Any person wishing to submit a petition to the Committee requesting the adoption, amendment, or repeal of a rule shall file the petition with the Committee Chair. Petitions shall be mailed to the Midwifery Joint Committee at Post Office Box 2129, Raleigh, NC 27602-2129.

(b) The petition shall contain the following information:

- (1) a proposed draft of the rule to be adopted, amended, or a citation to the rule to be repealed;
- (2) a statement of the reason for the proposal including statutory authority;
- (3) effect of the proposed rule change on the practice of midwifery;
- (4) any data supporting the proposal including cost factors; and
- (5) name, address, and telephone number of each petitioner.

(c) The Committee shall determine whether the public interest would be served by the adoption, amendment, or repeal of the requested rule. Prior to making this determination, the Committee may:

- (1) request additional information from the petitioner;
- (2) contact interested persons or those likely to be affected by the proposed rule and request comments; and
- (3) use any other method for obtaining information on which to base its determination. It shall consider all the contents of the petition submitted plus any other information obtained by the means described herein.

(d) The Committee shall act on a petition within the timeframe outlined in G.S. 150B-20.

Authority G.S. 150B-20; 90-171.23(b)(3).

21 NCAC 33 .0120 CONTACT

The mailing address for the Midwifery Joint Committee is Post Office Box 2129, Raleigh, NC, 27602-2129.

Authority G.S. 150B-20; 90-171.23(b)(3).

CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners in Optometry intends to amend the rule cited as 21 NCAC 42B .0202.

Link to agency website pursuant to G.S. 150B-19.1(c): https://docs.google.com/document/d/1_myCtrkF2FzUXboKz0VpwF8L5XZx1ZYK

Proposed Effective Date: October 1, 2024

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Contact the Board at its mailing address or by calling (910) 285-3160 or via email to: janice@ncoptometry.org

Reason for Proposed Action: To update the Rule and align it with statute regarding renewal requirement.

Comments may be submitted to: Janice K Peterson, 521 Yopp Rd., Suite 214 #444, Jacksonville, NC 28540; phone (910) 285-3160; fax (910) 285-4546; email janice@ncoptometry.org

Comment period ends: August 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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

SUBCHAPTER 42B - LICENSE TO PRACTICE OPTOMETRY

SECTION .0200 - RESPONSIBILITY TO SUPPLY INFORMATION

21 NCAC 42B .0202 BRANCH OFFICE

(a) A branch office is any location, facility, or mobile facility, other than an optometrist's primary office location, in which the optometrist provides professional optometric services.
(b) Before opening or beginning practice in a branch office, an optometrist must obtain a duplicate branch license to which shall be displayed in the branch office, accordance with G.S. 90-118.2. The application for a branch office license must be made on Form BEO-3, which can be acquired from the Board, through the individual licensee's portal on the Board's website.
(c) Each branch office must comply with the requirements for maintaining appropriate medical equipment and record keeping in accordance with 21 NCAC 42E .0102(2) and 42E .0102(5). If in the opinion of the Board Rules 42E .0102(2) and 42E .0102(5) of this Chapter are met, the Board shall notify the optometrist making application of the approval of the request and upon Upon receipt of a completed branch office application and the required fee required by G.S. 90-123, the Board, subject to G.S. 90-121.2 shall issue such duplicate branch office license. license shall be issued by the Board for the purpose of display in the branch office for which it is issued in compliance with G.S. 90-118.2 and 90-118.4. A duplicate branch office license is not transferable from one practice location to another, nor from one practitioner to another. Within the meaning of this Rule a nursing home is considered a branch office when there is an agreement between the optometrist or his representative that he will provide optometric services on a scheduled basis within the nursing home; provided however, any optometrist who accepts a request to make emergency calls to patients at a nursing home within 20 miles of his practice location(s) as reflected in the Board records is not required to obtain a duplicate license for that location.
(d) A branch office license must be renewed annually. Failure to do so may result in disciplinary action by the Board.

Authority G.S. 90-117.5; 90-118.2; 90-118.4; 90-118.10; 90-118.11; 90-121.2.

CHAPTER 46 – BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to amend the rule cited as 21 NCAC 46 .1401.

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

Proposed Effective Date: November 1, 2024

Public Hearing:
Date: July 9, 2024
Time: 9:30 a.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, North Carolina 27517.

Reason for Proposed Action: The Board proposes to amend its Rule .1401, which deals with the process of health care facilities registering with, and being issued permits by, the Board. The

existing rule requires separate permits when drugs are dispensed from "separate locations" owned by a health care facility. This has caused confusion for entities -- such as larger hospitals -- that have multiple dispensing areas in the same hospital building or in attached or contiguous campus buildings. The proposed amendment would make clear that separate dispensing areas for inpatient populations may operate under one permit, so long as they are in the same building or in a building on property contiguous to the principal permitted location. The amendment would further remove unnecessary provisions covered by other statutes or rules. The rule amendment was recommended by a committee made up of Board members, pharmacists from hospitals of differing sizes, and pharmacists from other health care facility settings (such as long term care).

