

6711 / 7430 / 1.12 / 1998

# ***NORTH CAROLINA REGISTER***

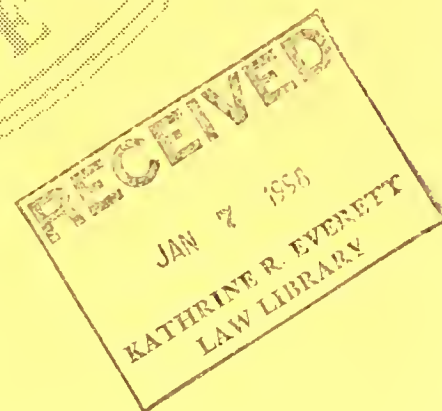
**VOLUME 12 • ISSUE 13 • Pages 1093 - 1229  
January 2, 1998**

## **IN THIS ISSUE**

NPDES Permits  
Voting Rights Letter  
Administrative Hearings, Office of  
CPA Examiners, State Board  
Culture Resources  
Environment and Natural Resources  
Health and Human Services  
Labor  
Physical Therapy Examiners  
Real Estate Commission  
Rules Review Commission  
Contested Case Decisions

### **PUBLISHED BY**

*The Office of Administrative Hearings  
Rules Division  
PO Drawer 27447  
Raleigh, NC 27611-7447  
Telephone (919) 733-2678  
Fax (919) 733-3462*



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

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

Office of Administrative Hearings

Rules Division

Capehart-Crocker House

(919) 733-2678

424 North Blount Street

(919) 733-3462 FAX

Raleigh, North Carolina 27601-2817

contact: Molly Masich, Director APA Services  
Ruby Creech, Publications Coordinator

[mmasich@oah.state.nc.us](mailto:mmasich@oah.state.nc.us)  
[rcreech@oah.state.nc.us](mailto:rcreech@oah.state.nc.us)

**Fiscal Notes & Economic Analysis**

Office of State Budget and Management

116 West Jones Street

(919) 733-7061

Raleigh, North Carolina 27603-8005

(919) 733-0640 FAX

contact: Mark Sisak, Economist III  
Anna Tefft, Economist II

[msisak@osbm.state.nc.us](mailto:msisak@osbm.state.nc.us)  
[atefft@osbm.state.nc.us](mailto:atefft@osbm.state.nc.us)

**Rule Review and Legal Issues**

Rules Review Commission

1307 Glenwood Ave., Suite 159

(919) 733-2721

Raleigh, North Carolina 27605

(919) 733-9415 FAX

contact: Joe DeLuca Jr., Staff Director Counsel  
Bobby Bryan, Staff Attorney

**Legislative Process Concerning Rule Making**

Joint Legislative Administrative Procedure Oversight Committee

545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

contact: Mary Shuping, Staff Liaison

[marys@ms.ncga.state.nc.us](mailto:marys@ms.ncga.state.nc.us)

**County and Municipality Government Questions or Notification**

NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Jim Blackburn or Rebecca Troutman

NC League of Municipalities

215 North Dawson Street

(919) 715-4000

Raleigh, North Carolina 27603

contact: Paula Thomas

# **NORTH CAROLINA REGISTER**



**Volume 12, Issue 13  
Pages 1093 - 1229**

**January 2, 1998**

This issue contains documents officially filed through December 8, 1997.

Office of Administrative Hearings  
Rules Division  
424 North Blount Street (27601)  
PO Drawer 27447  
Raleigh, NC 27611-7447  
(919) 733-2678  
FAX (919) 733-3462

Julian Mann III, Director  
James R. Scarcella Sr., Deputy Director  
Molly Masich, Director of APA Services  
Ruby Creech, Publications Coordinator  
Jean Shirley, Editorial Assistant  
Linda Richardson, Editorial Assistant

## **IN THIS ISSUE**

### **I. IN ADDITION**

#### **Environment and Natural Resources**

Environmental Management . . . . .	1095
NPDES Permits . . . . .	1093 - 1094
Voting Rights Letter . . . . .	1096

### **II. RULE-MAKING PROCEEDINGS**

#### **Environment and Natural Resources**

Parks and Recreation, Division of . . . . .	1097
---	------

### **III. PROPOSED RULES**

#### **Office of Administrative Hearings**

Hearings Division . . . . .	1172 - 1173
-----------------------------	-------------

#### **Environment and Natural Resources**

Wildlife Resources Commission . . . . .	1137 - 1138
---	-------------

#### **Health and Human Services**

Child Care Commission . . . . .	1098 - 1135
Vocational Rehabilitation, Division of . . . . .	1135 - 1137

#### **Licensing Boards**

CPA Examiners, State Board . . . . .	1138 - 1150
Physical Therapy Examiners . . . . .	1150 - 1159
Real Estate Commission . . . . .	1159 - 1172

### **IV. TEMPORARY RULES**

#### **Cultural Resources**

Historical Commission . . . . .	1174 - 1180
---------------------------------	-------------

#### **Environment and Natural Resources**

Wildlife Resources Commission . . . . .	1186 - 1188
---	-------------

#### **Health and Human Services**

Social Services Commission . . . . .	1180 - 1184
--------------------------------------	-------------

#### **Labor**

Boiler & Pressure Vessel Division . . . . .	1184 - 1186
---	-------------

### **V. RULES REVIEW COMMISSION . . . . . 1189 - 1191**

### **VI. CONTESTED CASE DECISIONS**

Index to ALJ Decisions . . . . .	1192 - 1200
----------------------------------	-------------

#### **Text of Selected Decisions**

96 EDC 0766, 1708 . . . . .	1201 - 1214
96 OSP 1665 . . . . .	1215 - 1221
97 EHR 0195 . . . . .	1222 - 1228
97 OSP 0374 . . . . .	1222 - 1228

### **VII. CUMULATIVE INDEX . . . . . 1 - 66**





# NORTH CAROLINA REGISTER

## Publication Schedule

(August 1997 - May 1998)

FILING DEADLINES			NOTICE OF RULE-MAKING PROCEEDINGS		NOTICE OF TEXT (either column A or column B)						
volume and issue number	issue date	last day for filing	60 <sup>th</sup> day	earliest register issue for publication of text	earliest date for public hearing	A. non-substantial economic impact			B. substantial economic impact		
						end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session
12:03	08/01/97	07/11/97	09/30/97	10/01/97	08/18/97	09/02/97	09/22/97	05/11/98	09/30/97	10/20/97	05/11/98
12:04	08/15/97	07/25/97	10/14/97	10/15/97	09/02/97	09/15/97	09/22/97	05/11/98	10/14/97	10/20/97	05/11/98
12:05	09/02/97	08/12/97	11/03/97	11/14/97	09/17/97	10/02/97	10/20/97	05/11/98	11/03/97	11/20/97	05/11/98
12:06	09/15/97	08/22/97	11/14/97	12/01/97	09/30/97	10/15/97	10/20/97	05/11/98	11/14/97	11/20/97	05/11/98
12:07	10/01/97	09/10/97	12/01/97	12/15/97	10/16/97	10/31/97	11/20/97	05/11/98	12/01/97	12/22/97	05/11/98
12:08	10/15/97	09/24/97	12/15/97	01/02/98	10/30/97	11/14/97	11/20/97	05/11/98	12/15/97	12/22/97	05/11/98
12:09	11/03/97	10/13/97	01/02/98	01/15/98	11/18/97	12/03/97	12/22/97	05/11/98	01/02/98	01/20/98	05/11/98
12:10	11/14/97	10/23/97	01/13/98	01/15/98	12/01/97	12/15/97	12/22/97	05/11/98	01/13/98	01/20/98	05/11/98
12:11	12/01/97	11/05/97	01/30/98	02/02/98	12/16/97	12/31/97	01/20/98	05/11/98	01/30/98	02/20/98	05/11/98
12:12	12/15/97	11/20/97	02/13/98	02/16/98	12/30/97	01/14/98	01/20/98	05/11/98	02/13/98	02/20/98	05/11/98
12:13	01/02/98	12/08/97	03/03/98	03/16/98	01/20/98	02/02/98	02/20/98	05/11/98	03/03/98	03/20/98	05/11/98
12:14	01/15/98	12/19/97	03/16/98	04/01/98	01/30/98	02/16/98	02/20/98	05/11/98	03/16/98	03/20/98	05/11/98
12:15	02/02/98	01/09/98	04/03/98	04/15/98	02/17/98	03/04/98	03/20/98	05/11/98	04/03/98	04/20/98	01/27/99
12:16	02/16/98	01/26/98	04/17/98	05/01/98	03/03/98	03/18/98	03/20/98	05/11/98	04/17/98	04/20/98	01/27/99
12:17	03/02/98	02/09/98	05/01/98	05/15/98	03/17/98	04/01/98	04/20/98	01/27/99	05/01/98	05/20/98	01/27/99
12:18	03/16/98	02/23/98	05/15/98	06/01/98	03/31/98	04/15/98	04/20/98	01/27/99	05/15/98	05/20/98	01/27/99
12:19	04/01/98	03/11/98	06/01/98	06/16/98	04/16/98	05/01/98	05/20/98	01/27/99	06/01/98	06/22/98	01/27/99
12:20	04/15/98	03/24/98	06/15/98	07/01/98	04/30/98	05/15/98	05/20/98	01/27/99	06/15/98	06/22/98	01/27/99
12:21	05/01/98	04/09/98	06/30/98	07/01/98	05/18/98	06/01/98	06/22/98	01/27/99	06/30/98	07/20/98	01/27/99
12:22	05/15/98	04/24/98	07/14/98	07/15/98	06/01/98	06/15/98	06/22/98	01/27/99	07/14/98	07/20/98	01/27/99

## 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	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <ul style="list-style-type: none"> <li>(1) temporary rules;</li> <li>(2) notices of rule-making proceedings;</li> <li>(3) text of proposed rules;</li> <li>(4) text of permanent rules approved by the Rules Review Commission;</li> <li>(5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;</li> <li>(6) Executive Orders of the Governor;</li> <li>(7) 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;</li> <li>(8) orders of the Tax Review Board issued under G.S. 105-241.2; and</li> <li>(9) other information the Codifier of Rules determines to be helpful to the public.</li> </ul>	<p><b>ISSUE DATE:</b> 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 closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p> <p><b>LAST DAY FOR FILING:</b> The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p><b>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS:</b> This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p> <p><b>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT:</b> The date of the next issue following the end of the comment period.</p>	<p><b>EARLIEST DATE FOR PUBLIC HEARING:</b> The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p><b>END OF REQUIRED COMMENT PERIOD</b></p> <p>(1) <b>RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.</p> <p>(2) <b>RULE WITH SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</p> <p><b>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:</b> 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.</p>
<p><b>COMPUTING TIME:</b> 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.</p>			<p><b>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:</b> This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p>

*This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.*

STATE OF NORTH CAROLINA  
ENVIRONMENTAL MANAGEMENT COMMISSION  
POST OFFICE BOX 29535  
RALEIGH, NORTH CAROLINA 27626-0535

**PUBLIC NOTICE OF INTENT TO ISSUE STATE GENERAL  
NPDES PERMITS**

Public notice of intent to issue or reissue expiring State National Pollutant Discharge Elimination System (NPDES) General Permits for Point Source Discharges of Stormwater associated with the following activities:

1. NPDES General Permit No. NCG050000 for stormwater point source discharges associated with activities classified as establishments primarily engaged in Apparel and Other Finished Products Made from Fabrics and Similar Materials [standard industrial classification (SIC) 23], Printing Publishing and Allied Industries [SIC 27], Converted Paper and Paperboard Products [SIC 267], Paperboard Containers and Boxes [SIC 265], Miscellaneous Manufacturing Industries [SIC 39], Leather and Leather Products [SIC 31], and Rubber and Miscellaneous Products [SIC 30]. The following activities are specifically excluded from coverage under this General Permit: Leather Tanning and Finishing [SIC 311] and Tires and Inner Tubes [SIC 301].

2. NPDES General Permit No. NCG070000 for stormwater point source discharges associated with activities classified as establishments primarily engaged in Stone, Clay, Glass, and Concrete Products [standard industrial classification (SIC) 32]. The following activities are specifically excluded from coverage under this General Permit: Ready-mixed concrete [SIC 3273].

3. NPDES General Permit No. NCG110000 for stormwater point source discharges associated with Treatment Works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, with a design flow of 1.0 million gallons per day or more, or facilities which are required to have an approved pretreatment program under Title 40 CFR Part 403, including lands dedicated to the disposal of sewage sludge that is located within the confines of the facility.

4. NPDES General Permit No. NCG130000 for stormwater point source discharges associated with activities classified as establishments primarily engaged in the wholesale trade of non-metal waste and scrap (hereafter referred to as the non-metal waste recycling industry) [a portion of standard industrial classification (SIC) 5093]. The following activities are specifically excluded from coverage under this General Permit: the wholesale trade of metal waste and scrap, iron and steel scrap, and nonferrous metal scrap; waste oil recycling; and automobile wrecking for scrap.

5. NPDES General Permit No. NCG210000 for stormwater point source discharges associated with activities classified as establishments primarily engaged in Timber Products [standard industrial classification (SIC) 24]. The following activities are specifically excluded from coverage under this General Permit: Wood Kitchen Cabinets [SIC 2434], Wood Preserving [SIC 2491], Logging [SIC 241], and Wood Chip Mills.

On the basis of preliminary staff review and application of Article 21 of Chapter 143 of the General Statutes of North Carolina, Public Law 92-500 and other lawful standards and regulations, the North Carolina Environmental Management Commission proposes to reissue State NPDES General Permits for the discharges as described above.

INFORMATION: Copies of the draft NPDES General Permits and Fact Sheets concerning the draft Permits are available by writing or calling:

Bradley Bennett  
Water Quality Section  
N.C. Division of Water Quality  
P.O. Box 29535  
Raleigh, North Carolina 27626-0535  
Telephone (919) 733-5083 ext. 525

Persons wishing to comment upon or object to the proposed determinations are invited to submit their comments in writing to the above address no later than February 1, 1998. All comments received prior to that date will be considered in the final determination regarding permit issuance. A public meeting may be held where the Director of the Division of Water Quality finds a significant degree of public interest in any proposed permit issuance.

The draft Permits, Fact Sheets and other information are on file at the Division of Water Quality, 512 N. Salisbury Street, Room 942 T, Archdale Building, Raleigh, North Carolina. They may be inspected during normal office hours. Copies of the information of file are available upon request and payment of the costs of reproduction. All such comments and requests regarding these matters should make reference to the draft Permit Numbers, NCG050000, NCG070000, NCG110000, NCG130000, or NCG210000.

Date: 12/05/1997

Bradley Bennett  
(for) A. Preston Howard, Jr., P.E., Director  
Division of Water Quality



**TITLE 15A -DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**CHAPTER 2 - ENVIRONMENTAL MANAGEMENT**

The Environmental Management Commission (EMC) is extending the comment period for rules proposed for revision in the July 1, 1997 North Carolina Register, Volume Number 12, Issue Number 1 on pages 10, 11, 12, 16 and 17. The EMC is seeking additional comment on the proposal to revise the WS-IV ten-mile Protected Area boundary for the following water supply watersheds:

First Broad River (Cleveland County Sanitary District) - 15A NCAC 2B .0306 (Broad River Basin)  
South Fork Catawba River (High Shoals) - 15A NCAC 2B .0308 (Catawba River Basin)  
Mayo River (Mayodan) - 15A NCAC 2B .0313 (Roanoke River Basin)  
Dan River (Madison) - 15A NCAC 2B .0313 (Roanoke River Basin)  
Tar River (Greenville) - 15A NCAC 2B .0316 (Tar River Basin)

The EMC conducted public hearings on August 25, 1997 with the purpose of soliciting public comment on the proposal to revise the Protected Area boundary for several WS-IV water supplies. Following the review of all the comments received, the EMC decided to solicit additional comments on the above water supplies. You may submit written comments, data, or other information relevant to the proposal to revise the WS-IV Protected Area for the above water supplies by January 22, 1998. It is very important that all interested and potentially affected persons or parties make their views known to the EMC whether in favor or opposed to any and all provisions of the proposal. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in the North Carolina Register unless the EMC publishes the text of the proposed rule and accepts comments on the new text. All interested and potentially affected persons are strongly encouraged to read the entire announcement and supporting information and make comments on the proposed revisions to the WS-IV ten-mile Protected Area boundary watersheds listed above. You may obtain further explanations and details of the proposed rule making by writing Steve Zoufaly at DENR/ Division of Water Quality, Planning Branch, P.O. Box 29535, Raleigh, NC 27626-0535, or by calling 919-733-5083, extension 566 (FAX 919-715-5637.)

U.S. Department of Justice

Civil Rights Division

IKP:GS:SWJ:tlb  
DJ 166-012-3  
97-3060

*Voting Section*  
*PO. Box 66128*  
*Washington, D.C. 20035-6128*

November 18, 1997

Michael B. Brough, Esq.  
Michael B. Brough & Associates  
1829 East Franklin Street  
Suite 800-A  
Chapel Hill, North Carolina 27514

Dear Mr. Brough:

This refers to the annexation (Ordinance No. 97-14) and its designation to District 4 of the Town of Tarboro in Edgecombe County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 19, 1997.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Isabelle Katz Pinzler  
Acting Assistant Attorney General  
Civil Rights Division

By:

Elizabeth Johnson  
Chief, Voting Section

A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.

**TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**CHAPTER 12 - PARKS AND RECREATION AREA RULES**

**Notice of Rule-making Proceedings** is hereby given by the Division of Parks and Recreation, Department of Environment and Natural Resources in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 15A NCAC 12A .0001, .0004 - .0005; 12B .0101, .0104, .0106, .0203, .0401 - .0402, .0501, .0602, .0701 - .0702, .0802, .0901, .1001, .1004, .1102, .1201. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 14-410; 14-415; 113-8; 113-34; 113-35; 113-264(a); 143-21; 143B-311.

**Statement of the Subject Matter:** Rules regarding the Division of Parks and Recreation's administrative organization and duties, and rules regarding operation of parks and recreation areas.

**Reason for Proposed Action:** Rules for the administrative organization of the Division of Parks and Recreation need to be amended to include park units that have been added to the system since 1983. Rules regarding the operation of parks and recreation areas with regard to permits, the use of metal detectors, disposal of refuse, pollution of waters, vehicle use, camping, sports, horses, fishing, pyrotechnics, noise, animals, photography, and the hours of operation also require revision.

**Comment Procedures:** Comments should be directed to: Jim Hallsey, Parks Chief Ranger, Division of Parks and Recreation, 12700 Bayleaf Road, Raleigh, NC 27614.

*This Section contains the text of proposed rules. At least 60 days prior to the publication of text, the agency published a Notice of Rule-making Proceedings. The agency must accept comments on the proposed rule for at least 30 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. The required comment period is 60 days for a rule that has a substantial economic impact of at least five million dollars (\$5,000,000). Statutory reference: G.S. 150B-21.2.*

**TITLE 10 - DEPARTMENT OF HEALTH  
AND HUMAN SERVICES**

*substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the NC Child Care Commission intends to amend rules cited as 10 NCAC 3U .0102, .0201, .0204 - .0206, .0301 - .0302, .0401, .0403, .0505, .0508 - .0511, .0602, .0604, .0701 - .0705, .0707 - .0714, .0802 - .0804, .0806, .0901 - .0902, .1001 - .1004, .1301 - .1303, .1401, .1701 - .1702, .1705, .1716, .2506, .2510; repeal rules cited as 10 NCAC 3U .0202, .0207, .0303, .0506 - .0507, .1703, .1717, .2601 - .2612; and adopt rules cited as 10 NCAC 3U .0304, .0605, .1304, .1718 - .1723. Notice of Rule-making Proceedings was published in the Register on October 15, 1997.

**Proposed Effective Date:** July 1, 1998

**A Public Hearing** will be conducted at 6:30 p.m. - 8:30 p.m. on January 29, 1998 and 9:00 a.m. - 1:00 p.m. on January 30, 1998 at the Division of Child Development, Room 300, 319 Chapanoke Road, Raleigh, NC, (919) 662-4543.

**Reason for Proposed Action:** The North Carolina General Assembly enacted S.L. 97-0506 during the 1997 Legislative Session which revised G.S. 110, the law for child care centers and family child care homes. The North Carolina Child Care Commission has reviewed all the rules in Subchapter 3U and proposes changes needed to conform to the new child care law. The Commission also proposes this action to ensure that temporary rules pertaining to outdoor area equipment and furnishings currently in effect become permanent.

**Comment Procedures:** Written comments for consideration by the Commission may be submitted to the APA Coordinator for the Division of Child Development at the address. Oral comments may be made during the public hearing. Time limits for oral remarks may be imposed by the Commission Chairperson. Copies of the rules may be requested by contacting the APA Coordinator:

Nancy Guy  
Division of Child Development  
PO Box 29553  
Raleigh, NC 27626-0553  
(919) 662-4543

**Fiscal Note:** Rule 10 NCAC 3U .0605 affects the expenditures or revenues of state and local government funds. All other rules do not affect the expenditures or revenues of state or local government funds. None of these Rules have a

**CHAPTER 3 - FACILITY SERVICES**

**SUBCHAPTER 3U - CHILD DAY CARE STANDARDS**

**SECTION .0100 - PURPOSE AND DEFINITIONS**

**.0102 DEFINITIONS**

The terms and phrases used in this Subchapter shall be defined as follows except when the content of the rule clearly requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) ~~"Age appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.~~
- (1) (2) "Agency" means Division of Child Development, Department of Health and Human Services Resources, located at 319 Chapanoke Drive, Road, Suite 120, Raleigh, North Carolina 27603.
- (2) (3) "Appellant" means the person or persons who request a contested case hearing.
- (3) (4) "A" license means the license issued to day child care operators who meet the minimum requirements for the legal operation of a child day care facility pursuant to G.S. 110-91 and applicable rules in this Subchapter.
- (4) (5) "AA" license means the license issued to day child care operators who meet the higher voluntary standards promulgated by the Child Day Care Commission as codified in Section .1600 of this Subchapter.
- (5) (6) "Child Care Program" means ~~a provider of child day care services and may consist of a single center or home, or a group of centers or homes or both, which are operated by one owner or supervised by a common sponsor.~~ entity.
- (6) "Child care administrator" means the person responsible for ensuring that all applicable child care requirements are met, in addition to the duties in G.S. 110-86.
- (7) "Child day care provider" as defined by G.S. 110-90.2 and used in Section .2700 of this Subchapter, includes but is not limited to the following employees: facility directors, administrative staff, teachers, teachers' aides, cooks, maintenance personnel and drivers.
- (8) "Child Development Associate Credential" means



the national early childhood credential administered by the Council for Early Childhood Professional Recognition.

- ~~(9) "Day care center" means any day care facility as defined in G.S. 110-86(3) which is authorized to provide day care to 13 or more children when any child present is preschool-age according to the definition of preschool-aged child in this Rule.~~
- ~~(10) "Day care home" means any child day care home in G.S. 110-86(4). Child care arrangements excluded from the definition of day care facility in G.S. 110-86(3) are also excluded as day care homes.~~
- ~~(9) (11) "Department" means the Department of Health and Human Services. Resources.~~
- ~~(10) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.~~
- ~~(11) (12) "Division" means the Division of Child Development within the Department of Health and Human Services. Resources.~~
- ~~(12) (13) "Drop-in care" means a child day care arrangement where children attend on an intermittent, unscheduled basis.~~
- ~~(13) (14) "Group" means the children assigned to a specific caregiver, or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and this Subchapter, using space which is identifiable for each group.~~
- ~~(15) "Large child day care center" or "large center" means any day care facility which is authorized to provide care to 80 or more children.~~
- ~~(16) "Large child day care home" or "large home" means any day care facility as defined in G.S. 110-86(3) which is authorized to routinely provide care to a maximum of 12 children when any child present is preschool-aged or, when all children present are school-aged, to a maximum of 15 children. Provided the appropriate child/staff ratios are not exceeded, the large home may exceed these maximum capacities by no more than two children:~~
  - ~~(a) during the school year for no more than one hour immediately after school; and~~
  - ~~(b) during the two week period preceding and the two week period following the public school year.~~
- ~~(14) (17) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a day care center: child care facility.~~
- ~~(18) "Licensing Manual" means the document published by the Child Day Care Section which contains these Rules required by North Carolina law, the Commission and the Department for licensure of child day care centers. The licensing manual may be obtained from the Section at the address given in Item (2) of this Rule.~~
- ~~(19) "Medium child day care center" or "medium center" means any day care center facility which is~~

~~authorized to provide day care to at least 30 but no more than 79 children.~~

- ~~(15) (20) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of coursework and standards found in the North Carolina Early Childhood Instructor Manual published jointly under the authority of the Department and the North Carolina Community College System. These standards are incorporated by reference and include subsequent amendments. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division of Child Development, 319 Chapin Drive, Raleigh, North Carolina at the address given in Item (1) of this Rule and will be available for public inspection during regular business hours.~~
- ~~(16) (21) "Operator" means the person or entity held legally responsible by law as the owner of a for the child day care business. The terms "operator", "sponsor" or "licensee" may be used interchangeably.~~
- ~~(17) (22) "Part-time care arrangement" care" means a child day care as defined in G.S. 110-86 arrangement where children attend on a regular schedule but which provides care on less than a full-time basis.~~
- ~~(18) (23) "Passageway" means a hall or corridor.~~
- ~~(19) (24) "Preschooler" or "preschool-aged child" means any child who does not fit the definition of school-aged child in this Rule.~~
- ~~(25) "Provisional License" means the type of license issued to a center which does not conform in every respect with the standards for an "A" license.~~
- ~~(26) "Registrant" means the person or entity that is granted permission by the State of North Carolina to operate a day care home.~~
- ~~(20) (27) "School-aged child" means any child who is at least five years old on or before October 16 of the current school year and who is attending, or has attended, a public or private grade school or kindergarten: kindergarten; or any child who is not at least five years old on or before October 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before moving to and becoming a resident of North Carolina; or any child who is at least five years old on or before April 16 of the current school year, is determined by the principal of the school to be gifted and mature enough to justify admission to the school, and is enrolled no later than the end of the first month of the school year.~~
- ~~(21) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).~~
- ~~(22) (28) "Section" means Division of Child Development.~~
- ~~(29) "Small day care center" or "small center" means~~

any day care facility which is authorized to provide day care for a maximum of 29 children:

- (30) ~~"Small day care home" or "small home" means the child care arrangements defined in G.S. 110-86(4) which are subject to the registration requirements set forth in Section .1700 of this Subchapter.~~
- (31) ~~"Special Provisional License" means the type of license which may be issued a day care operator pursuant to the conditions of G.S. 110-88 (6a) when child abuse or neglect has occurred in the center.~~
- (23) (32) "Substitute" means any person who temporarily assumes the duties of a regular staff person for a time period not to exceed two consecutive months.
- (33) ~~"Teacher" means the caregiver who has responsibility for planning and implementing the daily program of activities for each group of children.~~
- (34) (24) "Temporary care arrangement" means any child day care arrangement which provides either drop-in care or care on a seasonal or other part-time basis and is required to be regulated pursuant to G.S. 110-86.
- (35) ~~"Temporary license" means the license which may be issued when a licensed center changes location or changes ownership.~~
- (25) (36) "Volunteer" means a person who works in a day care center or day care home child care facility and is not monetarily compensated by the center or home. facility.

Authority G.S. 110-88; 143B-168.3.

## SECTION .0200 - GENERAL PROVISIONS RELATED TO LICENSING CHILD CARE CENTERS

### .0201 INSPECTIONS

The ~~Child Day Care Section~~ Division shall periodically visit and inspect all day child care centers to insure compliance with North Carolina General Statutes and those rules and regulations adopted pursuant thereto.

- (1) A representative of the section Division shall conduct an announced visit prior to the initial issuance ~~and renewal~~ of the license. The prospective or current licensee shall be notified in advance about the visit. This Rule does not apply to the investigation of centers that are operating without a license in violation of the law.
- (2) At the beginning of each fiscal year, the section Division shall prepare a written plan explaining the guidelines for making routine, announced and unannounced ~~compliance~~ visits to licensed day child care centers. The plan shall be dated and signed by the section chief Division director and shall be kept in a confidential ~~file by the section chief.~~ file.

- (3) A representative of the section Division may make unannounced visits to any licensed center whenever the section Division receives a complaint alleging violation of the licensing law or the rules in this Subchapter, or if a representative of the section Division has reason to believe an emergency exists in the center.

Authority G.S. 110-105; 143B-168.3.

### .0202 CENTERS SUBJECT TO LICENSURE

~~Any day care center or large day care home as previously defined in Rule .0102 of this Subchapter which provides care on a regular basis of at least once per week, for more than four hours but less than 24 hours per day, regardless of the time of day and regardless of whether the same or different children attend regularly, must be licensed. These arrangements include, but are not limited to:~~

- (1) ~~day care centers, including those which operate for more than one shift;~~
- (2) ~~nursery schools;~~
- (3) ~~part-time care arrangements, including those which provide care on a seasonal, drop-in, or after-school basis as defined in Rule .0102 of this Subchapter;~~
- (4) ~~preschool programs housed in a public school building, whether operated by the public school system or a private provider;~~
- (5) ~~large day care homes.~~

Authority G.S. 110-86(3); 143B-168.3.

### .0204 CHANGES REQUIRING ISSUANCE OF A NEW LICENSE

(a) When the operator, as defined in Rule .0102, of a licensed day child care center changes, the new operator must apply for a new license at least 30 days prior to assuming ownership of the center. A child day care license cannot be bought, sold, or transferred by one operator to another.

(b) When a licensed child day care center is to be moved from one location to another, the licensee must apply for a license for the new physical location as prescribed in Section .0300 of this Subchapter. The licensee must obtain the new license prior to occupying the new location. A child day care license is not transferrable from one location to another.

(c) When a licensee desires to change the licensed capacity of a center, the licensee must notify the section Division.

- (1) If the licensee wishes to increase the licensed capacity by using space not currently approved for day child care, the section Division shall provide the licensee with appropriate forms to request approval. Once the additional space is approved, a new license shall be issued to reflect the increase in licensed capacity.
- (2) If a licensee wishes to increase the center's licensed capacity by using space that is already approved for day child care, the section Division shall, upon request, issue a new license showing the increase.



(3) If a licensee wishes to decrease the center's licensed capacity, the ~~section~~ Division shall, upon request, issue a new license reflecting the decrease.

(d) When a licensee decides to conform with requirements in order to remove a restriction on the age or number of children who can be served in the center, the licensee shall notify the ~~section~~ Division. The ~~section~~ Division shall supply forms for the licensee to use to obtain approval from the local inspectors, if necessary. When the ~~section~~ Division is notified that the center conforms with all applicable requirements, a new license, without the restriction, shall be issued.

Authority G.S. 110-88(8); 110-93; 143B-168.3.

#### **.0205 PARENTAL ACCESS**

The ~~custodial~~ parent, guardian or full-time custodian of a child enrolled in any child day care ~~center facility or home~~ subject to regulation under Article 7 of Chapter 110 of the North Carolina General Statutes or these Rules shall be allowed unlimited access to the ~~facility or home center~~ during its operating hours for the purposes of contacting the child or evaluating the ~~facility or home center~~ and the care provided by the ~~facility or home center~~. The parent, guardian or custodian shall notify the on-site administrator of his or her presence immediately upon entering the premises.

Authority G.S. 110-85; 110-91; 143B-168.3.

#### **.0206 CAPACITY OF THE CENTER**

(a) The licensed capacity shall be no greater than the number of children that the total primary space, as defined in Rule .1401, used by children can accommodate at 25 square feet per child.

(b) ~~Except as provided in the definition of large home in Rule .0102 of this Subchapter, the~~ The number of children present at the ~~facility center~~ shall not exceed the licensed capacity of the ~~facility center~~.

(c) The number of children occupying any room of the ~~facility center~~ shall not exceed the number that the primary space in that room will accommodate at 25 square feet per child except as provided in Rule .1401 of this Subchapter.

Authority G.S. 110-88(1a); 110-91(6); 143B-168.3.

#### **.0207 SCHOOL-AGE CHILDREN OF THE OPERATOR**

~~The operator's own school-age children shall not be considered to be enrolled in the facility and, therefore, shall not be counted when determining the facility's compliance with the rules of this Subchapter.~~

Authority G.S. 110-86(3); 143B-168.3.

### **SECTION .0300 - PROCEDURES FOR OBTAINING A LICENSE FOR A CHILD CARE CENTER**

#### **.0301 PRE-LICENSING REQUIREMENTS**

(a) Anyone who wishes to obtain a license to operate a child care center ~~should~~ shall first request pre-licensing consultation ~~on a form provided by the section~~ from the Division.

(b) Upon receiving a ~~completed~~ request form, a representative of the ~~section~~ Division shall schedule a visit with the person requesting ~~consultation~~ consultation, ~~unless the person requesting consultation meets the criteria described in Rule .0302(g)~~. The purpose of the visit is to review the ~~licensing law and standards and to explain the licensing process~~. The ~~section's representative~~ Division shall furnish the forms required to be completed and submitted in order to apply for a license.

(c) The Division shall provide regularly scheduled licensing workshops for new and existing child care centers. A schedule of these workshops may be obtained from the Division at the address given in Rule .0102 of this Subchapter.

Authority G.S. 110-88(1); 110-88(5); 143B-168.3.

#### **.0302 APPLICATION FOR A LICENSE FOR A CHILD CARE CENTER**

(a) The individual who will be legally responsible for the operation of the center, which includes assuring compliance with the licensing law and standards, shall apply for a license using the form provided by the ~~section~~ Division. If the operator will be a group, organization, or other entity, an officer of the entity who is legally empowered to bind the operator shall complete and sign the application.

(b) The applicant shall arrange for inspections of the center by the local ~~sanitarian~~ health, building and fire inspectors. The applicant shall provide an approved inspection report signed by the appropriate inspector to the ~~section's~~ Division representative.

(1) A provisional classification may be accepted in accordance with Rule .0401(1) of this Subchapter.

(2) When a center does not conform with a specific building, fire, or sanitation standard, the appropriate inspector may submit a written explanation of how equivalent, alternative protection is provided. The ~~section chief~~ Division may accept the inspector's documentation in lieu of compliance with the specific standard. Nothing in this Regulation is to preclude or interfere with issuance of a provisional license pursuant to Section .0400 of this Subchapter.

(c) ~~The applicant shall comply with all other state laws and local ordinances that apply to the operation of a child day care center.~~

(c) ~~(d)~~ The applicant, or the person responsible for the day-to-day operation of the center, shall be able to describe the plans for the daily program, including room arrangement, staffing patterns, equipment, and supplies, in sufficient detail to show that the center will comply with applicable requirements for activities, equipment, and staff/child ratios

for the size capacity of the facility center and type of license requested. The applicant shall make the following written information available to the section's representative Division for review to verify compliance with provisions of this Subchapter and the licensing law:

- (1) daily schedules,
- (2) activity plans,
- (3) emergency care plan,
- (4) discipline policy,
- (5) incident reports,
- (6) incident ~~logs~~ logs,
- (7) a copy of the certified criminal history check for the applicant, or the applicant's designee as defined in Rule .2701(g) of this Subchapter, from the Clerk of Superior Court's office in the county or counties where the individual has resided during the previous 12 months.

(d) ~~(e)~~ The applicant shall, at a minimum, demonstrate to the section's Division representative that measures will be implemented to have the following information in the center's files and readily available to the representative for review:

- (1) ~~Records on staff~~ Staff records which include an application for employment; employment and date of birth; documentation of previous education, training, and experience; medical and health records; ~~and~~ documentation of participation in training and staff development activities; ~~and required criminal records check documentation;~~
- (2) ~~Records on children~~ Children's records which include an application for enrollment; medical and immunization records; and permission to seek emergency medical care;
- (3) Daily attendance records;
- (4) Records of monthly fire drills giving the date each drill is held, the time of day, the length of time taken to evacuate the building, and the signature of the person that conducted the drill;
- (5) Records of monthly playground inspections documented on a checklist provided by the Division; and
- (6) Records of medication administered.

(f) ~~(e)~~ The section's Division representative shall measure all rooms to be used for day child care and shall assure that an accurate sketch of the center's floor plan is part of the application packet. The section's Division representative shall enter the dimensions of each room to be used for day child care, including ceiling height, and shall show the location of the bathrooms, doors, and required exits on the floor plan.

(g) ~~(f)~~ The section's Division representative shall make one or more compliance inspections of the center and premises; premises to assess compliance with all applicable standards.

- (1) If the center is in compliance, the representative Division shall submit all inspection reports, the floor plan, and any other supporting documents, along with the signed application, to the section for

final review and issuance of issue the license.

- (2) If the center does not comply, ~~comply with the standards in all respects, the representative shall submit all information listed in (1) of this Paragraph. The~~ the representative may recommend issuance of a provisional license in accordance with Section .0400 of this Subchapter or the representative may recommend denial of the application. Final disposition of the recommendation to deny is the decision of the section chief: Division.

- (3) The license shall be displayed in an area that parents are able to view daily.

~~(h) (g) If the license is denied, the operator may A person shall not reapply apply for a child care facility license for that facility for at least 90 days within 12 months after any child care facility license held by that person has been revoked or summarily suspended by the Department. If the person appeals the Department's revocation or summary suspension, the person shall not apply for a child care facility license during the appeal. If the revocation or summary suspension is affirmed on appeal, the petitioner shall not apply for a license within 12 months after from the date the letter of denial the final order affirming the revocation or summary suspension, is issued or, if administrative or judicial review is requested by the applicant, from the date the final agency decision or judicial determination is rendered, whichever is later.~~

Authority G.S. 110-88(2); 110-88(5); 110-91; 110-92; 110-93; 110-99; 143B-168.3.

### .0303 RENEWAL OF A LICENSE

(a) ~~Each licensee must annually apply for renewal of the license using forms supplied by the section:~~

- (1) ~~The section shall mail the forms to the licensee approximately 90 days prior to the expiration date on the license.~~
- (2) ~~The operator shall notify the local fire inspector when it is time for the facility's annual renewal inspection.~~

(b) ~~The section's representative shall make one or more visits to the center to determine compliance with the licensing standards. The first of these compliance inspection visits shall be made during the 60 days immediately preceding the expiration date on the license. This shall be the announced renewal visit. The representative shall review the records and documents identified in Rule .0302(d) and (e), observe in the classrooms, and perform other activities necessary to evaluate compliance.~~

(c) ~~When the Section's representative documents noncompliance on the announced renewal visit, based on the severity and extent of noncompliance, the representative may return to the facility at a later date, but prior to the license expiration date, to determine if compliance has been achieved; advise the licensee to submit written verification that the noncompliance has been corrected; recommend~~



issuance of a provisional license in accordance with Section .0400 of this Subchapter; or recommend denial of the application for renewal. Final disposition of the recommendation to deny is the decision of the Section Chief. When the application for renewal of a license has been denied, the letter of denial shall be posted prominently in the facility immediately upon receipt. The stipulations of Rule .0302(h) shall apply.