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

Comment period ends: August 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 .1400 - HOSPITALS: OTHER HEALTH FACILITIES

21 NCAC 46 .1401 REGISTRATION AND PERMITS

(a) ~~Registration Required.~~ All Health Care Facilities ~~places~~ providing services ~~which embrace~~ within the practice of pharmacy shall apply for and receive a pharmacy permit. ~~register with the North Carolina Board of Pharmacy as provided in G.S. 90-85.21. G.S. 90-85.21 and acquire a permit to do so.~~ Application for such registration and permit shall be on forms provided by the Board. If the Board is satisfied that proper facilities and adequately trained and properly licensed personnel

~~have been obtained which will assure compliance with all laws regulating the compounding and distribution of drugs, the practice of pharmacy and the rules of the Board, a permit shall be issued by the Board attesting such registration.~~

(b) Separate dispensing areas operated by a Health Care Facility are not required to secure separate permits if those dispensing areas are (a) contained in the same building as the permitted pharmacy or (b) contained in a building located on property contiguous to the permitted pharmacy. However, even as to dispensing areas otherwise within the coverage of this Paragraph, a separate permit is required for a dispensing area engaged in the routine activity of dispensing drugs to or compounding drugs for a patient's use outside the Health Care Facility.

~~(b)(c)Exemptions.~~ Nothing in these rules shall be construed to require the registration with the Board of those ~~health care facilities~~ Health Care Facilities in which there occurs only the administration of drugs.

(c) Separate Registration Required. The dispensing of drugs from separate locations owned by a health care facility, such as satellite pharmacies, outside clinics, health maintenance organizations, or physician's offices owned by the health care facility shall require separate registration if any one of the following criteria exists:

- ~~(1) The drugs dispensed at the location are ordinarily and customarily obtained from a source outside of the health care facility;~~
- ~~(2) The pharmacist manager is controlled and supervised from a source other than the health care facility pharmacy; or~~
- ~~(3) The routine activity at the location is dispensing drugs to outpatients.~~

~~(d) Any pharmacy that provides compounding or dispensing services to one or more health care facilities for individual patient administration bearing any labeled name other than that under which it is registered shall require a separate registration.~~

~~(e) Health care facilities which do not have a pharmacy permit shall secure their pharmaceutical services through a pharmacist holding a current license from the Board.~~

Authority G.S. 90-85.6; 90-85.21.

CHAPTER 46 – BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to amend the rule cited as 21 NCAC 46 .1415.

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

Proposed Effective Date: November 1, 2024

Public Hearing:
Date: July 9, 2024
Time: 9:30 a.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, North Carolina 27517.

Reason for Proposed Action: *The Board proposes to amend its Rule .1415, which deals with dispensing medications in health care facility (i.e., hospital) emergency departments. The existing rule permits an emergency department to dispense a 24-hour supply of drugs to patients being discharged from the emergency department. Regulated entities have approached the Board with concerns that limitation to a 24-hour supply poses problems with respect to (a) patients who may have difficulty getting additional prescriptions filled before the 24-hour supply expires (such as patients being discharged on weekends in rural areas) and (b) continuity of care for drugs that require longer courses of treatment and may create adverse effects in the case that they are interrupted. The proposed amendment would increase that limit to seven days. In addition, the proposed rule would clarify unclear language about whether a hospital emergency department may dispense drugs to discharged patients at a time when the hospital has an outpatient pharmacy open and available to dispense those drugs. The rule amendment was recommended by a committee made up of Board members, pharmacists from hospitals of differing sizes, and pharmacists from other health care facility settings (such as long term care).*

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

Comment period ends: August 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 .1400 - HOSPITALS: OTHER HEALTH FACILITIES

21 NCAC 46 .1415 MEDICATION IN HEALTH CARE FACILITY EMERGENCY DEPARTMENTS

(a) In those ~~health care facilities~~ Health Care Facilities with having 24-hour 24-hour outpatient pharmacy service, all drugs dispensed to ~~outpatients~~ outpatients, including emergency department ~~patients~~, patients must be dispensed by the permitted pharmacy during times that it is open for outpatient pharmacy service. ~~a pharmacist.~~

(b) When the permitted pharmacy in the Health Care Facility is closed for outpatient service, ~~drugs are not otherwise available from a pharmacist,~~ drugs may be dispensed for use outside the emergency department by the physician, registered nurse under physician supervision, or a person authorized to prescribe and dispense drugs pursuant to G.S. 90-18.1 or 90-18.2 subject to the following:

- (1) Drugs shall be dispensed only to a ~~registered~~ patient of the emergency department;
- (2) The pharmacist-manager shall develop and supervise a system of control and accountability of all drugs administered in, or dispensed from, ~~from~~ the emergency department;
- (3) The pharmacist-manager ~~pharmacist manager,~~ ~~in conjunction with the committee responsible for policy in the emergency department,~~ shall develop ~~an emergency department~~ a formulary of prescription drugs that ~~which~~ may be dispensed from the emergency department for patients receiving care in that department. This formulary shall consist of drugs of the nature and type to meet the immediate needs of emergency department patients; ~~patients, and quantities in each container shall be limited to not more than a 24-hour supply or the smallest commercially available quantity;~~
- (4) The emergency department staff may dispense no more than a seven-day supply or the smallest quantity prepackaged by the manufacturer for patient dispensing, whichever is greater.
- (4)(5) Drugs shall be prepackaged in safety closure containers and shall be pre-labeled by ~~the~~ a pharmacist to comply with Rule .1414(d)(4) of this Section. Prior to dispensing, the following information shall be placed on the label:
 - (A) the name, address, and telephone number of the health care facility pharmacy;
 - (B) the dispensing date;
 - (C) the full name of patient;
 - (D) the generic or trade name, or in the absence of a brand name, the established name of the product dispensed;
 - (E) directions for use to the patient;
 - (F) the name of physician prescribing and dispensing the product; and
 - (G) required precautionary or further accessory cautionary information as may be desirable for proper use and safety to the patient;

- (5)(6) A perpetual record of dispensing of all drugs, including drug samples and starter packages, shall be maintained as part of the pharmacy's records for three years. The pharmacist-manager or designee shall verify the accuracy of these records at least once a month. The record shall contain the following:
 - (A) the date dispensed;
 - (B) the patient's name;
 - (C) the physician's name; and
 - (D) the name, strength, dosage form, quantity, and dose of the drug dispensed.

- (6)(7) The physician shall sign all orders for medication within the time frame established by regulatory agencies and health care facility policies and procedures.

(c) The physician, registered nurse under physician supervision, or person who is authorized to prescribe and dispense drugs pursuant to G.S. 90-18.1 or 90-18.2 shall comply with all rules governing the dispensing of medications including patient counseling as defined in 21 NCAC 46 .2504.

Authority G.S. 90-18.1; 90-18.2; 90-85.6; 90-85.21; 90-85.32; 90-85.33.

CHAPTER 66 - VETERINARY MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Veterinary Medical Board intends to amend the rules cited as 21 NCAC 66 .0108, .0206, and .0901-.0905.

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

Proposed Effective Date: January 1, 2025

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Keith West at kwest@ncvmb.org

Reason for Proposed Action: Amended Hour requirements in .0206 and business day requirements in .0902, .0903, and .0904. Changed effective date for all rules stated above to 01/01/2025.

Comments may be submitted to: Keith West, 1611 Jones Franklin Road Suite 106, Raleigh, NC 27606; email kwest@ncvmb.org

Comment period ends: August 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 - STATUTORY AND ADMINISTRATIVE PROVISIONS

21 NCAC 66 .0108 FEES

The following fees established by the Board shall be paid in advance to the Executive Director of the Board:

- (1) Veterinary License
 - (a) Issuance or Renewal \$170.00
 - (b) North Carolina License Examination \$250.00
 - (c) Late Renewal Fee \$50.00
 - (d) Reinstatement \$100.00
- (2) Veterinary Technician Registration
 - (a) Issuance or Renewal \$50.00
 - (b) North Carolina Veterinary Technician Examination \$50.00
 - (c) Late Renewal Fee \$50.00
 - (d) Reinstatement \$100.00
- (3) Professional Corporation Certificate of Registration
 - (a) Issuance or Renewal \$160.00
 - (b) Late Renewal Fee \$50.00
 - (c) Reinstatement \$100.00
- (4) Limited Veterinary License
 - (a) Issuance or Renewal \$170.00
 - (b) Late Renewal Fee \$50.00
 - (c) Reinstatement \$100.00
- (5) Veterinary Faculty Certificate
 - (a) Issuance or Renewal \$170.00
 - (b) Late Renewal Fee \$50.00
 - (c) Reinstatement \$100.00
- (6) Zoo Veterinary Certificate
 - (a) Issuance or Renewal \$170.00
 - (b) Late Renewal Fee \$50.00
 - (c) Reinstatement \$100.00
- (7) Temporary Permit: Issuance \$150.00
- (8) Veterinary Student Intern Registration: Issuance \$25.00

- (9) ~~Veterinary Student Preceptee Registration Issuance \$25.00 Veterinary Facility Permit~~
 - (a) Issuance or Renewal \$150.00
 - (b) Late Renewal Fee \$50.00
 - (c) Reinstatement \$100.00
- (10) ~~Veterinary Practice Facility Inspection \$125.00~~
- ~~(11)~~(10) Copies of Board publications, rosters, or other materials available for distribution from the Board shall be free or at a minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.

Authority 90-185(6); 90-186(6); 90-187(b); 90-187.5; 132-6.2.