(d) When the center is in compliance with licensing standards, the section's representative shall submit forms and supporting documentation, together with the signed application for renewal, to the section for final review and approval for renewal of the license.

(e) Regardless of the reason, when an application for renewal is received by the section after the license expiration date, the existing license shall remain valid until the section notifies the licensee otherwise pursuant to the provisions of 150B-3.

Authority G.S. 110-88(5); 110-93; 143B-168.3; 150B-3.

#### .0304 ON-GOING REQUIREMENTS FOR A LICENSE

(a) Each operator shall schedule a fire inspection within 12 months of the center's previous fire inspection. The operator is responsible for notifying the local fire inspector when it is time for the center's annual fire inspection. The operator shall submit the original of the completed annual fire inspection report to the Division's representative within one week of the inspection visit on the form provided by the Division.

(b) Each center shall be inspected at least annually for compliance with appropriate sanitation requirements adopted by the Health Services Commission as described in 15A NCAC 18A .2800.

(c) A new building inspection shall not be required unless the operator plans to begin using space not previously approved for child care, has made renovations to the building, has added new construction, or wants to remove any restriction related to building codes currently on the license.

(d) When the Division's representative documents noncompliance during a visit, the representative may:

- (1) Advise the operator to submit written verification that the noncompliance has been corrected;
- (2) Return to the center for an unannounced visit at a later date to determine if compliance has been achieved; or
- (3) Recommend issuance of a provisional license in accordance with Section .0400 of this Subchapter or recommend the revocation of the license or administrative actions in accordance with Section .2000 of this Subchapter.

Authority G.S. 110-88(5); 110-93; 143B-168.3; 150B-3.

#### SECTION .0400 - ISSUANCE OF PROVISIONAL AND

#### TEMPORARY LICENSES

##### .0401 PROVISIONAL LICENSES FOR FACILITIES

(a) A provisional license may be issued in accordance with the provisions of G.S. 110-88(6) for any period of time not to exceed twelve consecutive months for any of the following reasons:

- (1) To allow a specific time period for correcting a violation of the building, fire, or sanitation requirements, provided that the appropriate inspector documents that the violation is not hazardous to the health or safety of the children but nevertheless necessitates a provisional classification until corrected.
- (2) To allow a specific time period for the center facility to comply fully with all licensing requirements other than building, fire, or sanitation, and to demonstrate that compliance will be maintained, provided that conditions at the center facility are not hazardous to the health or safety of the children or staff.
- (3) To allow time for the applicant or licensee to obtain a declaratory ruling pursuant to Section .2000 of this Subchapter.
- (4) As a possible administrative action for substantiation of child abuse or neglect.

(b) The provisional license may be issued upon the section's Division's determination that the applicant or licensee is making a reasonable effort to conform to such requirements.

(c) The provisional license and the document describing the reasons for its issuance shall be posted in a prominent place in the center facility that parents are able to view daily.

(d) A licensee may obtain an administrative hearing on the issuance of a provisional license in accordance with Section .2000 of this Subchapter.

Authority G.S. 110-88(6); 110-99; 143B-168.3.

##### .0403 TEMPORARY LICENSES FOR CENTERS

(a) A temporary license may be issued in accordance with the provisions of ~~G.S. 110-88(10);~~ G.S. 110-88(10) to the operator opening a new center or to the operator of a previously licensed center when a change in ownership or location occurs provided:

- (1) to the operator of a previously licensed facility when a change in ownership or location occurs, provided the operator applied for a license, pursuant to Section .0300, and or Rule .0204(a) or (b) of this Subchapter; Subchapter prior to the change in status; or and
- (2) to allow an applicant to open a facility, provided the applicant made initial application for a day care license at least four weeks prior to the scheduled opening date and has complied with the Section's requests for information to demonstrate potential compliance with the General Statutes and the rules

of this Subchapter, and Section has not determined that the applicant is ineligible for a license: the center has sufficient equipment and materials to operate for the number of children enrolled.

(b) The temporary license shall be posted in a prominent place in the center: center that parents are able to view daily.

(c) The temporary license shall expire after 90 days; six months, or upon the issuance of a license or provisional license to the operator, whichever is earlier.

(d) An operator may obtain an administrative hearing on the denial of a temporary license in accordance with Section .2000 of this Subchapter.

Authority G.S. 110-88(10); 110-99; 143B-168.3.

## SECTION .0500 - DEVELOPMENTALLY APPROPRIATE ACTIVITIES FOR CENTERS

### .0505 DEVELOPMENTAL DAY CENTERS

Child day care centers which meet the criteria for developmental day centers, as defined in 10 NCAC ~~18M .0701~~ 14V .2401 (contained in APSM 35-1, 30-1, Standards for Area Programs and Their Contract Agencies, published by the Division of Rules for Mental Health, Mental Retardation Developmental Disabilities and Substance Abuse Facilities and Services), Services, published by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, shall be determined in compliance with the provisions of Rules .0507 .0508 through .0511 of this Section by complying with the requirements for activities for developmental day centers set forth in 10 NCAC ~~18M .0707; .0708 and .0713;~~ 14V .2403.

Authority G.S. 110-91(2), (12); 143B-168.3.

### .0506 WRITTEN SCHEDULE: CENTERS

(a) ~~Centers shall have a schedule for each group of children posted for easy reference by parents and by caregivers.~~

(b) ~~The schedule shall show blocks of time usually assigned to types of activities and shall include periods of time for both active play and quiet play or rest. Blocks of time shall show activities that are scheduled for indoor and outdoor areas.~~

(c) ~~The activities and allotted times reflected in the schedule shall be age appropriate for the children in the group.~~

(d) ~~When children two years old or older are in care, the schedule shall also reflect daily opportunities for both free-choice and teacher-directed activities.~~

Authority G.S. 110-91(2), (12); 143B-168.3.

### .0507 ACTIVITY PLAN: SMALL CENTERS

(a) Pursuant to G.S. 110-91(12), each small day care center shall have a written plan of age-appropriate activities which is made available to parents. The plan may be posted

in the center or included in the parent handbook or other operational policy literature given to parents when the child is enrolled.

(b) ~~The written plan shall describe the type of program offered by the center and shall include a general description of the activities made available to the children.~~

Authority G.S. 110-91(12); 143B-168.3.

### .0508 ACTIVITY SCHEDULES AND PLANS FOR CENTERS

(a) All centers shall have a schedule for each group of children posted for easy reference by parents and by caregivers.

(1) The schedule shall show blocks of time usually assigned to types of activities and shall include periods of time for both active play and quiet play or rest.

(2) Blocks of time shall show activities that are scheduled for indoor and outdoor areas.

(3) The activities and allotted times reflected in the schedule shall be developmentally appropriate for the children in care.

(4) When children two years old or older are in care, the schedule shall also reflect daily opportunities for both free-choice and teacher-directed activities.

(a) (b) All centers shall develop a written plan of age-appropriate activities designed to stimulate the social, emotional, intellectual and physical development of children shall be developed for each group of children in care.

(b) (1) The activity plan shall always be current and accessible for easy reference by parents and caregivers.

(c) (2) The activity plan shall include at least one daily activity for each developmental goal specified in Paragraph (a) (b) of this Rule. Activities which allow children to choose to participate with the whole group, part of the group, or independently shall be identified. The plan shall reflect that the children have at least four different activities in which they may choose to participate on a daily basis.

(c) The schedule and activity plan may be combined as one document that shall always be current and posted for easy reference by parents and caregivers.

Authority G.S. 110-91(2), (12); 143B-168.3.

### .0509 ACTIVITIES: GENERAL REQUIREMENTS FOR CENTERS

(a) Each center providing care to children aged two years and older shall have developmentally appropriate equipment and materials available accessible on a daily basis. The equipment and materials shall be appropriate for the ages of the children in care.

(b) The materials and environment shall be sufficient in



quantity to provide a variety of play experiences which stimulate ~~promote~~ the children's social, emotional, intellectual and physical development. ~~development and the materials shall be easily accessible to the children.~~

(c) Teacher-made and home-made equipment and materials may be used if they are safe and functional. Materials and equipment that are accessible to children shall not be coated or treated with, nor shall they contain, toxic materials such as creosote, pentachlorophenol, tributyl tin oxide, dislodgeable arsenic and any finishes which contain pesticides.

(d) Age Developmentally appropriate equipment and materials shall be provided for a variety of outdoor activities which allow for vigorous play and large muscle development. Each child shall have the opportunity for outdoor play each day that weather conditions permit. The facility center shall provide space and time for vigorous indoor activities when children cannot play outdoors.

Authority G.S. 110-91(2), (12); 143B-168.3.

## **.0510 ACTIVITY AREAS: PRESCHOOL CHILDREN TWO YEARS AND OLDER**

(a) Each ~~small, medium and large day care~~ center shall have equipment and materials available in activity areas on a daily basis. Centers with a licensed capacity of six to 12 children located in a residence are not required to have activity areas, but must have equipment and materials available daily for the children in care.

(b) An activity area is an identifiable space which is accessible to the children and where related equipment and materials are kept in an orderly fashion. ~~fashion which is accessible to the children.~~

(c) Each activity area shall contain enough materials to allow three related activities to occur at the same time. The materials and equipment shall be in sufficient quantity to allow at least three children to use the area regardless of whether the children choose the same or different activities.

(d) Each center shall make at least four of the activity areas listed in Paragraph (e) of this Rule G.S. 110-91(12) available daily to preschool children two years or older as follows:

(1) ~~Medium and large centers~~ Centers with a licensed capacity of 30 or more children shall have at least four activity areas available in the space occupied by each group of children.

(2) ~~Small day care centers~~ Centers with a licensed capacity of less than 30 children shall have at least four activity areas available daily. ~~In small centers, separate~~ Separate groups of children may share use of the same activity areas.

(3) Centers with a licensed capacity of six to 12 children located in a residence shall have at least four types of activities available daily.

(e) ~~Whenever one of these activity areas is available for use by children, it shall contain, at a minimum, the items specified in this Rule as follows:~~

(1) ~~Art and other creative play materials:~~

(A) ~~Each art activity area shall contain crayons and plain paper, paste or glue, and paint and paint brushes.~~

(B) ~~In addition, each art activity area shall have three of the following items available to the children: scissors, construction paper, easel, clay or playdough, or collage materials.~~

(2) ~~Children's books:~~

(A) ~~Each book activity area shall have at least two age-appropriate books available for each child in the group (as defined in Rule .0102 of this Subchapter) to which the activity area is accessible. Books in other activity areas accessible to the same group of children may be counted in the minimum number of required books;~~

(B) ~~The center shall have one book available to each child enrolled in the center; or~~

(C) ~~In addition to books, the center shall make available at least two other items which are designed to promote language development, such as puppets, flannel boards (or similar items) and appropriate accessories, pictures, or language tapes.~~

(3) ~~Blocks and block building accessories:~~

(A) ~~Each block activity area shall contain a minimum of 90 blocks consisting of unit blocks or table blocks, or a combination of the two, in at least three different shapes and sizes.~~

(B) ~~In addition, the block area shall contain at least two different types of block-building accessories, such as vehicles, animals, human figures, or fences.~~

(4) ~~Manipulative materials:~~

(A) ~~Each manipulative activity area shall contain a variety of manipulative materials designed to promote development of small muscle coordination.~~

(B) ~~Each manipulative activity area shall have at least one item or set of items for each two children in the group (as defined in Rule .0102 of this Subchapter) to which the activity area is accessible. There shall be a minimum of ten items or sets of items in each activity area.~~

(5) ~~Housekeeping and dramatic play materials:~~

(A) ~~Each housekeeping activity area shall have a sturdy child-sized play stove, table and chairs, and dolls.~~

(B) ~~In addition, the activity area shall contain at least three of the following items: sturdy play sink, play refrigerator, realistic accessories to include pots and pans, utensils, dishes, doll bed, full-length mirror, doll clothes and linens, or dress-up clothes.~~

(f) (e) In addition to the activity areas which are available

each day, each center shall have materials and equipment in sufficient quantity, as described in Paragraph (c) of this Rule, to ensure that activities are made available at least once per month in each of the five program activity areas listed in Paragraph (c): G.S. 110-91(12).

(g) (f) Each center shall provide materials and opportunities for music and rhythm activities, science and nature activities, and sand and water play for each group of children at least once per month.

Authority G.S. 110-91(6), (12); 143B-168.3.

#### .0511 ACTIVITIES FOR CHILDREN UNDER TWO YEARS OF AGE

(a) Each center ~~providing care to infants and toddlers~~ shall have ~~three different age developmentally~~ appropriate toys and activities for each child ~~under the age of two years~~ to promote the child's physical, emotional, intellectual and social well-being including appropriate books, blocks, dolls, pretend play materials, musical toys, sensory toys, and fine motor toys.

- (1) The materials shall be kept in an identifiable space where related equipment and materials are kept in identifiable groupings and must be made available to the children for a substantial portion of each day.
- (2) The materials shall be offered in sufficient quantity to allow all children to use them at some point during the day and to allow for a range of choices with duplicates of the most popular toys.
- (3) Caregivers shall make provisions for the promotion of physical development for a substantial portion of the day which shall include varied, developmentally appropriate physical activities. A safe clean, uncluttered area shall be available for infants to crawl or creep and for toddlers to move around.
- (4) Hands-on experiences, including both familiar and new activities, shall be provided to enable the infant or toddler to learn about himself and the world.

(b) The center shall provide time and space for sleeping, eating, toileting, diaper changing, and playing according to each child's individual need.

(c) The caregivers shall ~~provide opportunities for frequent interaction between the caregiver and each child; interact in a positive manner with each child every day.~~

- (1) Caregivers shall respond to each child's good behavior and positive interaction with other children by smiling, verbal praise and positive touch.
- (2) Caregivers shall respond promptly to an infant or toddler's physical and emotional needs, especially when indicated by crying through actions such as but not limited to the following: feeding, diapering, holding, positive touching, smiling, talking and eye contact.
- (3) The caregiver shall recognize the special difficulties of infant and toddler separations and assist families,

infants, and toddlers to make the transition from home to center as gently as possible, such as a phased-in orientation process to allow infants and toddlers to experience limited amounts of time at the center before becoming fully integrated.

- (4) A caregiver or team of caregivers shall be assigned to each infant or toddler as the primary caregiver(s) who shall be responsible for care the majority of the time.
- (5) The caregiver shall make provision for constructive guidance and the setting of clearly defined limits which foster the infant's or toddler's ability to be self-disciplined, as appropriate to the child's age and development.
- (6) In drop-in facilities, centers, every effort shall be made to place an infant or toddler, who uses the center frequently, with the same caregiver.

~~(d) Infants shall have their positions and locations changed throughout the day and shall have frequent opportunities each day to be outside the crib or playpen in addition to the time spent attending to their physical care.~~

(e) Each child shall have the opportunity to be outdoors daily when weather conditions ~~permit; permit for the following periods of time in full day programs: children under one year old for no less than one-half hour and over one year old for no less than one hour.~~

~~(f) Children shall be toilet trained according to individual readiness.~~

Authority G.S. 110-91(2), (12); 143B-168.3.

#### SECTION .0600 - SAFETY REQUIREMENTS FOR CHILD CARE CENTERS

##### .0602 CONDITION OF INDOOR EQUIPMENT AND FURNISHINGS

(a) All equipment and furnishings shall be in good repair and shall be maintained in useable condition. All commercially manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer. ~~All equipment and furnishings shall be in good repair and shall be maintained in useable condition.~~

(b) Equipment and furnishings shall be sturdy, stable, and free of hazards that may injure children including sharp edges, lead based paint, loose nails, and splinters, protrusions, pinch and crush points, uncapped screws and other hazards that may injure children: splinters.

(c) All broken equipment or furnishings shall be removed from the premises immediately or ~~must be stored so that they are not accessible made inaccessible~~ to the children.

(d) ~~All equipment and surfacing ordered, constructed or installed prior to January 1, 1996 shall conform to US Consumer Products Safety Commission (USCPSC) guidelines for playground safety, including subsequent amendments, by January 1, 1999. All equipment and surfacing ordered, constructed or installed after January 1, 1996 shall conform to USCPSC guidelines, including subsequent amendments. A~~



copy of the USCPSC Handbook for Public Playground Safety can be obtained at no charge by writing USCPSC, Office of Information and Public Affairs, Washington, DC, 20207.

~~(e) Gravel shall not be used as a surfacing material if the area will be used by children under three years of age.~~

Authority G.S. 110-91(6); 143B-168.3.

#### .0604 GENERAL SAFETY REQUIREMENTS

(a) Potentially hazardous items, such as firearms and ammunition, hand and power tools, nails, chemicals, lawn mowers, gasoline or kerosene, archery equipment, propane stoves, whether or not intended for use by children, shall be stored in locked areas or with other appropriate safeguards, or shall be removed from the premises.

(b) Electrical outlets not in use which are located in space used by the children shall be covered with safety plugs unless located behind furniture or equipment that cannot be moved by a child.

(c) Electric fans shall be mounted out of the reach of children or shall be fitted with an appropriate mesh guard to prevent access by children.

(d) All small electrical appliances shall be used only in accordance with the manufacturer's instructions.

(e) Electrical cords shall not be accessible to infants and toddlers. Extension cords, except as approved by the local fire inspector, shall not be used. Frayed or cracked electrical cords shall be replaced.

(f) All materials used for starting fires, such as matches and lighters, shall be kept in locked storage or shall be stored out of the reach of children.

(g) Smoking shall not be permitted in space used by children when children are present. All smoking materials shall be kept in locked storage or out of the reach of children.

(h) Fuel burning heaters, fireplaces and floor furnaces shall be provided with a protective screen attached securely to substantial supports to prevent access by children and to prevent objects from being thrown into them.

(i) Plants that are toxic shall not be in indoor or outdoor space that is used by or is accessible to children.

(j) The outdoor play area shall be protected by a fence or other protection. The height shall be a minimum of four feet and the top of the fence shall be free of protrusions by January 1, 1999. The requirement disallowing protrusions shall not apply to fences six feet high or above. The fencing shall exclude fixed bodies of water such as ditches, quarries, canals, excavations, and fish ponds. Gates to the fenced outdoor play area shall remain securely closed while children

occupy the area. When the facility center uses areas outside the fenced outdoor play area for children's activities or takes children off the premises for play or outings, the parent of each child shall give written permission for the child to be included in such activities. The permission may be:

- (1) a one-time, blanket permission for all activities;
- (2) a one-time, blanket permission for a specific activity at any time; or
- (3) a one-time permission for a specific activity at a designated time.

The facility center shall maintain the signed permission in the child's record. When children are taken off the premises, staff accompanying the children shall have a list of the names of all children participating in the outing.

(k) Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.

(l) Gas tanks shall be located so they are not accessible to the children or shall be in a protective enclosure or surrounded by a protective guard.

(m) Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.

(n) Children shall not be allowed to play on outdoor equipment that is too hot to touch.

(o) The indoor and outdoor premises shall be checked daily for debris, vandalism and broken equipment. Debris shall be removed and disposed of appropriately.

(p) The playground surface area shall be checked at least weekly to assure that surface material is maintained to assure continued resiliency.

(q) Following completion of safety training by the administrator or other staff person as required by Rule ~~.0705(f)~~ .0705(e) of this Subchapter, a monthly playground inspection shall be conducted and a record of each inspection shall be completed. This staff person shall use a playground inspection checklist provided by the Division. The checklist shall be signed by the person who conducts the inspection and shall be maintained in the facility's center's files for review by a ~~representatives~~ representative of the Division.

(r) Plastic bags, materials that can be easily torn apart such as Styrofoam and foam rubber, and toys and toy parts small enough to be swallowed shall not be accessible to children under three years of age. Latex and rubber balloons shall not be accessible to children under five years of age.

Authority G.S. 110-85(1); 110-91(3), (6); 143B-168.3.

#### .0605 CONDITION OF OUTDOOR PLAY EQUIPMENT

(a) All equipment shall be in good repair and shall be maintained in useable condition. All commercially manufactured equipment shall be assembled and installed according to procedures specified by the manufacturer.

(b) Equipment shall be sturdy, stable, and free of hazards that are accessible to children during normal supervised play including sharp edges, lead based paint, loose nails, splinters, protrusions, pinch and crush points.

(c) All broken equipment shall be removed from the premises immediately or made inaccessible to the children.

(d) Any openings in equipment, steps, decks and handrails shall be smaller than 3 1/2" or greater than 9" to prevent entrapment.

(e) All upright angles shall be greater than 55° to prevent entrapment and entanglement.

(f) All stationary outdoor equipment shall be firmly anchored over a resilient surface. Footings which anchor equipment shall not be exposed. Loose surfacing material shall not be installed over concrete. The depth of the surfacing that is required shall be based on the critical height of the equipment as indicated in the chart in this Paragraph. The critical height is defined as the maximum height a child may climb, sit or stand. Acceptable materials to be used for surfacing include the following: wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, fine gravel and medium gravel.

Critical Heights of Playground Equipment for Various Types  
and Depths of Resilient Surfaces

	<u>Wood Mulch</u>	<u>Double Shredded Bark Mulch</u>	<u>Uniform Wood Chips</u>	<u>Fine Sand</u>	<u>Coarse Sand</u>	<u>Fine Gravel</u>	<u>Medium Gravel</u>
<u>Equipment Height</u>	<u>Uncompressed Depths of Material</u>						
<u>five feet or less</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>
<u>six feet</u>	<u>6 inches</u>	<u>6 inches</u>	<u>6 inches</u>	<u>12 inches</u>	<u>12 inches</u>	<u>6 inches</u>	<u>12 inches</u>
<u>seven feet</u>	<u>6 inches</u>	<u>9 inches</u>	<u>9 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>9 inches</u>	<u>N/A*</u>
<u>eight feet</u>	<u>9 inches</u>	<u>9 inches</u>	<u>12 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>12 inches</u>	<u>N/A*</u>
<u>nine feet</u>	<u>9 inches</u>	<u>9 inches</u>	<u>12 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>12 inches</u>	<u>N/A*</u>
<u>ten feet</u>	<u>9 inches</u>	<u>9 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>N/A*</u>	<u>12 inches</u>	<u>N/A*</u>
<u>eleven feet</u>	<u>12 inches</u>	<u>12 inches</u>	<u>12 inches</u>	<u>N/A*</u>	<u>N/A*</u>	<u>N/A*</u>	<u>N/A*</u>

\*This type of material is not allowed due to lack of scientific testing of shock-absorbing properties at this height.

Other materials that have been certified by the manufacturer to be shock-absorbing resilient material in accordance with ASTM Standard 1292, may be used only if installed, maintained and replaced according to the manufacturer's instructions. Gravel shall not be used if the area will be used by children under three years of age.

(g) The resilient surfacing shall extend beyond the external limits of the equipment for a minimum of six feet. The area which is required to have the resilient surfacing is the area under and around the equipment where the child is likely to fall and it is called the fall zone. Fall zones may overlap in three situations: between two swing structures, around spring rockers, or around equipment that is less than 24 inches in height.

(h) Swings shall have resilient surfacing that extends two times the length of the pivot point to the surface below. The surfacing shall be to the front and rear of the swing. Enclosed tot swings shall have resilient surfacing that extends two times the length of the pivot point to the bottom of the swing seat. The surfacing shall be to the front and rear of the swing. Tot swings are defined as those enclosed swing seats used solely by children one year of age and under. Tire swings shall have resilient surfacing that extends a distance of six feet plus the measurement from the pivot point to the swing seat and six feet to the side of the support structure.

(i) Swing seats shall be made of plastic or soft or flexible material.

(j) Elevated platforms shall have a guardrail or protective barrier, depending upon the height of the platform and the age of children that will have access to the piece of equipment. All sides of platforms shall be protected except

for the area which allows entry or exit. Guardrails shall prevent inadvertent or unintentional falls off the platform. Protective barriers shall prevent children from climbing over or through the barrier. The critical height for a platform with a protective barrier is the platform surface; the critical height for a platform with a guardrail is the top of the guardrail. Measurements for the guardrails and protective barriers are stated below:

- (1) Equipment used by preschool and school-age children:
  - (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be at least 38 inches high and the lower edge shall be no more than 23 inches above the platform.
  - (B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be at least 38 inches high.
- (2) Equipment used exclusively by preschool children:
  - (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be at least 29 inches high and the lower edge shall be no more than 23 inches above the platform.



(B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be at least 29 inches high.

(3) Equipment used exclusively by school-age children:

(A) Guardrails - an elevated surface that is more than 30 inches and no more than 48 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be at least 38 inches high and the lower edge shall be no more than 26 inches above the platform.

(B) Protective Barriers - an elevated surface that is more than 48 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be at least 38 inches high.

(k) All equipment and surfacing ordered, constructed or installed on or after October 1, 1997 shall conform to all the requirements in this Rule. All equipment and surfacing ordered, constructed, or installed prior to October 1, 1997 shall conform to Paragraphs (a) through (c) of this Rule. All equipment and surfacing ordered, constructed, or installed prior to October 1, 1997 shall conform with Paragraphs (d) through (j) of this Rule by January 1, 2000.

*Authority G.S. 110-91(6); 143B-168.3.*

## **SECTION .0700 - REQUIREMENTS FOR CENTER STAFF**

### **.0701 HEALTH STANDARDS FOR STAFF**

(a) ~~Prior to the time~~ Within 60 days of the date of employment, all personnel, including the director, shall furnish a statement, signed by a licensed physician or an authorized health professional under his/her supervision, that indicates that the person is emotionally and physically fit to care for children. The medical statement shall be obtained within 12 months prior to the date of employment. For the purposes of this Rule, an authorized health professional means a nurse practitioner or physician assistant currently approved to perform medical acts by the North Carolina Board of Medical Examiners.

(b) ~~The section Division, or the director of the day child care center, may request another evaluation of an employee's emotional and physical fitness to care for children when there is reason to believe that there has been deterioration in the person's emotional or physical fitness to care for children. The section may request another evaluation of the center director's emotional and physical fitness when deemed necessary.~~

(c) ~~An annual~~ A test showing each employee, including the director, to be free of active tuberculosis is required: required prior to employment. The results indicating the individual is

free of active tuberculosis shall be obtained within 12 months prior to the date of employment.

(d) Each employee, including the director, shall also annually submit a medical statement from a licensed physician or authorized health professional as defined in (a) of this Rule, or must complete a health questionnaire giving information about the status of his/her health: health on a form provided by the Division. This questionnaire will be prepared by the Section and approved by the Child Day Care Commission.

(e) Staff medical statements, proof of ~~annual~~ a tuberculosis tests, test, and completed health questionnaires shall be included in the employee's individual personnel file in the center.

(f) Emergency medical care information shall be on file for each individual staff person. That information shall include the name, address, and telephone number of the person to be contacted in case of an emergency, the responsible party's choice of health care provider, and preferred hospital; any chronic illness the individual has and any medication taken for that illness; and any other information that has a direct bearing on assuring safe medical treatment for the individual. This emergency medical care information shall be on file in the center on the staff person's first day of employment.

*Authority G.S. 110-91(1), (8), (9); 143B-168.3.*

### **.0702 STANDARDS FOR SUBSTITUTES AND VOLUNTEERS**

(a) The substitute staff and volunteers who are counted in the child ~~day~~ care staff/child ratio shall comply with the health standards contained in this Section.

(b) All substitutes and volunteers not included in the child ~~day~~ care staff/child ratio shall complete the health questionnaire described in Rule .0701 of this Section prior to ~~coming into contact with children at the center~~ the first day of work and will complete a health questionnaire annually thereafter as long as they continue to work in the center.

(c) A test showing each substitute and volunteer is free of active tuberculosis is required prior to the first day of work. The results of the test shall be obtained within 12 months prior to employment or beginning the volunteer activity.

(d) The age of substitute staff and volunteers shall be verified prior to the first day of work by documenting the substitute staff or volunteer's date of birth in the individual's record. Any substitute teacher shall be at least 18 years old and literate.

(e) Emergency medical care information as described in Rule .0701(f) of this Section shall be on file for all substitutes and volunteers on the person's first day of work.

*Authority G.S. 110-91(1), (8), (9); 143B-168.3.*

### **.0703 GENERAL STATUTORY REQUIREMENTS**

(a) Staff counted toward meeting the staff/child ratio requirements set forth in Rules .0712 and .0713 of this Section shall meet the requirements of G.S. 110-91(8). No



one under 18 years of age shall have full responsibility for or be left in charge of a group of children.

(b) Anyone who is at least 13 years of age, but less than 16 years of age, may work in a day child care center on a volunteer basis, as long as he or she is supervised by and works with a required staff person who is at least 21 years of age, and also meets the health standards for volunteers found in Rule .0702 of this Section. No one younger than 16 years old shall be left alone with children nor counted toward meeting the required staff/child ratio.

(c) The provisions of G.S. 110-91(8) which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a day child care facility center are hereby incorporated by reference in ~~accordance with G.S. 150B-14(c)~~ and shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion does not include parents or other persons who enter the facility center only for the purpose of performing parental responsibilities; nor does it include persons who enter the facility center for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.

(d) The provisions of G.S. 110-91(8) which require a child care administrator to obtain a North Carolina Early Childhood Administration Credential or its equivalent, and a lead teacher to obtain a North Carolina Early Childhood Credential or its equivalent are hereby incorporated by reference. Within six months of an individual assuming lead teacher or child care administrator duties, each center shall maintain the following information in the individual's staff record:

- (1) a copy of the credential certificate; or
- (2) a copy of notification from the Division that the individual meets the equivalency or that the individual does not meet the equivalency and must enroll in coursework; or
- (3) a dated copy of the request submitted by the individual to the Division for the assessment of equivalency status or the opportunity to test out of the credential coursework; or
- (4) documentation of enrollment in credential coursework.

(e) If the individual does not yet meet the staff qualifications required by G.S. 110-91(8) when assuming lead teacher or administrative duties, the individual shall submit the following information to the Division within six months of assuming the duties:

- (1) a request to test out of credential coursework on a form provided by the Division; or
- (2) application for equivalency on a form provided by the Division, with documentation of completion of the coursework or credential to be considered for equivalency as required by the Division.

(f) When an individual has responsibility both for administering the child care program and for planning and implementing the daily activities of a group of children, the

requirements for a child care administrator in this Section shall apply, except for centers with a licensed capacity of six to 12 children located in a residence, in which case the requirements for a lead teacher in this Section shall apply.

Authority G.S. 110-85; 110-91(8); 143B-168.3.

#### **.0704 PRESERVICE REQUIREMENTS FOR ADMINISTRATORS**

A child care administrator who has not yet met the staff qualifications required by G.S. 110-91(8) shall meet the following staff requirements.

- (1) ~~(a) The on-site child care administrator who has overall responsibility for planning and administering the child care program as defined in Rule .0102 of this Subchapter shall meet the following requirements:~~

~~(1) Be at least 21 years of age, and be literate; and~~

~~(2) (a) Have either a high school or general education diploma; diploma or its equivalent; and~~

~~(3) (b) Have two years one year of full-time verifiable work experience in a child day care center or two years of full-time verifiable work experience as a licensed family child care home operator; early childhood work experience; or an undergraduate, graduate, or associate degree, with at least 12 semester hours in child development, child psychology, early childhood education or directly related field; or a Child Development Associate Credential; or completion of a community or technical college curriculum program in the area of child care or early childhood; or one year of full-time verifiable child day care or early childhood work experience and a North Carolina Early Childhood Credential; and~~

~~(c) Have at least a North Carolina Early Childhood Credential or its equivalent; and~~

~~(4) (d) Have verification of having successfully completed, or be currently enrolled in, successful completion of 2 semester credit hours, hours or 32 clock hours, of training coursework in the area of early childhood child care program administration; or, have one year experience performing administrative responsibilities; responsibilities, or, have one year experience performing administrative responsibilities and have another full-time staff person, who meets (1) through (3) of this Paragraph who is responsible for planning and implementing the daily program at the center to comply with Sections .0500 and .0600 of this Subchapter.~~

- (2) ~~(b) Administrative preservice requirements may be~~

~~shared between two individuals, such as when The~~  
~~an~~ administrator of a child day care program who  
does not routinely work on site, or ~~who when an~~  
~~administrator~~ is responsible for more than one child  
day care arrangement; ~~arrangement, provided:~~  
~~shall have verification of having successfully~~  
~~completed, or be currently enrolled in, 2 semester~~  
~~hours, or 32 clock hours, of training in child care~~  
~~program administration; or, have one year~~  
~~experience performing administrative~~  
~~responsibilities and have at least one full-time staff~~  
~~person on site at each center who meets the~~  
~~requirements of (1) through (3) of Paragraph (a) of~~  
~~this Rule.~~

(a) ~~The individual who is not routinely on site~~  
~~or who is responsible for more than one~~  
~~child care arrangement shall:~~

(i) ~~have a high school diploma or its~~  
~~equivalent; and~~

(ii) ~~have at least one year of~~  
~~administrative experience, or have~~  
~~verification of successful completion~~  
~~of 2 semester credit hours of~~

~~coursework in early childhood~~  
~~program administration; and~~

(b) ~~The individual who is on-site at each center~~  
~~shall be responsible for planning and~~  
~~implementing the daily program at the center~~  
~~to comply with Sections .0500 and .0600 of~~  
~~this Subchapter and shall:~~

(i) ~~be a full-time staff person; and~~

(ii) ~~have a high school diploma or its~~  
~~equivalent; and~~

(iii) ~~have at least a North Carolina Early~~  
~~Childhood Credential or its~~  
~~equivalent.~~

(c) (3) Any person who is at least 21 years old and  
literate who was employed as an on-site  
administrator in a ~~day child~~ care program on or  
before September 1, 1986, shall be exempt from  
the provisions of Paragraphs (a) and (b) of this  
Rule.

Authority G.S. 110-91(8); 143B-168.3.

#### .0705 SPECIAL TRAINING REQUIREMENTS

(a) At least one staff member shall be knowledgeable of and able to recognize common ~~contagious and infectious diseases;~~  
~~symptoms of illness.~~

(b) Staff who have completed ~~within the last three years~~ a course in basic first aid ~~approved by the Division in the last three~~  
~~years~~ shall be present at the ~~facility center~~ at all times children are present. The number of staff required to complete the course  
shall be based on the number of children present in the ~~facility center~~ as shown in the following chart:

Number of children present

1 - 29

30 - 79

80 and above

Number of staff ~~trained in first aid~~ required

1 staff

2 staff

3 staff

Verification of each required staff person's completion of this  
course shall be maintained in the person's individual  
personnel file in the ~~facility center~~. The basic first aid  
course at a minimum shall address principles for responding  
to emergencies, rescue breathing, and techniques for handling  
common childhood injuries, accidents and illnesses such as:  
choking, burns, fractures, bites and stings, wounds, scrapes,  
bruises, cuts and lacerations, poisoning, seizures, bleeding,  
allergic reactions, eye and nose injuries and sudden changes  
in body temperature.

(c) A first aid information sheet shall be posted in a  
prominent place for quick referral. ~~Copies of this An~~  
~~acceptable~~ form may be requested ~~free of charge~~ from the  
~~Medical Society of the State of North Carolina, P.O. Box~~  
~~27167, Raleigh, North Carolina, 27611. North Carolina~~  
~~Child Care Health and Safety Resource Center by calling 1-~~  
~~800-CHOOSE-1.~~

(d) Each ~~day child~~ care ~~facility center~~ shall have at least  
one person on the premises at all times who has successfully  
completed ~~within the last 12 months~~ a cardiopulmonary  
resuscitation (CPR) course provided by either the American  
Heart Association or the American Red Cross ~~or other~~

~~organizations approved by the Division. within the last 12~~  
~~months. Other organizations will be approved if the Division~~  
~~determines that the courses offered are substantially~~  
~~equivalent to those offered by the American Red Cross.~~  
Successfully completed is defined as demonstrating  
competency, as evaluated by the instructor, in performing  
CPR. The course shall provide training in CPR appropriate  
for the ages of children in care. Documentation of successful  
completion of the course from the American Heart  
~~Association or Association, the American Red Cross Cross,~~  
~~or other organization approved by the Division~~ shall be on  
file in the ~~facility center~~.

(e) ~~Staff shall complete at least four clock hours of training~~  
~~in safety approved by the Division. There shall be at least~~  
~~two staff, including the administrator, who have completed at~~  
~~least four clock hours of training in safety.~~ At a minimum,  
this training shall address playground safety hazards,  
playground supervision, maintenance and general upkeep of  
the outdoor area, and age and developmentally appropriate  
playground equipment. ~~Each day care facility shall have until~~  
~~January 1, 1997 for the required number of staff people to~~  
~~obtain this training. Administrators hired after July 1, 1996~~



shall have ~~six months~~ from the date of employment to obtain the training. ~~Staff counted to comply with this Rule shall have six months from the date of employment, or from the date a vacancy occurs, to complete the required safety training. The number of staff required to complete this training shall be as follows:~~

- (1) ~~In centers with a licensed capacity of less than 30 children, at least one staff person shall complete this training.~~
- (2) ~~In centers with a licensed capacity of 30 or more children, at least two staff, including the administrator, shall complete this training.~~

Authority G.S. 110-91(1), (8); 143B-168.3.

#### .0707 IN-SERVICE TRAINING REQUIREMENTS

(a) Each ~~day~~ child care center shall provide, or arrange for the provision of, training for staff to assure that each new staff person who has contact with the children will receive a minimum of 10 clock hours of on-site orientation within the first six weeks of employment. This orientation shall include training in their job-specific duties and responsibilities; a review of the child ~~day~~ care licensing law and regulations; a review of the individual center's personnel and operational policies, purpose, and goals; an explanation of the role of state and local government agencies, their effect on the center, their availability as a resource, and individual staff responsibilities to representatives of State and local government agencies; observation of center operations; maintaining a safe and healthy environment; and training to recognize symptoms of child abuse and neglect.