SECTION .0200 - PRACTICE OF VETERINARY MEDICINE

21 NCAC 66 .0206 MINIMUM STANDARDS FOR CONTINUING EDUCATION

Each person holding a veterinary license, limited license, a faculty certificate, or a zoo veterinary certificate (collectively referred to herein as "veterinarian") or a veterinary technician registration issued by the Board shall comply with the standards in this Rule. The standards shall be a condition precedent to the renewal of a license, certificate, or registration respectively. The standards are as follows:

- ~~(1)~~ Continuing education credit hours shall relate to veterinary medicine.
- ~~(2)~~(1) A veterinarian shall earn 20 continuing education credit hours for the calendar year license renewal period. A maximum of ten five hours may be obtained pursuant to courses described in Item (3) of this rule.
- ~~(3)~~(2) A registered veterinary technician shall earn 12 continuing education credit hours for the two-calendar year registration renewal period. A maximum of six four hours may be obtained pursuant to course described in Item (3) of this rule.
- (3) One continuing education hour may be earned for each hour of independent self-study courses, prerecorded webinars, audio conferences, and non-interactive on-line presentations approved by approved continuing education credit providers.
- (4) One continuing education credit hour may be earned for each hour of in-person attendance or live interactive attendance at courses presented or approved by approved continuing education credit providers.
- (5) A live interactive presentation shall:
 - (a) include instant or synchronous two-way communication;
 - (b) provide access to both technical personnel and professional faculty, as well as interactivity among participants for the exchange of

questions and answers via instant messaging or a moderated teleconference, and

- (c) document the level of participation by keeping a record of the participant's activity in asking or answering questions during the presentation and the score of any examination administered at the end or the presentation.

~~(4)~~(6) A veterinarian or registered veterinary technician may request and be granted an extension of time, not to exceed six months, to satisfy the continuing education requirement if the veterinarian or registered veterinary technician provides evidence of a debilitating injury or illness or circumstance that prevents the veterinarian or registered veterinary technician from being able to obtain continuing education. The Board shall consider any evidence submitted of a circumstance preventing the veterinarian or registered veterinary technician from being able to obtain continuing education on a case-by-case basis. If the veterinarian or veterinary technician submits evidence of failure to complete continuing education due to debilitating injury or illness or hardship, the Board shall consider the evidence submitted on a case by case basis. If the board finds that the debilitating injury or illness or hardship was the basis for non-compliance with the continuing education requirement, the Board shall exempt that individual from completing the unearned portion of the continuing education for that renewal period.

(7) If the Board finds that the circumstance that was the basis for non-compliance with the continuing education requirement justified the non-compliance, the Board may exempt that individual from completing the unearned portion of the continuing education for that renewal period.

~~(5)~~(8) Continuing education credits hours may be earned from courses, programs, or materials presented or approved by the following providers:

- (a) the American Veterinary Medical Association (AVMA);
- (b) the American Animal Hospital Association (AAHA);
- (c) the North Carolina Veterinary Medical Association (NCVMA);
- (d) the United States Department of Agriculture-Animal and Plant Health Inspection Service;
- ~~(d)~~(e) the American Association of Veterinary State Boards' (AAVSB)

Registry of Approved Continuing Education (RACE); and
 (e)(f) academies, schools, or colleges of veterinary medicine.

These providers are designated herein as "approved continuing education credit providers." The Board shall consider additional courses, presentations, or materials eligible for approval for continuing education credit hours, provided that the individual seeking the credit furnishes the Board with information to establish that the content of the course, presentation, or material are of an education level reflective of the audience (veterinarians or veterinary technicians), sufficiently educational for veterinarians or registered veterinary technicians. Board approval for continuing education credits for such additional courses, presentations, or materials shall be obtained prior to attendance or participation; however, the Board shall waive the requirement of prior approval if illness, injury, or natural disaster prevented the individual from obtaining the prior approval.

(6) ~~Subject to the limitations in this Rule, continuing education credit hours may be earned by:~~

- (a) ~~attendance at in person courses or presentations;~~
- (b) ~~completion of independent self study courses;~~
- (c) ~~non-interactive on line presentations, courses, or materials; or~~
- (d) ~~completion of live interactive on line presentations or courses.~~

(7) ~~One continuing education credit hour, up to 100% of the CE requirement for renewal, may be earned for each hour of in person attendance at courses presented or approved by approved continuing education credit providers. Up to 25% of the CE requirement for renewal may be obtained from independent self study courses, videos, DVDs, CDs, prerecorded webinars, audio conferences, and non interactive on line presentations approved by approved continuing education credit providers. Up to 50% of the CE requirement for renewal may be obtained from live interactive on line presentations or courses approved by approved continuing education credit providers. However, the number of credit hours earned from live interactive on line presentations or courses shall be reduced by the number of credit hours earned from independent self study courses or materials and non interactive on line presentations or courses. A live interactive on line presentation or course shall:~~

- (a) ~~include instant or asynchronous two-way communication;~~

(b) ~~provide access to both technical personnel and professional faculty, as well as interactivity among participants for the exchange of questions and answers via instant messaging or a moderated teleconference; and~~

(c) ~~document the level of participation by keeping a record of the participant's activity in asking or answering questions during the presentation and the score of any examination administered at the end of the presentation.~~

(8)(9) Each veterinarian and registered veterinary technician shall keep a record file containing ~~for~~ the three most recent renewal periods of the content of courses submitted to the Board for continuing education credit hours.