(b) The ~~center director~~ child care administrator and any staff who have responsibility for planning and supervising a ~~day~~ child care program, as well as staff who work directly with children, shall participate in in-service training activities annually, according to the individual's assessed needs. Staff may choose one of the following options for meeting the in-service requirement:

- (1) Each staff person shall complete ~~in-service staff development~~ training activities ~~which are related to child care or to the person's job responsibilities required in G.S. 110-91(11)~~ as specified in the following Subparagraphs:

- (A) persons with a four-year degree ~~or higher advanced degree~~ in a child care-related field of study from a regionally accredited college or university shall complete five clock hours of training ~~annually; annually.~~
- (B) persons with a two-year degree in a child care-related field of study from a regionally accredited college or university, ~~or persons with at least 15 years documented, professional experience as a teacher, director or caregiver in a licensed or registered child care arrangement or persons with a North Carolina Early Childhood Administrator Credential or its equivalent and a cumulative~~

~~total of more than 50 hours of approved in-service training shall complete eight clock hours of training annually; annually.~~

- (C) persons with a one-year certificate in a child care-related field of study from a regionally accredited college or university, ~~or persons with at least 10 years documented, professional experience as a teacher, director or caregiver in a licensed or registered child care arrangement and a cumulative total of more than 50 hours of approved in-service training, or persons with a Child Development Associate North Carolina Early Childhood Credential or its equivalent shall complete 10 clock hours of training annually; annually.~~
- (D) all other persons shall complete 20 clock hours of training ~~annually; or annually.~~

~~(2) If the staff person has completed six quarter hours or 66 clock hours of early childhood education or child development and is enrolled in an early childhood or child development curriculum program, completion of or enrollment in a course which is required or approved for completion of that curriculum program will fulfill the annual in-service requirement.~~

(2) ~~For staff listed in Parts (b)(1)(A), (B) and (C) of this Rule, basic first aid and cardiopulmonary resuscitation (CPR) training required in Rule .0705 of this Section shall not be counted toward meeting annual in-service training.~~

(3) ~~If a child care administrator or lead teacher is currently enrolled in coursework to meet the staff qualification requirements in G.S. 110-91(8), the coursework may be counted toward meeting the annual in-service training requirement.~~

(c) For staff working less than 40 hours per week on a regular basis and choosing the option for 20 hours of in-service training, the training requirement may be prorated as follows:

<u>WORKING HOURS PER WEEK</u>	<u>CLOCK HOURS REQUIRED</u>
0-10	5
11-20	10
21-30	15
31-40	20

~~(d) Clock hours of training or education related to child care may be accumulated for up to three years and counted toward the annual in-service training requirement.~~

Authority G.S. 110-91(11); 143B-168.3.

#### .0708 MEETING IN-SERVICE REQUIREMENTS

Staff may meet the in-service training requirements by attending child-care workshops, conferences, seminars, or ~~courses~~ courses, provided each training activity satisfies the following criteria:



- (1) Prior approval from the ~~section~~ Division is not required for training offered by an accredited college or university, government agency, or state or national professional organization or its ~~its~~ recognized affiliates, provided the content complies with ~~the provisions of Rule .0707(b):~~ G.S. 110-91(11).
- (2) Prior approval from the ~~section~~ Division is required on an annual basis for training provided by agencies and organizations which have staff who provide, or who arrange for the provision of, training for child care operators and staff. To obtain such approval, the agency or organization shall submit its annual training plan to the ~~section-~~ Division.
- (3) Prior approval for ~~each training event must shall~~ be obtained from the ~~section~~ Division by any organization, association, or individual not included in Paragraphs (1) and (2) of this Rule.
- (4) No more than five clock hours of the 20 clock hours of training required annually shall be provided on site by center staff. This restriction shall not apply if the center staff providing the training have been approved according to the criteria outlined in either Paragraph (1) or (2) of this Rule.

*Authority G.S. 110-91(11); 143B-168.3.*

**.0709 DOCUMENTATION OF IN-SERVICE TRAINING**

Each center shall have a record of training activities in which each staff participates. That record shall include the subject matter, topic area in G.S. 110-91(11), training provider, date provided, hours, and name of staff who completed the training. This documentation shall be on file and current.

*Authority G.S. 110-91(9), (11); 143B-168.3.*

**.0710 PRESERVICE REQUIREMENTS FOR LEAD TEACHERS, TEACHERS AND AIDES**

(a) A lead teacher who has not yet met the staff qualifications required in G.S. 110-91(8), or a teacher shall be at least 18 years of age, literate; have a high school diploma or its equivalent, and have at least one of the following:

- (1) ~~A high school or general education diploma and one of the following:~~
  - (A) ~~One year of verifiable experience working in a child day care center; or~~
  - (B) ~~Twenty additional hours of training within the first six months of employment; or~~
  - (C) ~~Successful completion of the Department of Public Instruction's Child Care Services Occupational Home Economics Program; or~~
  - (D) ~~A passing grade in at least the equivalent of~~

~~four semester hours in child development at a regionally accredited college or university; or~~

~~(E) A North Carolina Early Childhood Credential.~~

- (1) One year of verifiable experience working in a child care center or two years of verifiable experience as a licensed family child care home operator; or
- (2) Successful completion of a two year high school Child Care Services Occupational Home Economics Program; or
- (3) A passing grade in at least the equivalent of four semester hours in child development at a regionally accredited college or university; or
- (4) A North Carolina Early Childhood Credential or its equivalent; or
- (2) (5) A Child Development Associate Credential; Credential or its equivalent; or
- (3) (6) Graduation from a child care or early childhood curriculum program at a An Early Childhood Certificate, Diploma, or A.A.S. degree from a regionally accredited community college or technical college; college; or
- (4) (7) An undergraduate or graduate degree with at least the equivalent of four semester hours in child development.
- (5) ~~Five years of verifiable experience working in child day care.~~

(b) An aide ~~is a~~ or person responsible to who assists the lead teacher or the teacher for assisting with in planning and implementing the daily ~~program~~ program, and shall be at least 16 years old and literate.

*Authority G.S. 110-91(8); 143B-168.3.*

**.0711 PRESERVICE REQUIREMENTS FOR OTHER STAFF**

(a) Any person whose job responsibility includes driving a vehicle to transport ~~children shall:~~ children, including any substitute driver, shall meet the requirements in Rule .1003 of this Subchapter.

- (1) ~~Be at least 18 years of age; or a duly licensed school bus driver; and~~
- (2) ~~Have no conviction of Driving While Impaired (DWI) or other impaired driving offense within the last three years; and~~
- (3) ~~Have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides.~~

(b) Non-caregiving staff or any person providing support to the operation of the program shall be at least 16 years of age; and meet the requirements of the local health department for food handlers, if applicable, when duties are related to food preparation or food service.

(c) ~~Any teacher substitute shall be at least 18 years old and~~

literate. Any substitute driver shall comply with the requirements of Paragraph (a) of this Rule.

Authority G.S. 110-91(8); 143B-168.3.

**.0712 STAFF/CHILD RATIOS FOR CENTERS WITH A LICENSED CAPACITY OF LESS THAN 30 CHILDREN**

(a) The staff/child ratios and group sizes for a ~~small day~~ child care center not located in a residence with a licensed capacity of less than 30 children are as follows:

<u>Age of Children</u>	<u>No. Children</u>	<u>No. Staff</u>	<u>Maximum Group Size</u>	<u>No. Staff</u>
0 to 12 Months	5	1	10	2
12 to 24 Months	6	1	12	2
2 to 3 Years	10	1	20	2
3 to 5 Years	15	1	25	2
5 Years and Older	25	1	25	1

(b) (1) When only one caregiver is required to meet the staff/child ratio, and children under two years of age are in care, that person shall not concurrently perform food preparation or other duties which are not direct child care responsibilities.

(c) (2) When only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:

(+) (A) The center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or

(+) (B) There shall be a second adult on the premises who is available to provide emergency relief.

(b) The staff/child ratios for a center located in a residence with a licensed capacity of six to 12 children when any preschool aged child is enrolled, or with a licensed capacity of six to 15 children when only school-aged children are enrolled are as follows:

<u>Age of Children</u>	<u>No. Children</u>	<u>No. Staff</u>	<u>Additional number of school-aged children allowed</u>
<u>0 to 12 Months</u>	<u>5</u>	<u>1</u>	<u>3</u>
<u>12 to 24 Months</u>	<u>6</u>	<u>1</u>	<u>2</u>
<u>2 to 13 Years</u>	<u>10</u>	<u>1</u>	<u>0</u>
<u>3 to 13 Years</u>	<u>12</u>	<u>1</u>	<u>0</u>
<u>All school-aged</u>	<u>15</u>	<u>1</u>	<u>0</u>

Authority G.S. 110-91(7); 143B-168.3.

**.0713 STAFF/CHILD RATIOS FOR CENTERS WITH A LICENSED CAPACITY OF 30 OR MORE CHILDREN**

(a) The staff/child ratios and group sizes for single-age groups of children in ~~medium and large day care~~ centers with a licensed capacity of 30 or more children shall be as follows:

<u>Age of Children</u>	<u>No. Children</u>	<u>No. Staff</u>	<u>Maximum Group Size</u>	<u>No. Staff</u>
0 to 12 Months	5	1	10	2
12 to 24 Months	6	1	12	2
2 to 3 Years	10	1	20	2
3 to 4 Years	15	1	25	2
4 to 5 years	20	1	25	2
5 Years and Older	25	1	25	1

(b) In any multi-age group situation, the staff/child ratio for the youngest child in the group shall be maintained for the entire group.

(c) Children younger than two years old may be cared for in groups with older children at the beginning and end of the operating day provided the staff/child ratio for the youngest child in the group is maintained.

(d) A child two years of age and older may be placed with

children under one year of age when a physician certifies that the developmental age of the child makes this placement appropriate.

(e) When determined to be developmentally appropriate by the operator and parent, a child age two or older may be placed one age level above his or her chronological age without affecting the staff/child ratio for that group. This provision shall be limited to one child per group.



(f) Except as provided in Paragraphs (c) and (d), children under one year of age shall be kept separate from children two years of age and over.

(g) Children between the ages of 12 months and 24 months shall not be routinely grouped with older children unless all children in the group are less than three years old.

(h) When only one caregiver is required to meet the staff/child ratio, and children under two years of age are in care, that person may concurrently perform food preparation or other duties which are not direct child care responsibilities as long as supervision of the children as specified in Rule .0714(e) (f) of this Section is maintained.

(i) When only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:

- (1) The center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or
- (2) There shall be a second adult on the premises who is available to provide emergency relief.

(j) Except as provided in Paragraph (h) of this Rule, staff members and administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not concurrently perform food preparation or other duties which are not direct child care responsibilities.

*Authority G.S. 110-91(7); 143B-168.3.*

#### **.0714 OTHER STAFFING REQUIREMENTS**

(a) Each ~~day~~ child care center shall have an administrator on site on a regular basis. This requirement may be met by having one or more persons on site who meet the requirements for an administrator for the size licensed capacity of a center ~~being operated~~ according to the following schedule:

- (1) Each ~~small~~ center with a licensed capacity of less than 30 children shall have an administrator on site for at least ~~20~~ 50% of the center's total operating hours per week.
- (2) Each ~~medium~~ center with a licensed capacity of 30 to 79 children shall have an administrator on site for at least ~~25~~ 60% of the center's total operating hours per week.
- (3) Each ~~large~~ center with a licensed capacity of 80 to 199 children shall have an administrator on site for at least ~~30~~ 75% of the center's total operating hours per week.
- (4) Each center with a licensed capacity of 200 or more children shall have an administrator on site for at least 85% of the center's total operating hours per week.

(b) At least one person who meets the requirements for an ~~administrator~~ administrator, lead teacher, or teacher as set forth in this Section shall be on site during the center's operating hours except that a person who is at least 18 years

old and literate with at least a high school diploma or its equivalent and who has a minimum of one year's experience working with children in a day child care center may be on duty at the beginning or end of the operating day provided that:

- (1) No more than 10 children are present.
- (2) The staff person has worked in that center for at least three months.
- (3) The staff person is thoroughly familiar with the center's operating policies and emergency procedures.

(c) At least one person who meets the requirements for a ~~lead~~ teacher ~~set forth in Rule .0710 of this Section~~ shall be responsible for each group of children as defined in Rule .0102 of this Subchapter except as provided in Paragraph (b) of this Rule. Each lead teacher shall be responsible for only one group of children at a time. Each group of children shall have a lead teacher in attendance for at least two-thirds of the total daily hours of operation.

(d) A teacher ~~aide~~ is a person who is responsible to the lead teacher and assists with planning and implementing the daily program. ~~An aide shall not have full responsibility for a group of children except as provided in Paragraph (b) of this Rule.~~

(e) ~~An aide shall not have full responsibility for a group of children except as provided in Paragraph (b) of this Rule.~~

(f) Children shall be adequately supervised at all times. Adequate supervision shall mean visual supervision and interaction that staff interact with the children while moving about the indoor or outdoor area, ~~with the exception of brief periods necessitated by emergencies; and are able to hear and see the children at all times, except:~~

- (1) when children are ages five and older and are developmentally able to use the restroom independently, provided that individuals who are not staff members do not enter the restroom area while in use by the children, and that staff check on a child who has not returned from the restroom after a brief period of time.
  - (A) Children ages five to nine using the restroom may be supervised by staff who are only able to hear the child.
  - (B) Children ages nine and older using the restroom are not required to be directly supervised.
- (2) when emergencies necessitate that direct supervision is impossible for brief periods of time.

(g) For groups of children aged two years or older, the staff/child ratio during nap time is considered in compliance if at least one person is either in each room or is visually supervising all the children and if the total number of required staff are on the premises and within calling distance of the rooms occupied by children.

(g) ~~Arrangements shall be made for qualified substitutes or temporary replacements when regular staff are absent. When regular staff fail to report to work or leave work for a reason which cannot be scheduled or planned, such as personal~~



emergencies or illness, the person in charge of the center shall replace the absent staff with a substitute within two hours of the time the regular staff was scheduled to begin work or left work. Supervision of all children as specified in Paragraph (c) of this Rule shall be maintained, even if staff/child ratio and space occupancy requirements must be violated until the substitute arrives. This allowance does not apply to failure to return on time from regular lunch or break times. Notwithstanding the inability to plan or anticipate this situation, centers in which this allowance is used more than three times within a month will lose for three months the right to violate staff/child ratio or space occupancy requirements in such circumstances without penalty. When this provision is used, the circumstances that required its use shall be documented by the person in charge.

Authority G.S. 110-85(1), (2); 110-91(7), (8); 143B-168.3.

## SECTION .0800 - HEALTH STANDARDS FOR CHILDREN IN CENTERS

### .0802 EMERGENCY MEDICAL CARE

(a) Each day child care center shall have a written plan which assures that emergency medical care is available or can be obtained for ~~staff and~~ children. The plan shall be reviewed during staff orientation with new staff and with all staff at least twice each year. This plan shall give the procedures to be followed to assure that any child ~~or staff person~~ who becomes ill or is injured and requires medical attention while at the center, or while participating in any activity provided or sponsored by the center, receives appropriate medical attention. The following information shall be included in the center's emergency medical care plan:

- (1) The name, address, and telephone number of a physician, nurse, physician's assistant, nurse practitioner, community clinic, or local health department that is available to provide medical consultation;
- (2) The name, address, and telephone number of the emergency room to be used when the parents or family physician cannot be reached or when transporting the ill or injured person child to the person's preferred hospital could result in serious delay in obtaining medical attention;
- (3) Designation of a means of transportation always available for use in the event of a medical emergency;
- (4) The name of the person, and his or her alternate, at the center, responsible for determining which of the following is needed, carrying out that plan of action, and assuring that appropriate medical care is given:
  - (A) Simple first aid given at the center for an injury or illness needing only minimal attention;
  - (B) Advice from previously identified medical consultant in order to decide if care is to be

given at the center or if the ill or injured person child is to be transported to a designated medical resource; or

- (C) Immediate transportation of the person child to a designated medical resource for appropriate treatment;
- (5) The person person(s) at the center ~~who is~~ responsible for:
  - (A) Assuring that the signed authorization described in (c) of this Rule is taken with the ill or injured person child to the medical facility;
  - (B) Accompanying the ill or injured person child to the medical facility;
  - (C) Notifying a child's parents or emergency contact person about the illness or injury and where the child has been taken for treatment;
  - ~~(D) Notifying the emergency contact person when a staff person becomes ill or is injured to an extent requiring transportation to a medical facility;~~
  - ~~(E)~~ (D) Notifying the medical facility about the ill or injured person child being transported for treatment; and
  - ~~(F)~~ (E) Obtaining substitute staff, if needed, to maintain required staff/child ratio and adequate supervision of children who remain in the center;
- (6) A statement giving the location of the telephone located on the premises which is in good working condition and is always available for use in case of emergency. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be posted near the telephone. A telephone located in an office in the center that is sometimes locked during the time the children are present cannot be designated for use in an emergency.
  - (b) Emergency medical care information shall be on file for each individual child, child and staff person. That information shall include the name, address, and telephone number of the parent or other person to be contacted in case of an emergency, the responsible party's choice of health care provider, and preferred hospital; any chronic illness the individual has and any medication taken for that illness; and any other information that has a direct bearing on assuring safe medical treatment for the individual: child. This emergency medical care information shall be on file in the center on the child's first day of attendance, attendance or the staff person's first day of employment.
  - (c) Each child's parent, legal guardian, or full-time custodian shall sign a statement authorizing the center to obtain medical attention for the child in an emergency. That statement shall be on file on the first day the child attends the center. It shall be easily accessible to staff so that it can be taken with the child whenever emergency medical treatment is necessary.

(d) An incident report shall be completed each time a child receives medical treatment by a physician, nurse, physician's assistant, nurse practitioner, community clinic, or local health department, as a result of an incident occurring while the child is at the ~~day child~~ care center. This incident report shall include, at a minimum: child's name, date and time of incident, part of body injured, type of injury, names of adult witnesses to incident, description of how and where incident occurred, piece of equipment involved (if any), treatment received and steps taken to prevent reoccurrence. This report shall be signed by the person completing it and by the parent, and maintained in the child's file. A copy of the incident report shall be mailed to a representative of the Division within seven calendar days after treatment.

(e) An incident log shall be completed any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by a representative of the Division. This log shall be completed on a form provided by the Division.

Authority G.S. 110-91(1), (9); 143B-168.3.

#### .0803 ADMINISTERING MEDICATION

(a) No drug or medication shall be administered to any child without specific instructions from the child's parent, a physician, or other authorized health professional. No drug or medication shall be administered after its expiration date.

(1) Prescribed medicine shall be in its original container bearing the pharmacist's label which lists the child's name, date the prescription was filled, the physician's name, the name of the medicine or the prescription number, and directions for dosage, or be accompanied by written instructions for dosage, bearing the child's name, which are dated and signed by the prescribing physician or other health professional. Prescribed medicine shall be administered only to the person for whom it is prescribed.

(2) Patent Over-the-counter medicines, such as cough syrup, decongestant, aspirin, acetaminophen, ibuprofen, topical teething medication, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be in its original container and shall be administered as authorized in writing by the child's parent, not to exceed amounts and frequency of dosage specified in the printed instructions accompanying the medicine. The parent's authorization shall give the child's name, the specific name of the over-the counter medicine, dosage instructions, the parent's signature, and the date signed. Patent Over-the counter medicine may also be administered in accordance with written instructions from a physician or other authorized health professional.

(3) When any questions arise concerning whether medication provided by the parent should be administered, that medication shall not be

administered without signed, written dosage instructions from a licensed physician or authorized health professional.

(4) A written statement from a parent may give blanket permission for up to six months to authorize administration of medication for asthma and allergic reactions. A written statement from a parent may give blanket permission for up to one year to authorize administration of sunscreen and over-the counter diapering creams. The written statement shall describe the specific conditions under which these medications and creams are to be administered and detailed instructions on how they are to be administered.

(5) A written statement from a parent may give blanket permission to administer a one-time, weight appropriate dose of acetaminophen in cases where the child has a fever and the parent cannot be reached.

(b) Any medication remaining after the course of treatment is completed shall be returned to the child's parents.

(c) Any time medication other than sunscreen or diapering creams is are administered by facility center personnel to children receiving care, the child's name, the date, time, amount and type of medication given, and the name and signature of the person administering the medication shall be recorded. This information shall be noted on a medication permission slip, or on a separate form developed by the provider which includes the required information. This information shall be available for review by a representative of the ~~Division~~ Division during the time period the medication is being administered and for at least six months after the medication is administered.