(9)(10) A veterinarian licensed in the year of graduation from a veterinary medical college is not required to earn continuing education credit hours to be eligible for license renewal for the next renewal period.

(10)(11) A veterinary technician registered in the year of graduation from a veterinary medical technology program is not required to earn continuing education credit hours to be eligible for registration renewal for the next renewal period.

(11)(12) A veterinarian or veterinary technician serving in the armed forces of the United States and to whom an extension of time to file a tax return is granted pursuant to G.S. 105-249.2 is granted the same extension of time to comply with the continuing education requirement of this Rule.

Authority G.S. 90-185(6); 90-186(1); 93B-15.

SECTION .0900 – VETERINARY FACILITY PERMITS

21 NCAC 66.0901 DEFINITIONS

In addition to the terms set forth in G.S. 90-181, the following definitions apply to this Section:

- (1) "Owner" means the person whose business provides services that constitute the practice of veterinary medicine as defined by G.S. 90-181(6).
- (2) "Facility" means any physical location, including mobile units, in which the practice of veterinary medicine occurs.
- (3) "Veterinary Facility Permit" means a document authorizing an owner to operate a facility which engages in the practice of veterinary medicine.

Authority G.S. 90-185(6); 90-186(8).

21 NCAC 66 .0902 VETERINARY FACILITY PERMITS

(a) Any person who owns a business which operates a facility providing services that constitute the "practice of veterinary medicine" on a full, part-time, or temporary basis shall have a veterinary facility permit issued by the Board prior to offering or delivering any veterinary medical services to the public. Veterinary or Veterinary Technician teaching programs offering services to the public shall have a veterinary facility permit.

(b) As a condition of any veterinary facility permit issued by the Board, the owner shall designate a supervising veterinarian.

(c) The Board shall issue a veterinary facility permit to an owner after the owner submits an application, pays the veterinary facility permit fee, and passes a facility inspection. The Board shall inspect the veterinary facility to ensure compliance with Rule .0207 and .0208 of this Chapter if an inspection has not been performed in the last two years. It is the responsibility of the owners to ensure that the veterinary facility meets the minimum veterinary facility standards in Rules .0207 and .0208 of this Chapter.

(d) The application for a veterinary facility permit shall be on a form prescribed by the Board and available on the Board's website. The application shall contain:

- (1) the owner's name, physical address, mailing address, email address, and telephone number;
- (2) proposed or existing name of the facility, as set forth in G.S. 90-181.1, physical address, mailing address, email address, and telephone number; and
- (3) designation of a supervising veterinarian of the facility subject to the provisions of Rules .0903 of this Section.

(e) Each veterinary facility permit shall be renewed yearly. The veterinary facility must have passed an inspection pursuant to Rule .0207(b)(16) of this Chapter within the 24 months prior to issuance of renewal.

(f) Each veterinary facility that is identified by a separate physical address or that is located at the same physical address as another veterinary facility but has different owners or supervising veterinarians shall be a separate veterinary facility requiring a separate veterinary facility permit. The physical address for a veterinary facility shall be the primary business location.

(g) The owner shall notify the Board within 10 business days of any changes in contact information.

(h) The owner shall notify the Board in writing of a planned change in the ownership or in the supervising veterinarian of the veterinary facility at least 20 business days prior to the planned change.

(i) In the event of an owner's inability to maintain the facility's compliance with Chapter 90 of the General Statutes and the rules of this Chapter, the Board shall be notified within 10 business days by an owner, or if the owner is unable to do so as a result of physical inability, the supervising veterinarian, or a member of the veterinary facility's staff.

(j) In the event that the Board is notified that the owner to whom a facility permit is issued is dissolved voluntarily, administratively, or by operation of law; suspended by the NC Department of Revenue; or has its certificate of authority revoked by the NC Secretary of State, the Board shall also suspend the

permit issued to the owner. The suspension shall remain in effect until the suspension has been lifted by NC Department of Revenue, or the person has been reinstated by the NC Secretary of State, or both.