Authority G.S. 110-91(1), (9); 143B-168.3.

#### .0804 INFECTIOUS AND CONTAGIOUS DISEASES

(a) Facilities Centers may provide care for a mildly ill child who has a temperature of less than 102 degrees Fahrenheit and who remains capable of participating in routine group activities; provided the child does not:

(1) have the sudden onset of diarrhea characterized by an increased number of bowel movements compared to the child's normal pattern and with increased stool water; or

(2) have two or more episodes of vomiting within a 12 hour period; or

(3) have a red eye or eyes accompanied by a discharge that is not clear in color; or

(4) have scabies or lice; or

(5) have known chicken pox or a rash suggestive of chicken pox; or

(5) (6) have a physician's diagnosis or other health professional's written order requiring that the child be separated from other children.

(b) Facilities Centers which choose to provide care for mildly ill children shall:



- (1) follow all procedures to prevent the spread of communicable diseases described in 15A NCAC 18A .2800, "Sanitation of Child Day Care Facilities", as adopted by the Health Services Commission;
- (2) separate from the other children any child who becomes ill while in care or who is suspected of having a communicable disease or condition other than as described in Paragraph (a) of this Rule until the child leaves the ~~facility; center~~;
- (3) notify all parents at enrollment that the ~~facility~~ center will be providing care ~~caring~~ for mildly ill children;
- (4) immediately notify the parent of any child who becomes ill while in care or who is suspected of being ill with a communicable condition other than as described in Paragraph (a) of this Rule that the child is ill and may not remain in care;
- (5) immediately notify the parent of any sick child in care if the child's condition ~~improves or worsens~~ while the child is in care.

Authority G.S. 110-91(1), (2); 143B-168.3.

#### **.0806 CLOTHING**

- (a) Diapers will be changed whenever they become soiled or wet and not on a shift basis.
- (b) There must be clean clothes available so that when the clothes worn by a child becomes wet or soiled the child has clean clothes to put on. The change of clothing may be provided by the center or by the child's parents.
- (c) A supply of clean linen must be on hand so that linens can be changed whenever they become soiled or wet.
- (d) Children shall be toilet trained according to individual readiness.

Authority G.S. 110-91(1); 143B-168.3.

### **SECTION .0900 - NUTRITION REQUIREMENTS FOR CENTERS**

#### **.0901 GENERAL NUTRITION REQUIREMENTS**

(a) Meals and snacks served shall contain the food groups outlined in the Basic Four Food Guide which is based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The number and size of servings shall be appropriate for the ages and developmental levels of the children in care, ~~as specified in the Appendices to the Licensing Manual; care~~ as approved by the Commission. The National Research Council nutrition standards for children are incorporated by reference and include subsequent amendments. A copy of these standards is available free of charge from the Division at the address in Rule .0102(1) of this Subchapter.

(b) Menus for nutritious meals and snacks shall be planned at least one week in advance. At least one dated copy of the current week's menu shall be posted where it can be seen

easily by parents and food preparation staff when food is prepared or provided by the ~~center; center, except in centers with a licensed capacity of six to 12 children located in a residence.~~ A variety of food shall be included in meals and snacks. Any substitution will be of comparable food value and will be recorded on the menu.

(c) When children bring their own food for meals or snacks to the center, if the food does not meet the nutritional requirements specified in (a) of this Rule, the center must provide additional food necessary to meet those requirements.

(d) Drinking water must be freely available to children of all ages and offered at frequent intervals. Approved drinking fountains or individual drinking utensils shall be provided. When a private water supply is used, it must be tested by and meet the requirements of the ~~Division of Health Services, Department of Human Resources; Environment and Natural Resources.~~

(e) Children's special diets or food allergies shall be posted in the food preparation area and in the child's eating area.

(f) The food required by special diets may be provided by the center or may be brought to the center by the parents. If the diet is prescribed by a physician, written instructions will be provided by the child's parent, physician, or a registered dietitian.

(g) Food and beverages with little or no nutritional value, such as sweets, fruit drinks, soft drinks, etc., will be available only for special occasions. ~~occasions and only in addition to nutritious meals and snacks.~~

Authority G.S. 110-91(2); 143B-168.3.

#### **.0902 GENERAL NUTRITION REQUIREMENTS FOR INFANTS**

(a) The parent or physician of each child under 15 months of age shall provide the center an individual written feeding schedule for the child. This schedule must be followed at the center. This schedule must include the child's name name, be signed by the parent or physician, and be dated when received by the center. Each infant's schedule shall be modified to reflect changes in the child's needs as he develops. The feeding instructions for each infant shall be posted for quick reference by the ~~caregivers; caregivers, except in centers licensed for six to 12 children located in a residence.~~

(b) Each infant will be held for bottle feeding until able to hold his or her own bottle. Bottles will not be propped. ~~Older infants up to 24 months of age~~ Each child will be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed.

Authority G.S. 110-91(2); 143B-168.3.

### **SECTION .1000 - TRANSPORTATION STANDARDS FOR CENTERS**

#### **.1001 SEAT RESTRAINTS**

(a) Children under one year of age shall never be



transported outside an appropriate infant restraint device in any vehicle owned or operated under the auspices of the day child care center.

(b) Each adult and child shall be restrained with an individual seat belt or appropriate child restraint device when the vehicle is in motion.

(c) Only one person shall occupy each seat belt or child restraint device.

(d) Children shall not occupy the front seat if the vehicle is equipped with an operational passenger side airbag.

*Authority G.S. 110-91; 110-91(13); 143B-168.3.*

## **.1002 SAFE VEHICLES**

(a) All vehicles used to transport children shall ~~meet and maintain the safety inspection standards of the Division of Motor Vehicles of the Department of Transportation. be in good repair, safe, and free of hazards such as torn upholstery, broken windows, and holes in the floor or roof.~~

(b) Vehicles shall be insured for liability as required by State laws governing transportation of passengers.

(c) Vehicles used to transport children in snowy, icy, and other hazardous weather conditions must be equipped with snow tires, chains, or other safety equipment as appropriate.

*Authority G.S. 110-91; 110-91(13); 143B-168.3.*

## **.1003 SAFE PROCEDURES**

(a) ~~The center or other transportation provider shall comply with all applicable state and federal laws and regulations concerning the safe transportation of passengers.~~

(b) ~~(a)~~ The driver or other adult in the vehicle shall assure that all children are received by a responsible person.

(c) ~~(b)~~ Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be communicated to parents, and a copy shall be posted in the center where they can easily be seen. Centers licensed for six to twelve children located in a residence are not required to post these procedures.

(d) ~~(c)~~ A first-aid kit shall be located in each vehicle used on a regular basis to transport children. The first-aid kit shall be firmly mounted or otherwise secured if kept in the passenger compartment.

(e) ~~(d)~~ Emergency and identification information about each child must be in the vehicle whenever children are being transported.

(f) ~~(e)~~ The driver shall be 18 years old or a duly licensed school bus driver and have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides and no convictions of Driving While Impaired (DWI) or any other impaired driving offense within the last three years.

(g) ~~(f)~~ Each person in the vehicle must be seated in the manufacturer's designated areas. No child shall ride in the load carrying area or floor of a vehicle.

(h) ~~(g)~~ Children shall never be left in a vehicle unattended

by an adult.

(i) ~~(h)~~ Children shall be loaded and unloaded from curbside, or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards.

*Authority G.S. 110-91; 110-91(13); 143B-168.3.*

## **.1004 STAFF/CHILD RATIOS**

(a) When children aged two years and older are being transported, the staff/child ratios required for compliance with day child care center regulations as set forth in Section .0700 of this Subchapter shall apply.

(b) When three or more children under the age of two years are being transported, the staff/child ratio requirements for day child care centers set forth in Section .0700 of this Subchapter for children under age two shall be maintained. The driver shall not be counted in the staff/child ratio.

*Authority G.S. 110-91(13); 143B-168.3.*

## **SECTION .1300 - BUILDING CODE REQUIREMENTS FOR CHILD CARE CENTERS**

### **.1301 BUILDING CODE REQUIREMENTS IN OPERATION PRIOR TO 4/1/72**

For the purpose of carrying out the provisions of G.S. 110-91(4), the North Carolina Building Code standards for day child care centers in operation prior to April 1, 1972 developed by the Building Code Council are hereby adopted by reference by the Child Day Care Commission. A copy of the North Carolina Building Code standards is on file at the ~~Child Day Care Section, Division of Facility Services, 701 Barbour Drive, Raleigh, North Carolina,~~ Child Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection during regular business hours.

*Authority G.S. 110-91(4); 143B-168.3.*

### **.1302 BUILDING CODE REQUIREMENTS FOR CHILD CARE CENTERS**

For the purpose of carrying out the provision of G.S. 110-91(4), the North Carolina Building Code standards for day child care centers ~~(more than 15 children)~~ developed by the Building Code Council are hereby adopted by reference by the Child Day Care Commission. ~~Commission and include subsequent amendments.~~ A copy of the North Carolina Building Code standards is on file at the ~~Child Day Care Section, Division of Facility Services 701 Barbour Drive, Raleigh, North Carolina, 27603;~~ Child Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection during regular business hours.

*Authority G.S. 110-91(4); 143B-168.3.*

### **.1303 BUILDING CODE REQUIREMENTS FOR**

# SMALL GROUP FACILITIES LICENSED PRIOR TO 7/1/88

For the purpose of carrying out the provisions of G.S. 110-91(4), the North Carolina Building Code standards for small group day care facilities (6-15 children) developed by the Building Code Council are hereby adopted by reference by the Child Day Care Commission. A copy of the North Carolina Building Code standards is on file at the ~~Child Day Care Section~~, Division of Facility Services 701 Barbour Drive Raleigh, North Carolina; Child Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection during regular business hours.

Authority G.S. 110-91(4); 143B-168.3.

## .1304 REQUIREMENTS FOR CHILD CARE CENTERS LICENSED IN A RESIDENCE

For the purpose of carrying out the provisions of G.S. 110-91(4), the North Carolina Building Code standards for Large Day Care Homes developed by the Building Code Council are hereby adopted by reference by the Child Care Commission and include subsequent amendments for child care centers licensed in a residence for six to 12 children when any preschool-aged children are in care, or for six to 15 children when only school-aged children are in care. A copy of the North Carolina Building Code standards is on file at the Division of Child Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection during regular business hours.

Authority G.S. 110-91(4); 143B-168.3.

## SECTION .1400 - SPACE REQUIREMENTS FOR CENTERS

### .1401 INDOOR SPACE

(a) ~~There shall be at least 25 square feet of indoor space for each child for which a day care center is licensed, exclusive of closets, passageways, kitchens and bathrooms.~~

(b) (a) Indoor space on which licensed capacity is based will be referred to as "primary space". The licensing consultant will measure all primary space that will routinely be used by children who attend the center, except that the following will not be included: closets, hallways, storage areas, kitchens, bathrooms, utility areas; thresholds, foyers, space or rooms used for administrative activities or space occupied by adult-sized desks, cabinets, file cabinets, etc.; single-use rooms, including music rooms, isolation/sick rooms, gymnasiums, dining rooms, sleep rooms; any floor space occupied by or located under equipment, furniture, or materials not used by children; and any floor space occupied by or located under built-in equipment or furniture.

(1) Any single-use room used by the children for sleeping only, either during nap time or any other time, will also be measured by the section's Division's representative to assure that the available

floor space provides 200 cubic feet of air space per child for the maximum number of children who will sleep in that room at any time.

- (2) All measurements will be rounded off to the nearest inch.
- (3) Total space on which the licensed capacity is based will be the sum of the measurements of all primary space to be used by the children. However, no room will routinely be occupied by more children than the primary space in that room will accommodate at 25 square feet of space per child. This is not meant to preclude grouping children together periodically for special activities, such as to view films or slides; for special presentations, such as puppet or magic shows, a special story teller, a discussion of safety practices by a fireman or nurse, etc. However, care must be taken to assure that during such special activities, the room used is not so overcrowded that the children and staff would be endangered in case of a fire or other emergency necessitating evacuation of the center.

(b) For centers with a licensed capacity of six to 12 children located in a residence, the dining area of a kitchen may be counted if it is routinely used for children's activities in addition to eating.

(c) Paragraph (b) (a) of this Rule shall apply only to child day care centers initially licensed on or after February 1, 1985.

Authority G.S. 110-91(6); 143B-168.3.

## SECTION .1700 - FAMILY CHILD CARE HOME STANDARDS

### .1701 GENERAL PROVISIONS RELATED TO LICENSURE OF HOMES

(a) All family child day care homes as defined by Rule .0102(8) of this Subchapter shall register and comply with the standards for registration licensure set forth in this Section.

(b) At the beginning of each fiscal year, the Section Division shall prepare a written plan explaining the guidelines for making randomly-selected announced and unannounced compliance visits to registered day family child care homes. The plan shall be dated and signed by the Section Chief Division director and shall be kept in a confidential file, by the Section Chief.

(c) ~~When a day care home exists, all preschool-aged children shall be counted in the registered capacity. This includes the caregiver's own preschool-aged children. The preschool-aged child children of an emergency caregiver need shall not be counted in the registered licensed capacity for the first day of the emergency caregiver's service.~~

(d) ~~The caregiver's own school-aged children shall include school-aged children who reside at the location of the day care home, and they shall not be counted to determine if a day care home exists, nor shall they be counted in the registered capacity.~~



~~(c)~~ (d) The provisions of ~~G.S. 110-90-1~~ G.S. 110-91(8) which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a family child day care home are hereby incorporated by reference ~~in accordance with G.S. 150B-14(c)~~ and shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion shall not apply to parents or other persons who enter the home only for the purpose of performing parental responsibilities; nor does it include persons who enter the facility home for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.

(e) The parent, guardian, or full-time custodian of a child enrolled in any family child care home subject to regulation under G.S. 110, Article 7 or these Rules shall be allowed unlimited access to the home during its operating hours for the purposes of contacting the child or evaluating the home and the care provided by the operator. The parent, guardian or custodian shall notify the operator of his or her presence immediately upon entering the premises.

(f) An operator licensed to care for children overnight may sleep during the nighttime hours when all the children are asleep provided:

- (1) the operator and the children in care, excluding the operator's own children, are on ground level; and
- (2) the operator can hear and respond quickly to the children if needed; and
- (3) a battery operated smoke detector or an electrically operated (with a battery backup) smoke detector is located in each room where children are sleeping.

Authority G.S. 110-85; 110-86(3); 110-88(1); 110-91; 110-99; 110-105; 143B-168.3.

## **.1702 APPLICATION FOR A LICENSE FOR A FAMILY CHILD CARE HOME**

(a) Any person who plans to operate a day family child care home shall ~~complete a Day Care Home Application for Registration as described in Rule .2313; apply for a license using a form provided by the Division.~~ The applicant shall submit the completed application, which complies with the following, to the ~~section:~~ Division:

- (1) Only one ~~registered-day licensed~~ family child care home shall ~~be operated~~ operate at the location address of ~~that any registered-day care~~ home.
- (2) The applicant shall list each location address where ~~the day a licensed family child care home~~ will operate.
- (b) When a ~~registrant operates a day family child care home~~ will operate at more than one location address by cooperative arrangement among two or more families, the following procedures shall apply:
  - (1) One parent whose home is used as a location address shall be designated the coordinating parent and shall co-sign the application with the ~~registrant~~ applicant.

- (2) The coordinating parent is responsible for knowing the current location address at all times and shall provide the information to the ~~section~~ Division upon request.

~~(c) Upon receipt of an acceptable application the Section may issue written permission to operate on a temporary basis. A person is not able to operate legally until he or she has received either temporary permission to operate or a registration certificate.~~

(c) The operator shall assure that the structure in which the family child care home is located complies with the following requirements:

- (1) Comply with the North Carolina Building Code for family child care homes or have written approval for use as a family child care home by the local building inspector as follows:

- (A) Meet Volume I-B Uniform Residential Building Code or be a manufactured home bearing a third party inspection label certifying compliance with the Federal Manufactured Home Construction and Safety Standards or certifying compliance with construction standards adopted and enforced by the State of North Carolina. Homes shall be installed in accordance with North Carolina Manufactured/Mobile Home Regulations published by the NC Department of Insurance.

Exception: Single wide manufactured homes will be limited to a maximum of three preschool-aged children (not more than two may be two years of age or less) and two school-aged children.

- (B) All children shall be kept on the ground level with an exit at grade.
- (C) All homes shall be equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other.
- (D) All homes shall be provided with at least one five lb. 2-A:10-B:C type extinguisher readily accessible for every 2,500 square feet of floor area.
- (E) Fuel burning space heaters, fireplaces and floor furnaces which are listed and approved for that installation and are provided with a protective screen attached securely to substantial supports will be allowed. However, unvented fuel burning heaters and portable electric space heaters of all types are prohibited.

- (2) Assure that all indoor areas used by children are adequately heated in cool weather and ventilated in warm weather.
- (3) Cover or insulate hot pipes or radiators which are accessible to the children.



(d) The applicant shall also submit supporting documentation with the application for a license to the Division. The supporting documentation shall include a copy of the applicant's certified criminal history check from the Clerk of Superior Court's office in the county or counties where the individual has resided during the previous 12 months; a copy of documentation of completion of a first aid and cardiopulmonary resuscitation (CPR) course; proof of negative results of the applicant's tuberculosis test completed within the past six months; a completed health questionnaire; a copy of current pet vaccinations for any pet in the home; a negative well water bacteriological analysis if the home has a private well; copies of any inspections required by local ordinances; and any other documentation required to support the issuance of a license required by the Division.

(e) Upon receipt of an acceptable application and supporting documentation as required by the Division, a Division representative of the section shall make an announced visit to each home unless the applicant meets the criteria in Paragraph (g) of this Rule operating on a temporary basis. The purpose of this visit shall be to determine compliance with the standards, to offer technical assistance when needed, and to provide information about local resources.

- (1) If the home is found to be in compliance with the applicable requirements of G.S. 110 and this Section, a Certificate of Registration license shall be issued.
- (2) If the home is not in compliance but has the potential to comply, the section Division representative shall establish with the operator a reasonable time period for the home to achieve full compliance. If the section Division representative determines that the home is in compliance within the established time period, a Certificate of Registration license shall be issued.
- (3) If the home is not in compliance, cannot potentially comply, or fails to comply within the appropriate time, the section Division shall deny the application, and terminate the temporary permission to operate. Final disposition of the recommendation to deny is the decision of the Division.

(f) In emergency situations as determined by the Division, the Division may allow the applicant to temporarily operate for a limited time prior to the Division representative's visit described in Paragraph (e) of this Rule. A person is not able to operate legally until he or she has received from the Division either temporary permission to operate or a license.

(g) A person shall not apply for a child care facility license within 12 months after any child care facility license held by that person has been revoked or summarily suspended by the Department. If the person appeals the Department's revocation or summary suspension, the person shall not apply for a child care facility license during the appeal. If the revocation or summary suspension is affirmed on appeal, the petitioner shall not apply for a license within 12 months after

the date of the final order affirming the revocation or summary suspension.

(h) Use of the certificate license is limited to the following conditions:

- (1) A Certificate of Registration remains valid for a period of two years unless terminated, revoked, or suspended:
- (2) (1) The Certificate of Registration license cannot be bought, sold, or transferred from one individual to another.
- (3) (2) The Certificate of Registration license is valid only for the location address/addresses listed on it.
- (4) (3) The Certificate of Registration license is the property of the State of North Carolina. It must be returned to the section Division in the event of termination or revocation, revocation of registration:
- (5) (4) The Certificate of Registration license shall be available displayed in a prominent place that parents are able to view daily and shall be shown to each child's parent parent, or guardian guardian, or custodian when the child is enrolled.