(k) The Board may issue a temporary veterinary facility permit to the owners of a veterinary facility for a period of 35 business days to allow the owners to address and resolve violations of the rules of this Chapter, particularly, Rules .0207 and .0208 of this Chapter, discovered during the veterinary facility inspection. However, the Board shall not issue a temporary veterinary facility permit if the violations present a danger to the health or safety of the public or animals. Upon request of the owner, the Board may extend a temporary permit for an additional period of no more than 35 business days, as long as satisfactory progress has been made as determined by the Board. In the event of the death of an owner, the permit remains valid for 50 ~~35~~ business days from the date of the death of the owner, so long as the facility continues to have an active, supervising veterinarian registered with the Board.

(l) The following are exempt from the requirement for a veterinary facility permit:

- (1) those exempted by licensure under G.S. 90-187.10;
- (2) a veterinary facility owned and operated by the State of North Carolina, a political subdivision thereof, or the federal government, so long as the facility does not offer or provide veterinary services to the public; or
- (3) a temporary veterinary facility established as a result of an emergency declared by the Governor of North Carolina.

(m) A person operating without a veterinary facility permit is subject to the provisions of G.S. 90-187.13.

(n) The veterinary facility permit shall be displayed by the owners at the facility at a location viewable by the public. Veterinary facility permits for mobile facilities shall be available upon request.

(o) An owner or supervising veterinarian shall provide a copy of medical records maintained pursuant to Rule .0207 of this Chapter within 10 business days of receipt of a request by a current or former patient's owner. The veterinary facility may charge the patient's owner the actual cost of reproducing the records as a reasonable fee.

(p) Owners shall post on any existing veterinary facility website home page:

- (1) The facility's name, address, and telephone number,
- (2) The facility's regular business hours,
- (3) Availability of after-hours emergency care at the facility; and
- (4) If after-hours emergency care is not available, the name, address, and telephone number of an after-hours emergency provider.

Authority G.S. 90-185; 90-186(2); 90-186(8); 90-186(9).

21 NCAC 66 .0903 SUPERVISING VETERINARIAN

(a) The owners of a veterinary facility shall designate a supervising veterinarian who shall be responsible for informing

the owners as to the instances of non-compliance with 21 NCAC 66 .0207 and 21 NCAC 66 .0208 at the veterinary facility.

(b) The supervising veterinarian shall be currently licensed by and in good standing with the Board.

(c) The owners may designate an interim supervising veterinarian to serve for a period not to exceed 50 ~~25~~ business days.

(d) A veterinarian may be a supervising veterinarian at more than one veterinary facility. At each veterinary facility that is open for 159 hours or less per month, the supervising veterinarian shall be physically onsite for a minimum of 25 percent of the total time a veterinary facility is open. At each veterinary facility that is open for 160 hours or more per month, the supervising veterinarian shall be physically onsite at each veterinary facility for a minimum of 40 hours per month. Electronic or handwritten documentation stating the dates and times that the supervising veterinarian was present at the veterinary facility shall be maintained by the supervising veterinarian at each individual facility and made available by the owner, supervising veterinarian, or the staff at each facility at the time of inspection or investigation by the Board.

(e) The owners of a veterinary facility may designate more than one supervising veterinarian for a veterinary facility, in which case the onsite physical presence of each of the supervising veterinarians at the veterinary facility shall be counted toward satisfaction of the onsite physical presence requirement of Board Rule .0903(d).

Authority G.S. 90-185(6); 90-186(9).

21 NCAC 66 .0904 DISCIPLINE VETERINARY FACILITY PERMITS

(a) The Board shall investigate any complaint within its jurisdiction. The investigation and any resulting hearings shall be conducted pursuant to Sections .0600 and .0700 of the Chapter. Following an investigation and the owner's opportunity to be heard, the Board may:

- (1) revoke or suspend a veterinary facility permit issued under this Chapter;
- (2) discipline the owner of a facility permitted under this Chapter in accordance with the disciplinary measures set forth in Sections .0600 and .0700 of this Chapter;
- (3) deny a veterinary facility permit required by G.S. 90-186(8) and the rules of this Chapter based on violations of Board Rules including but not limited to .0207 and .0208 of this Chapter.

For the purpose of this rule, references to licensee or registrant in the provisions of Sections .0600 and .0700 of this Chapter are treated as references to owner and permittee. References to license are treated as references to facility permit.

(b) The Board may suspend, revoke, or deny issuance of a veterinary facility permit, without hearing, if:

- (1) A veterinary facility has not had a supervising veterinarian or an interim supervising veterinarian serving in that capacity for more than ~~fifteen~~ ~~five~~ business days.
- (2) The Board obtains a summary emergency order pursuant to the provisions of G.S. 90-186(3).
- (3) The owners of the veterinary facility have failed to notify the Board after 10 business days of a change in ownership of the facility or change in the supervising veterinarian.

(c) An owner shall cease to operate a veterinary facility as of the date the Board notifies the owner of the revocation of his or her veterinary facility permit. Within 24 hours of receiving notification of revocation, an owner shall display the following information at the facility and through any existing medium of communication with the public, such as social media, a telephone answering system, or facility website:

- (1) information that the veterinary facility is closed;
- (2) the means by which clients may obtain their animal's medical records; and
- (3) notice of the Board's revocation of the facility permit.

Authority G.S. 90-185(6); 90-186(8); 90-186(9).

21 NCAC 66 .0905 REINSTATEMENT AFTER REVOCATION OF FACILITY PERMIT

Any person whose facility permit been suspended or revoked pursuant to the provisions of rule .0904 of this Section may apply for reinstatement subject to any terms and conditions contained in the final agency decision issued by the Board upon revoking or suspending the person's facility permit. The Board may conduct an inspection prior to reinstatement to determine if the terms and conditions stated in the final agency decision have been addressed.

Authority G.S. 90-185(6); 90-186(8); 90-186(9).

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission May 29, 2024 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comments 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)
Jay R. Hemphill
Jeff Hyde
Brandon Leebrick
Bill Nelson

Appointed by House

Barbara A. Jackson (1st Vice-Chair)
Randy Overton (2nd Vice-Chair)
Wayne R. Boyles, III
Jake Parker
Paul Powell

COMMISSION COUNSEL

Brian Liebman	984-236-1948
William W. Peaslee	984-236-1939
Seth M. Ascher	984-236-1934
Travis Wiggs	984-236-1929

RULES REVIEW COMMISSION MEETING DATES

June 26, 2024	August 28, 2024
July 31, 2024	September 25, 2024

RULES REVIEW COMMISSION MEETING

MINUTES

May 29, 2024

The Rules Review Commission met on Wednesday, May 29, 2024, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Wayne R. Boyles III, Jeanette Doran, Jeff Hyde, Bill Nelson, Randy Overton, Brandon Leebrick, Jake Parker, and Paul Powell were present in the Commission Room. Commissioners Barbara Jackson and Jay Hemphill were present via WebEx.

Staff member Alexander Burgos, Commission Counsel Seth Ascher, Brian Liebman, Bill Peaslee, and Travis Wiggs were present in the room.

The meeting was called to order at 10:00 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 notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow-up matters for the Criminal Justice Education and Training Standards Commission and permanent rules from the Wildlife Resources Commission.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the April 30, 2024 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

The Chair asked for any discussion, comments, or corrections concerning the minutes of the May 13, 2024 special meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

FOLLOW UP MATTERS

Home Inspector Licensure Board

Upon the call of the Chair, 11 NCAC 08 .1101, .1103, .1105, .1107, .1109, .1110, and .1116 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, 12 NCAC 09F .0103, .0104, and .0105 were returned to the agency in accordance with the requirements of G.S. 150B-21.12(d) by roll-call vote, ayes 10, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeanette Doran, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 10. Voting in the negative: None.

Kristin Mallett with the Department of Justice and representing the agency addressed the Commission.

State Board of Education

Upon the call of the Chair, 16 NCAC 06C .0602 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Board of Examiners in Optometry

21 NCAC 42D .0102 - At the January 2024 meeting, the Commission found that the revised rule satisfied the RRC's objection at the November 2023 meeting; however, it also determined that the revised rule was a substantial change and will need to be published and reviewed pursuant to G.S. 150B-21.2(g). This Rule will remain on the agenda until it is published. No action was required by the Commission.

Building Code Council

North Carolina Energy Conservation Code, Section R402, Appendix R1.2.1 - The Commission objected to these Rules at the April meeting. No action was required by the Commission.

Building Code Council

2024 NC Building Code and separately filed amendments to Sections 101.2, 202, 307, 414, 1109.2, 1901, and Chapter 35 of the 2024 NC Building Code - The Commission extended the period of review for these Rules at the April meeting. No action was required by the Commission.

Building Code Council

2024 NC Existing Building Code and separately filed amendments to Sections 101.2 and 803.2.1.2 of the 2024 NC Existing Building Code - The Commission extended the period of review for these Rules at the April meeting. No action was required by the Commission.

Building Code Council

2024 NC Fire Code and separately filed amendments to Sections 102.13, 105.5.32, 202, 203, 319.11.1, 319.11.13, 608, 911, 907.2.3.1, 1010.2.14, 1010.2.14.4, 1010.2.1, 3307, 5003, 5706.5.4.5, Chapter 80, and NFPA 241 of the 2024 NC Fire Code - The Commission extended the period of review for these Rules at the April meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Private Protective Services Board

Upon the call of the Chair, 14B NCAC 16 .0707 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, 15A NCAC 10A .1601; 10F .0304, .0310, and .0314 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

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 for 15A NCAC 10F .0314.

Jonathan Crews, General Manager of the Bradley Creek Yacht Club, addressed the Commission.
Matt Groff, the treasurer for the Creekside Yacht Club, addressed the Commission.

Howard Stanley, the General Manager for the Creekside Yacht Club, addressed the Commission.