(i) A registrant licensee is responsible for notifying the section Division whenever a change occurs which affects the information shown on the Certificate of Registration license.

Authority G.S. 110-88(5); 110-91; 110-93; 110-99; 143B-168.3.

## 1703 RENEWAL OF REGISTRATION

(a) Each registrant shall apply for renewal of registration every two years:

- (1) The section shall notify the registrant of the need to renew by sending the registrant the appropriate forms, which shall include a self-check questionnaire, not less than 60 days from the expiration date of the current Certificate of Registration:
- (2) The registrant shall return the completed forms to the section not less than 30 days prior to the expiration date of the current Certificate of Registration:
- (3) Representatives of the section shall make announced and scheduled visits to a random selection of registered homes prior to renewal, in accordance with the section's plan developed pursuant to G.S. 110-105.1. The purpose of these visits shall be to determine continued compliance with the registration requirements:

(b) When the section determines that the registered home continues to comply with applicable requirements, a new Certificate of Registration shall be issued:

(c) Failure to apply for renewal or registration shall be grounds for termination of registration:

Authority G.S. 110-88(3); 110-101; 143B-168.3.

**.1705 HEALTH AND TRAINING REQUIREMENTS  
FOR FAMILY CHILD CARE HOME  
OPERATORS**

(a) ~~Prior to receiving a license, each~~ Each-day family child care home operator shall ~~complete and keep on file a health questionnaire which attests to the operator's physical and emotional ability to care for children. The section may require a written statement or medical examination report signed by a licensed physician or other authorized health professional if there is reason to believe that the caregiver's health may adversely affect the care of the children.~~

(b) Each day care home operator shall complete the health questionnaire initially and prior to each renewal.

(c) Each operator shall obtain written proof that he or she is free of active tuberculosis prior to initial registration and each renewal of registration:

(1) Complete and keep on file a health questionnaire which attests to the operator's physical and emotional ability to care for children. The Division may require a written statement or medical examination report signed by a licensed physician or other authorized health professional if there is reason to believe that the operator's health may adversely affect the care of the children.

(2) Obtain written proof that he or she is free of active tuberculosis. The results indicating the individual is free of active tuberculosis shall be obtained within 12 months prior to applying for a license.

(3) Successfully complete within 12 months prior to applying for a license a basic first aid course that at a minimum, shall address principles for responding to emergencies, techniques for rescue breathing, and techniques for handling common childhood injuries, accidents and illnesses such as: choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.

(4) Successfully complete within 12 months prior to applying for a license a course by the American Heart Association or the American Red Cross or other organizations approved by the Division, in cardiopulmonary resuscitation (CPR) appropriate for the ages of children in care. Other organizations will be approved if the Division determines that the courses offered are substantially equivalent to those offered by the American Red Cross. Successfully completed is defined as demonstrating competency, as evaluated by the instructor, in performing CPR. Documentation of successful completion of the course from the American Heart Association, the American Red Cross, or other organization approved by the Division shall be on file in the home.

(b) After receiving a license, an operator shall:

(1) Update the health questionnaire referenced in Paragraph (a) of this Rule annually. The Division

may require the operator to obtain written proof that he or she is free of active tuberculosis.

(2) Successfully complete a first aid course as referenced in Paragraph (a) of this Rule every three years.

(3) Successfully complete a CPR course annually as referenced in Paragraph (a) of this Rule.

(4) Complete 12 hours of annual in-service training in the topic areas required by G.S. 110-91(11).

(A) Only training which has been approved by the Division as referenced in Rule .0708 of this Subchapter shall count toward the required eight hours of annual in-service training.

(B) The operator shall maintain a record of annual in-service training activities in which he or she has participated. The record shall include the subject matter, the topic area in G.S. 110-91(11) covered, the name of the training provider or organization, the date training was provided and the number of hours of training completed.

Authority G.S. 110-88; 110-91; 143B-168.3.

**.1716 FAILURE TO MAINTAIN REQUIREMENTS**

(a) If the ~~section~~ Division determines that a ~~day~~ family child care home operator fails to ~~meet and~~ maintain compliance with the requirements for ~~registration, licensure,~~ the ~~section~~ Division may establish a reasonable time period to allow the operator to achieve compliance ~~or recommend issuance of a provisional license in accordance with Rule .0401 of this Subchapter.~~

(b) If the operator fails to achieve compliance within the established time period, the ~~section~~ Division may ~~deny,~~ suspend, terminate, or revoke the ~~registration, license.~~ The operator may appeal any such action pursuant to the provisions of G.S. 150B.

(c) The ~~Section~~ Division may recommend imposition of a civil penalty in accordance with the procedures set forth in Rules .2201 through .2205 of this Subchapter and according to the following schedules:

(1) A civil penalty in an amount up to one thousand dollars (\$1,000.00) may be imposed when the ~~Section~~ Division has substantiation that a child was abused or neglected while in ~~the care of the in a~~ day family child care home.

(2) A civil penalty in an amount up to two hundred dollars (\$200.00) may be imposed for the following violations:

(A) ~~A history~~ Repeated incidents of exceeding the number of children allowed in a ~~registered-day licensed family child care home;~~

(B) Repeated ~~incidences~~ incidents where there has been a lack of supervision of the children; or



- (C) Willful, repeated pattern of noncompliance with any requirement contained in this Subchapter or in the General Statutes.
- (3) A civil penalty in an amount up to one hundred dollars (\$100.00) may be imposed for the following violations:
  - (A) Denial of entry to an authorized representative of the ~~Department or Section; Division;~~
  - (B) Documented noncompliance with the number of children allowed in a registered day licensed family child care home;
  - (C) Lack of supervision of the children in care; or
  - (D) Failure to comply with a corrective action plan designed by the Section Division to correct noncompliance with any applicable requirement in this Subchapter or in the General Statutes.

Authority G.S. 110-86(3); 110-88(1), (5), (6a); 110-91; 110-98; 110-103.1; 110-105; 110-105.2; 110-106; 143B-168.3; 150B-23.

#### 1717 HEALTH, SAFETY AND SANITATION REQUIREMENTS

(a) ~~Each day care home shall comply with the following standards in order to maintain a safe, healthy and sanitary environment for children:~~

- (1) ~~To assure a healthy environment, the operator shall:~~
  - (A) ~~have on file, for each child who attends on a regular basis, a health and emergency information form completed and signed by the child's parents or guardian. The completed form shall be on file on the first day the child attends. A recommended form is available from the section. However, the operator may use another form provided that form includes the following information:~~
    - (i) ~~the child's name, address, and date of birth;~~
    - (ii) ~~the names of individuals to whom the child may be released;~~
    - (iii) ~~the general status of the child's health;~~
    - (iv) ~~any allergies or restrictions on the child's participation in activities with specific instructions from the child's parent or physician;~~
    - (v) ~~the names and phone numbers of persons to be contacted in an emergency situation;~~
    - (vi) ~~the name and phone number of the child's physician and preferred hospital;~~
    - (vii) ~~authorization for the operator to administer specified medication~~

according to the parent's instructions, if the parent so desires;

- (viii) ~~notarized authorization for the operator to seek emergency medical care in the parent's absence.~~
- (B) ~~serve nutritious meals and snacks appropriate in amount and type of foods served for the ages of the children in care.~~
- (C) ~~provide frequent opportunities for outdoor play or fresh air.~~
- (D) ~~provide adequate and individual space for each child to rest comfortably.~~
- (E) ~~be able to recognize symptoms of childhood illnesses.~~
- (F) ~~provide a quiet, separate area which can be easily supervised for children too sick to remain with other children. Parents shall be notified immediately if their child becomes too sick to remain in care.~~
- (G) ~~visually supervise all children who are awake and be able to hear and respond quickly to those children who are sleeping or napping.~~
- (H) ~~have completed a basic first aid course within the last three years. The course, at a minimum, shall address principles for responding to emergencies, techniques for rescue breathing, and techniques for handling common childhood injuries, accidents and illnesses such as: choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.~~
- (I) ~~have successfully completed a course by the American Heart Association or the American Red Cross in cardiopulmonary resuscitation (CPR) appropriate for the ages of children in care prior to registration and annually thereafter. Successfully completed is defined as demonstrating competency, as evaluated by the instructor, in performing CPR. Documentation of successful completion of the course from the American Heart Association or the American Red Cross shall be on file in the home.~~
- (2) ~~To assure each child's health and well-being, no child shall be subjected to any form of corporal punishment by the day care home operator, substitute caregiver, or any other person in the home, whether or not these persons reside in the home:~~
  - (A) ~~No child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or spanking.~~
  - (B) ~~No child shall ever be placed in a locked~~



room, closet, or box.

- ~~(C) No discipline shall ever be delegated to another child.~~
- ~~(D) Discipline shall in no way be related to food, rest or toileting.~~
  - ~~(i) No food shall be withheld, or given, as a means of discipline.~~
  - ~~(ii) No child shall ever be disciplined for lapses in toilet training.~~
  - ~~(iii) No child shall ever be disciplined for not sleeping during rest period.~~
- ~~(3) To assure a safe environment, the home operator shall:~~
  - ~~(A) keep all areas used by the children, indoors and outdoors, reasonably clean and orderly and free of items which are potentially hazardous to children. This includes the removal of small items that a child can swallow. In addition, loose nails or screws and splinters shall be removed on inside and outside equipment.~~
  - ~~(B) safely store equipment and supplies such as lawnmowers, power tools, or nails, so they are inaccessible to children.~~
  - ~~(C) ensure that all stationary outdoor equipment is firmly anchored and is not installed over concrete or asphalt. Footings which anchor the equipment shall not be exposed.~~
  - ~~(D) securely mount electric fans out of the reach of children or have a mesh guard on each fan.~~
  - ~~(E) cover all electrical outlets not in use and remove old, cracked or frayed cords in occupied outlets.~~
  - ~~(F) separate firearms and ammunition and store both in areas inaccessible to children.~~
  - ~~(G) keep items used for starting fires, such as matches and lighters, out of the children's reach.~~
  - ~~(H) keep all medicines in locked storage.~~
  - ~~(I) keep hazardous cleaning supplies and other items that might be poisonous out of reach or in locked storage when preschool-aged children are in care, e.g., toxic plants.~~
  - ~~(J) keep first-aid supplies in a place easily accessible to the operator.~~
  - ~~(K) keep the equipment and toys in good repair and appropriate for the ages of children in care.~~
  - ~~(L) have a working telephone within close proximity of the day care home. Emergency phone numbers shall be readily available.~~
  - ~~(M) have access to a means of transportation that is always available for emergency situations.~~
  - ~~(N) have solid, safe and railed stairs and steps if these are used by the children. Indoor stairs with more than two steps shall be guarded if~~

any children in care are two years of age or younger.

- ~~(O) maintain any swimming pools or wading pools on the premises in a manner which will safeguard the lives and health of the children. All swimming pools used by day care children shall meet the "Rules Governing Public Swimming Pools," in accordance with 15A NCAC 18A .2500 which are hereby incorporated by reference including subsequent amendments. A copy of these Rules is on file at the Division of Child Development, 319 Chapanoke Road, Raleigh, NC 27626, or may be obtained at no cost by writing the North Carolina Department of Environment, Health and Natural Resources, Division of Environmental Health, PO Box 27687, Raleigh, NC 27611-7687.~~
- ~~(P) enclose any in-ground swimming pools by a fence approximately four feet high to prevent chance access by children. The swimming pool shall be separate from the play area. Access to the water in above ground swimming pools shall be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to the children.~~
- ~~(Q) complete a form which explains the operator's procedures in emergency situations. The form shall be supplied by the section.~~
- ~~(R) practice and maintain records of monthly fire drills giving the date each drill is held, the time of day, and the length of time taken to evacuate the home.~~
- ~~(S) make all necessary efforts to provide a safe indoor and outdoor environment for the children in care. Animals that are potentially dangerous to children, such as pit bulldogs and rottweilers or other animals determined by the Section to be dangerous, are not permitted on the premises of a day care home.~~
- ~~(T) complete an incident report each time a child receives medical treatment by a physician, nurse, physician's assistant, nurse practitioner, community clinic, or local health department, as a result of an incident occurring while the child is in the day care home. This report shall include, at a minimum: child's name, date and time of incident, part of body injured, type of injury, location where incident occurred, equipment involved in injury (if any), names of adult witnesses to incident, description of how incident occurred, steps taken to prevent~~

reoccurrence, and treatment received. This report shall be signed by the operator and the parent and maintained in the child's file. A copy shall be mailed to the Division within seven calendar days after the incident occurs.

- (U) complete an incident log any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by a representative of the Division. This log shall be completed on a form supplied by the Division.
- (V) complete a monthly check for hazards on the outdoor play area. The form shall be maintained in the day care home for review by a representative of the Division. The form shall be supplied by the Division.
- (4) To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:
  - (A) have written permission from a parent or guardian to transport his or her child and notify the parent when and where the child is to be transported.
  - (B) comply with all applicable state and federal laws and regulations concerning the transportation of passengers. All children regardless of age or location in the vehicle shall be restrained by individual seat belts or child restraint devices.
  - (C) have a valid driver's license issued by the Division of Motor Vehicles, not including a limited permit.
  - (D) assure that each child is seated in a manufacturer's designated area.
  - (E) never leave children in a vehicle unattended by an adult.
  - (F) have emergency and identification information about each child in the vehicle whenever children are being transported.
- (5) To assure a sanitary environment, the operator shall:
  - (A) collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services prior to registration and before each renewal. Results of the analysis shall be on file in the home.
  - (B) have sanitary toilet, diaper changing and handwashing facilities.
  - (C) place soiled diapers in a covered, leak-proof container which is emptied and cleaned daily.

- (D) wash his or her hands before handling food and feeding the children.
- (E) wash his or her hands before, as well as after, diapering each child.
- (F) use sanitary procedures when preparing and serving food.
- (G) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature.
- (H) label all bottles for each individual child, except when there is only one bottle-fed child in care.
- (I) serve only pasteurized milk and milk products.
- (J) have a house that is free of rodents.
- (K) screen all windows and doors used for ventilation.
- (L) have all household pets vaccinated with up-to-date vaccinations as required by North Carolina law and local ordinances. Rabies vaccinations are required for cats and dogs.
- (M) store garbage in waterproof containers with tight fitting covers.
- (N) provide individual linens for rest time for each child in care for more than four hours. The linens shall be changed weekly or whenever they become soiled or wet.

(b) The operator shall assure that the structure in which the day care home is located complies with the following requirements:

- (1) Comply with Section 509.2 of the North Carolina Building Code or have written approval for use as a day care home by the local building inspector as follows:
  - (A) Meet Volume I-B Uniform Residential Building Code or be a manufactured home bearing a third party inspection label certifying compliance with the Federal Manufactured Home Construction and Safety Standards or certifying compliance with construction standards adopted and enforced by the State of North Carolina. Homes shall be installed in accordance with North Carolina Manufactured/Mobile Home Regulations published by the NC Department of Insurance. Exception: Single wide manufactured homes will be limited to a maximum of three preschool-aged children (not more than two may be two years of age or less) and two school-aged children.
  - (B) All children shall be kept on the ground level with an exit at grade.
  - (C) All homes shall be equipped with an



electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other.

(D) ~~All homes shall be provided with at least one five lb. 2-A:10-B:C type extinguisher readily accessible for every 2,500 square feet of floor area.~~

(E) ~~Fuel burning space heaters, fireplaces and floor furnaces which are listed and approved for that installation and are provided with a protective screen attached securely to substantial supports will be allowed. However, unvented fuel burning heaters and portable electric space heaters of all types are prohibited.~~

(2) ~~Assure that all indoor areas used by children are adequately heated in cool weather and ventilated in warm weather.~~

(3) ~~Cover or insulate hot pipes or radiators which are accessible to the children.~~

Authority G.S. 110-88(3); 110-101; 143B-168.3.

#### .1718 REQUIREMENTS FOR DAILY OPERATIONS

The operator shall provide the following on a daily basis for all children in care:

(1) meals and snacks which contain the food groups outlined in the Basic Four Food Guide which is based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The number and size of servings shall be appropriate for the ages and developmental levels of the children in care as approved by the Commission. The National Research Council nutrition standards for children are incorporated by reference and include subsequent amendments. A copy of these standards is available free of charge from the Division at the address in Rule .0102 of this Subchapter.

(a) No child shall go more than four hours without a meal or a snack being provided.

(b) Drinking water shall be freely available to children and offered at frequent intervals.

(c) When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which have undergone an equivalent process to pasteurization shall be used. Any formula which is prepared by the operator shall be prepared according to the instructions on the formula package or label, or according to written instructions from the child's health care provider.

(d) Each infant will be held for bottle feeding until able to hold his or her own bottle. Bottles will not be propped. Each child will be held or placed in feeding chairs or other

age-appropriate seating apparatus to be fed.

(2) frequent opportunities for outdoor play or fresh air.  
(3) an individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with individual linens for each pre-school aged child in care for four hours or more, or for all children if overnight care is provided, to rest comfortably. The linens shall be changed weekly or whenever they become soiled or wet.

(4) a quiet, separate area which can be easily supervised for children too sick to remain with other children. Parents shall be notified immediately if their child becomes too sick to remain in care.

(5) visual supervision for all children who are awake. The operator shall be able to hear and respond quickly to those children who are sleeping or napping.

(6) developmentally appropriate activities as planned on a written schedule. Materials and/or equipment shall be available to support the activities listed on the written schedule. The written schedule shall:

(a) show blocks of time usually assigned to types of activities and shall include periods of time for both active play and quiet play or rest; and

(b) be displayed in a place where parents are able to view; and

(c) reflect daily opportunities for both free-choice and guided activities.

Authority G.S. 110-88; 110-91(2), (12).

#### .1719 REQUIREMENTS FOR A SAFE INDOOR/OUTDOOR ENVIRONMENT

The operator shall make all necessary efforts to provide a safe indoor and outdoor environment for the children in care. The operator shall:

(1) keep all areas used by the children, indoors and outdoors, reasonably clean and orderly and free of items which are potentially hazardous to children. This includes the removal of small items that a child can swallow. In addition, loose nails or screws and splinters shall be removed on inside and outside equipment.

(2) safely store equipment and supplies such as lawnmowers, power tools, or nails, so they are inaccessible to children.

(3) ensure that all stationary outdoor equipment is firmly anchored and is not installed over concrete or asphalt. Footings which anchor the equipment shall not be exposed.

(4) securely mount electric fans out of the reach of children or have a mesh guard on each fan.

(5) cover all electrical outlets not in use and remove old, cracked or frayed cords in occupied outlets.

(6) have solid and safe indoor and outdoor stairs and



steps if these are used by the children. Indoor and outdoor stairs with two or more steps which are used by the children shall be railed. Indoor stairs with more than two steps shall be made inaccessible to children in care who are two years old or younger.

- (7) maintain any swimming pools or wading pools on the premises in a manner which will safeguard the lives and health of the children. All swimming or wading pools used by children in care shall meet the "Rules Governing Public Swimming Pools," in accordance with 15A NCAC 18A .2500 which are hereby incorporated by reference including subsequent amendments. A copy of these Rules is on file at the Division at the address given in Rule .0102 of this Subchapter, or may be obtained at no cost by writing the North Carolina Department of Environment and Natural Resources, Division of Environmental Health, PO Box 27687, Raleigh, NC 27611-7687.
- (8) enclose any in-ground swimming pools by a fence approximately four feet high to prevent chance access by children. The swimming pool shall be separate from the play area. Access to the water in above ground swimming pools shall be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to the children.
- (9) ensure that animals that are potentially dangerous to children as determined by the Division are safely secured in areas not accessible to the children in care.