Board of Registration for Foresters

Upon the call of the Chair, 21 NCAC 20 .0106 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Medical Board

21 NCAC 32S .0216; 32M .0107; and 32R .0101 were withdrawn at the request of the agency. No action was required by the Commission.

Board of Nursing

Upon the call of the Chair, the Commission voted to extend the period of review for 21 NCAC 36 .0807 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Board of Examiners in Optometry

Upon the call of the Chair, 21 NCAC 42E .0103 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 9. Voting in the negative: None.

Existing Rule Review

15A NCAC 05C - Upon the call of the Chair, the Commission voted to schedule readoption of the rules no later than September 1, 2025 pursuant to G.S. 150B-21.3A(d)(2) by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jay Hemphill, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Commissioner Jackson did not vote.

COMMISSION BUSINESS

Upon the call of the Chair, the Commission voted to adopt changes to 26 NCAC 05 .0116 and submit the rule for publication in the NC Register approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Commissioner Hemphill left the meeting.

The Chair announced that there are no updates regarding the CRC v. RRC litigation; therefore, the Chair did not call the meeting into a closed session.

The meeting was adjourned at 11:18 a.m.

RULES REVIEW COMMISSION

The next regularly scheduled meeting of the Commission is Wednesday, June 26, 2024, at 10:00 a.m.

Alexander Burgos, Paralegal

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

RULES REVIEW COMMISSION

May 29, 2024

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
M Schilling	NCDOT
Matt Groff	Cyc Wilmington
Howard Stanley	Cyc Wilmington
Jonathan Crow	BCYC - wilming, la
Gina M. VanOlson Clegg	NCDOJ
Leedell Fennell	
Ted B. Williams	Nash Comm College, ^{Wash Co} S.O.
BRAD Smith	None
Paul Barth	Grass Roots NC
Helen Vardi	NCDOT/AMTB
Emily Wiley	NCDOT
Bob Overton	NCDOT
Ann White	SES
Bill Dix	GRNC
Josh Hagwood	USCS
Nathan Caricos	NCDOJ / sec
Tamara Zmuda	NCWRC
Betty Hagwood	NCWRC
Mark Dutton	NCWRC
Carrie Rehlman	NCWRC
Melba Bonner	NCWRC

RULES REVIEW COMMISSION

Rules Review Commission Meeting May 29, 2024
Via WebEx

Name	Agency
Sophie Plott	Labor
Jessica Winebrenner	nc.gov
Ryan Collins	DPI
James Chapman	DEQ
Dwain Veach	DEQ
Tonia Brown	OAH
Pamela Schooler	DOI
Dennis Seavers	Barbers
Ingrid Davis	nc.gov
Karen Holder	DOI
Dana McGhee	OAH
Arthur Harrell	OAH
Ashley Snyder	OAH
Denise Mazza	SHRC
David Dye	fcinsp.com
Tamara Zmuda	WRC
Hejduk, Mike	DOI
Amber Thiel	COMMERCE
Anne Coan	NCFB
Andy Ellen	NCRMA
Sarah Zambon	szambon@ncdoj.gov
Connie	connie@greenvillenc.com
Gabby Decker	bcbsnc.com
Casey Harris-Pratt	OSBM
Kenneth Belk Taylor	DEQ
Taylor Corpening	DHHS
Jeffrey Smythe	DOJ
Catherine Blum	DEQ
Connie M. Corey	greenvillenc.com
Chad Thompson	
W Shenton	poynerspruill.com
James Pearce	nc.gov
Mike Morton	cityofwfire.org
Johnny Loper	Optometry
Thien Dao	nc.gov
William Rafferty	Optometry
Janice Peterson	Optometry

LIST OF APPROVED PERMANENT RULES

May 29, 2024 Meeting

HOME INSPECTOR LICENSURE BOARD

<u>Definitions</u>	11 NCAC 08 .1101
<u>Purpose and Scope</u>	11 NCAC 08 .1103
<u>General Exclusions</u>	11 NCAC 08 .1105
<u>Exterior</u>	11 NCAC 08 .1107
<u>Plumbing</u>	11 NCAC 08 .1109
<u>Electrical</u>	11 NCAC 08 .1110
<u>Code of Ethics</u>	11 NCAC 08 .1116

PRIVATE PROTECTIVE SERVICES BOARD

<u>Training Requirements for Unarmed Security Guards</u>	14B NCAC 16 .0707
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WILDLIFE RESOURCES COMMISSION

<u>License Fees</u>	15A NCAC 10A .1601
<u>Bladen County</u>	15A NCAC 10F .0304
<u>Dare County</u>	15A NCAC 10F .0310
<u>New Hanover County</u>	15A NCAC 10F .0314

FORESTERS, BOARD OF REGISTRATION FOR

<u>Registration Fees</u>	21 NCAC 20 .0106
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OPTOMETRY, BOARD OF EXAMINERS IN

<u>Prescriptions; Dispensing</u>	21 NCAC 42E .0103
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