Authority G.S. 110-88; 110-91(3), (4), (5), (6).

## .1720 SAFETY AND SANITATION REQUIREMENTS

(a) To assure the safety of children in care, the operator shall:

- (1) separate firearms from ammunition and keep both in locked storage.
- (2) keep items used for starting fires, such as matches and lighters, out of the children's reach.
- (3) keep all medicines in locked storage.
- (4) keep hazardous cleaning supplies and other items that might be poisonous, e.g., toxic plants, out of reach or in locked storage when children are in care.
- (5) keep first-aid supplies in a place easily accessible to the operator.
- (6) ensure the equipment and toys are in good repair and are developmentally appropriate for the children in care.
- (7) have a working telephone within the family child care home. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be

posted near the telephone.

- (8) have access to a means of transportation that is always available for emergency situations.
- (9) be able to recognize common symptoms of illnesses.
- (b) No drug or medication shall be administered to any child without specific instruction's from the child's parent, a physician, or other authorized health professional.
  - (1) Prescribed medicine shall be in its original container bearing the pharmacist's label which lists the child's name, date the prescription was filled, the physician's name, the name of the medicine or the prescription number, and directions for dosage, or be accompanied by written instructions for dosage, bearing the child's name, which are dated and signed by the prescribing physician or other health professional. Prescribed medicine shall be administered only to the person for whom it is prescribed.
  - (2) Over-the-counter medicines, such as cough syrup, decongestant, acetaminophen, ibuprofen, topical teething medication, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be in its original container and shall be administered as authorized in writing by the child's parent, not to exceed amounts and frequency of dosage specified in the printed instructions accompanying the medicine. The parent's authorization shall give the child's name, the specific name of the over-the counter medicine, dosage instructions, the parent's signature, and the date signed. Over-the counter medicine may also be administered in accordance with instructions from a physician or other authorized health professional.
  - (3) When any questions arise concerning whether medication provided by the parent should be administered, that medication shall not be administered without signed, written dosage instructions from a licensed physician or authorized health professional.
  - (4) A written statement from a parent may give blanket permission for up to six months to authorize administration of medication for asthma and allergic reactions. A written statement from a parent may give blanket permission for up to one year to authorize administration of topical ointments such as sunscreen and over-the-counter diapering creams. The written statement shall describe the specific conditions under which the medication and creams are to be administered and detailed instructions on how they are to be administered. A written statement from a parent may give blanket permission to administer a one-time, weight appropriate dose of acetaminophen in cases where the child has a fever and the parent can not be reached.

- (5) Any medication remaining after the course of treatment is completed shall be returned to the child's parents.
- (6) Any time the operator administers medication other than sunscreen and diapering creams to any child in care, the child's name, the date, time, amount and type of medication given, and the signature of the operator shall be recorded. This information shall be noted on a form provided by the Division or on a separate form developed by the operator which includes the required information. This information shall be available for review by a representative of the Division during the time period the medication is being administered and for at least six months after the medication is administered.
- (c) To assure the health of children through proper sanitation, the operator shall:
  - (1) collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services prior to registration and before each renewal. Results of the analysis shall be on file in the home.
  - (2) have sanitary toilet, diaper changing and handwashing facilities. Diaper changing areas shall be separate from food preparation areas.
  - (3) use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet. The operator shall:
    - (A) wash his or her hands before, as well as after, diapering each child.
    - (B) wash the child's hands after diapering the child.
    - (C) place soiled diapers in a covered, leak-proof container which is emptied and cleaned daily.
  - (4) use sanitary procedures when preparing and serving food. The operator shall:
    - (A) wash his or her hands before and after handling food and feeding the children.
    - (B) wash the child's hands before and after the child is fed.
  - (5) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature.
  - (6) date and label all bottles for each individual child, except when there is only one bottle-fed child in care.
  - (7) have a house that is free of rodents.
  - (8) screen all windows and doors used for ventilation.
  - (9) have all household pets vaccinated with up-to-date vaccinations as required by North Carolina law and

local ordinances. Rabies vaccinations are required for cats and dogs.

- (10) store garbage in waterproof containers with tight fitting covers.

(d) Children shall be toilet trained according to individual readiness.

*Authority G.S. 110-88; 110-91(6).*

#### **.1721 REQUIREMENTS FOR RECORDS**

(a) The operator shall maintain the following health records for each child who attends on a regular basis:

- (1) a copy of the child's health assessment as required by G.S. 110-91(1).
- (2) a copy of the child's immunization record.
- (3) a health and emergency information form provided by the Division that is completed and signed by the child's parents or guardian. The completed form shall be on file the first day the child attends. An operator may use another form other than the one provided by the Division, as long as the form includes the following information:
  - (A) the child's name, address, and date of birth;
  - (B) the names of individuals to whom the child may be released;
  - (C) the general status of the child's health;
  - (D) any allergies or restrictions on the child's participation in activities with specific instructions from the child's parent or physician;
  - (E) the names and phone numbers of persons to be contacted in an emergency situation;
  - (F) the name and phone number of the child's physician and preferred hospital;
  - (G) notarized authorization for the operator to seek emergency medical care in the parent's absence.
- (4) when medication is administered, authorization for the operator to administer the specific medication according to the parent's or physician's instructions.

(b) The operator shall complete and maintain other records which shall include:

- (1) documentation for the operator's procedures in emergency situations, on a form which shall be provided by the Division;
- (2) documentation that monthly fire drills are practiced. The documentation shall include the date each drill is held, the time of day, the length of time taken to evacuate the home, and the operator's signature.
- (3) incident reports that are completed each time a child receives medical treatment by a physician, nurse, physician's assistant, nurse practitioner, community clinic, or local health department, as a result of an incident occurring while the child is in the family child care home. Each incident shall be



reported on a form provided by the Division, signed by the operator and the parent, and maintained in the child's file. A copy shall be mailed to a representative of the Division within seven calendar days after the incident occurs.

- (4) an incident log which is filled out any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by a representative of the Division. This log shall be completed on a form supplied by the Division.
- (5) documentation that a monthly check for hazards on the outdoor play is completed. This form shall be supplied by the Division and shall be maintained in the family child care home for review by a representative of the Division.

Authority G.S. 110-88; 110-91(1), (9).

#### .1722 DISCIPLINE POLICY

(a) The operator shall provide a written copy of and explain the operator's discipline practices to each child's parent, legal guardian, or full-time custodian at the time of enrollment. If an operator changes discipline practices, the child's parent, legal guardian, or full-time custodian must receive written notice of the new policy 30 days prior to the implementation of the new policy.

(b) No child shall be subjected to any form of corporal punishment by the family child care home operator, substitute caregiver, or any other person in the home, whether or not these persons reside in the home.

(c) No child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or spanking.

(d) No child shall ever be placed in a locked room, closet, or box.

(e) No discipline shall ever be delegated to another child.

(f) Discipline shall in no way be related to food, rest or toileting.

(1) No food shall be withheld, or given, as a means of discipline.

(2) No child shall ever be disciplined for lapses in toilet training.

(3) No child shall ever be disciplined for not sleeping during rest period.

Authority G.S. 110-91(10).

#### .1723 TRANSPORTATION REQUIREMENTS

To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:

- (1) have written permission from a parent or guardian to transport his or her child and notify the parent when and where the child is to be transported.
- (2) ensure that all children regardless of age or location in the vehicle shall be restrained by individual seat

belts or child restraint devices. Only one person shall occupy each seat belt or child restraint device.

- (3) have a valid driver's license issued by the Division of Motor Vehicles, not including a limited permit.
- (4) ensure that each child is seated in a manufacturer's designated area.
- (5) ensure that a child shall not occupy the front seat if the vehicle has an operational passenger airbag.
- (6) never leave children in a vehicle unattended by an adult.
- (7) have emergency and identification information about each child in the vehicle whenever children are being transported.

Authority G.S. 110-91; 110-91(13).

### SECTION .2500 - DAY CARE FOR SCHOOL-AGE CHILDREN

#### .2506 GENERAL SAFETY REQUIREMENTS

(a) First aid equipment shall always be available regardless of where activities are provided.

(b) All regulations in Rule .1403 regarding swimming pools apply.

(c) Potentially hazardous items, such as archery equipment, firearms and ammunition, hand and power tools, propane stoves, or chemicals shall be used by children only when adult supervision is provided. Such potentially hazardous items, whether or not intended for use by the children, shall be stored in locked areas or with other appropriate safeguards, or shall be removed from the premises.

(d) ~~All equipment, materials and facilities used by children shall be in good repair, of safe design, and properly installed. All children shall be adequately supervised. Adequate supervision for children aged nine years and older means that staff shall be able to hear or see the children at all times.~~

(e) Children shall wear life jackets whenever they participate in boating, rafting or canoeing activities. ~~activities and children riding bicycles shall wear bicycle safety helmets.~~

Authority G.S. 110-91; 143B-168.3.

#### .2510 STAFF QUALIFICATIONS

~~(a) The staff requirements in Section .0700 shall apply to any school-age program which is operated on a full-year basis as a unit of a facility which also provides care to preschool-age children.~~

~~(b) Each day camp or before or after-school program shall have an administrator on-site who is at least 21 years old and has at least one year of full-time experience or two summers' experience working with school-age children in a day-care or camp setting.~~

~~(c) There shall be at least one staff person who is at least 18 years old and literate for each group of 25 children present.~~

(a) The following staff requirements shall apply to a part-



time school-age or seasonal school-age program:

(1) The individual who is responsible for ensuring the administration of the program, whether on-site or off-site, shall:

(A) Be at least 21 years old and have at least one year of full-time experience or two summers' experience working with school-age children in a school-age care or camp setting prior to employment; and

(B) Meet the requirements for a child care administrator in G.S. 110-91(8).

(2) Each individual who is responsible for planning and ensuring the implementation of daily activities for a group of school-age children shall:

(A) Be at least 18 years old and have a high school diploma or its equivalent prior to employment; and

(B) Have completed two semester credit hours in child and youth development and two semester credit hours in school-age programming. Each individual who does not meet this requirement shall enroll in coursework within six months after becoming employed or by January 1, 1999, whichever is later, and shall complete this coursework within 18 months of enrollment.

(3) All other staff shall be at least 16 years of age and complete seven clock hours of school-age program training approved by the Division. The school-age program training shall include the following topics: child care regulations; quality school-age care; school-age child development; positive behavior management practices; age-appropriate activities; curriculum and environmental design; and health, safety, and playground training.

(A) Staff in part-time school-age programs shall complete the school-age program training within three months of becoming employed.

(B) Staff in seasonal school-age programs shall complete the school-age program training within six weeks of becoming employed.

(b) The following staff requirements shall apply to a school-age program that operates on a full year basis and offers full time care for school-age children:

(1) The individual who is responsible for the administration of the program, whether on-site or off-site, shall meet the requirements in Subparagraph (a)(1) of this Rule.

(2) Each individual who is responsible for planning and implementing the daily activities for a group of school-age children shall meet the requirements in Subparagraph (a)(2) of this Rule.

(3) All other staff shall meet the requirements in Subparagraph (a)(3) of this Rule within three months of becoming employed.

(c) The following staff requirements shall apply to a school-age program which operates on a full year basis as a

component of a center which also provides care to preschool-age children:

(1) The individual who is on-site and responsible for the administration of the program shall meet the requirements for child care administrator in G.S. 110-91(8) and Section .0700 of this Subchapter.

(2) Each individual responsible for planning and implementing the daily activities for a group of school-age children in the school-age component of the program shall:

(A) Meet the requirements in Subparagraph (a)(2) of this Rule; or

(B) Have a North Carolina Early Childhood Credential or its equivalent and complete the school-age program training described in Subparagraph (a)(3) of this Rule within three months of becoming employed.

(3) All other staff working in the school-age component of the program shall complete the school-age program training described in Subparagraph (a)(3) of this Rule within three months of becoming employed.

(d) The special training requirements in Rule .0705 shall apply to all programs for school-age children.

(e) Whenever children participate in swimming or other aquatic activities, the following provisions shall apply:

(1) The children shall be supervised by persons having life saving certificates, issued by the Red Cross or other issuing entity approved by the Section; Division appropriate for the type of body of water and type of aquatic activities:

(A) One lifeguard is required for groups of 25 or fewer children.

(B) Two lifeguards are required for groups of 26 or more children.

(2) A person with lifeguard certification is not required when there are no more than 12 children present and the body of water has no portion deeper than 30 inches and the total surface area is not more than 400 square feet. The children shall be supervised by at least one adult who is certified to perform cardiopulmonary resuscitation appropriate for the ages of children in care.

(f) All staff shall participate in at least ~~six~~ three hours of documented orientation related to the program's policies, activities and child safety ~~prior to~~ within six weeks of assuming responsibility for supervising a group of children.

(g) The health requirements for staff and volunteers in Rule .0701 - .0702 shall apply.

(h) All staff under age 18 counted toward meeting the required staff/child ratio shall work under the direction of another staff person at least 21 years of age.

(i) When an individual has responsibility for both administering the program and planning and implementing the daily activities of a group of school-age children, the staff requirements in Subparagraph (a)(1) of this Rule shall apply.

(j) Completion of the seven clock hour school-age program

training shall count toward meeting one year's annual ongoing training requirements in Section .0700 of this Subchapter.

*Authority G.S. 110-91(8), (11); 143B-168.3.*

## SECTION .2600 - REQUIREMENTS FOR LARGE DAY CARE HOMES

### .2601 SCOPE

~~The Rules in this Section apply to large child day care homes. A large child day care home or large home shall routinely provide care to no more than 12 children when any preschool-age child is in care, or when all children present are school-age, to no more than 15 children, except as allowed by Rule .0102 of this Subchapter. All children present, except the operator's own school-age children, shall be included in the maximum number of children allowed to be present.~~

*Authority G.S. 110-86(3); 143B-168.3.*

### .2602 GENERAL PROVISIONS FOR LICENSURE

~~(a) The provisions contained in Section .0200 for licensing child day care centers shall apply to large homes.~~

~~(b) The individual legally responsible for the operation of the home shall apply for a license and for annual renewal of the license using forms provided by the section.~~

~~(c) The applicant/operator is responsible for arranging for inspections of the home by the local sanitarian, building and fire safety inspectors in accordance with the provisions of Rules .0302(b) and .0303(a).~~

~~(d) The applicant/operator is responsible for compliance with all other state laws and local ordinances which apply to the operation of a child day care facility.~~

~~(e) When the operator of a large home has demonstrated compliance with all applicable requirements, a license shall be issued for a period of time not to exceed twelve consecutive months.~~

~~(f) When a large home does not comply in every respect with the licensing requirements, and the section determines that the applicant/operator is making a reasonable effort to comply, the section may issue a provisional or a temporary license in accordance with the provisions of Section .0400.~~

*Authority G.S. 110-88; 110-93; 143B-168.3.*

### .2603 LICENSING PROCESS

~~(a) A representative of the section shall make one or more announced visits to the home to determine compliance with the requirements prior to issuance of the initial license.~~

~~(b) Before the initial license is issued, the applicant shall demonstrate compliance in the following manner:~~

~~(1) The applicant shall submit a completed, signed application to the section.~~

~~(2) The applicant shall make written information available to verify compliance with the~~

~~requirements for emergency care plans, discipline policy, daily schedules, incident reports, incident logs and a description of activities.~~

~~(3) The applicant shall provide documentation of his or her and any other staff's concurrence with the requirements for staff education and experience, health condition and, if requested, minimum age.~~

~~(4) The applicant shall provide information which demonstrates how compliance will be achieved with the requirements for records of children's health conditions, immunizations, and emergency information, daily attendance, monthly playground inspections, administering medication, and records of monthly fire drills.~~

~~(5) The applicant shall have available or provide a description of the plans to obtain equipment and play materials in sufficient quantity to comply with the requirements for age-appropriate activities.~~

~~(6) The applicant shall ensure that approved fire, building and sanitation reports are obtained and provided to the section.~~

~~(c) A representative of the section shall measure floor space in the part of the home which is used for day care to assure compliance with the space requirements.~~

~~(d) If the large home is found to be in compliance with the applicable requirements of G.S. 110 and this Section, a license shall be issued.~~

~~(e) If the large home is not in compliance with the requirements, the section may issue a provisional or a temporary license or may deny the application.~~

*Authority G.S. 110-86(3); 110-88(5); 110-91; 110-92; 110-93; 143B-168.3.*

### .2604 LICENSE RENEWAL PROCESS

~~(a) Each large home operator shall apply for renewal of the license annually according to the procedures described in Rule .0303(a).~~

~~(b) The operator shall submit a completed, signed application for renewal and approved inspection reports to the section at least 30 days before the expiration date of the current license.~~

~~(c) A representative of the section shall make one or more announced visits to the home to determine compliance with the requirements.~~

~~(d) If the section determines that the home continues to comply with all applicable requirements, a new license shall be issued to the home operator.~~

~~(e) If the section determines that the home does not comply with all requirements, the section may issue a provisional license or may deny the application for renewal.~~

*Authority G.S. 110-88; 110-93; 143B-168.3.*

### .2605 MAINTAINING COMPLIANCE

~~(a) Each large home operator is expected to maintain compliance with all the requirements for licensure at all~~



times:

(b) ~~If a representative of the section documents noncompliance with any requirement in a licensed large home, the home operator shall be given written notification of the area of noncompliance and the action needed to correct it. Unless conditions in the home pose an immediate threat to the health or safety of the children, the home operator will be given a reasonable period of time to correct the noncompliance.~~

(c) ~~If the home operator fails to comply or fails to achieve compliance within the specified time period, the section may initiate appropriate administrative action in accordance with the rules for administrative penalties in Section .2000.~~

(d) ~~The operator may appeal such action in accordance with the provisions of G.S. 150B-23.~~

Authority G.S. 110-88; 110-98; 143B-168.3.

## .2606 STAFF REQUIREMENTS

(a) ~~The operator of a large home shall be the person who is on-site and has the primary responsibility for the daily operation of the day care home.~~

(b) ~~The operator shall be at least 21 years old and literate and shall have completed at least one year of full-time~~

## .2607 STAFF/CHILD RATIOS AND SUPERVISION

(a) ~~The staff/child ratios and group sizes for a large child day care home are as follows:~~

Age of Children	No. Children	No. Staff
0 to 4 years	5	1

Maximum Age of Children	No. Children	No. Staff
0 to 13 years	5	1

Maximum Age of Children	No. Children	No. Staff
2 to 13 years	10	1
3 to 13 years	12	1
All School-aged	15	1

(b) ~~When only one caregiver is required to meet the staff/child ratio, the operator shall make available to parents the name, address and phone number of an adult who is nearby and available for emergency relief.~~

(c) ~~Children shall be adequately supervised at all times. All children who are not asleep or resting shall be visually supervised. Children may sleep or rest in another room so long as a caregiver can hear them and respond immediately.~~

Authority G.S. 110-86(3); 110-91(7); 143B-168.3.

## .2608 AGE APPROPRIATE ACTIVITIES AND EQUIPMENT

(a) ~~Each large home shall have a written schedule posted for easy reference by parents and caregivers.~~

(b) ~~The schedule shall show blocks of time usually assigned to types of activities and shall indicate a balance between periods of active play and periods of quiet play or~~

~~caregiving experience in a registered or licensed child day care home or center or have equivalent child care experience that can be verified.~~

(c) ~~All other staff required to meet the staff/child ratios specified in Rule .2607 shall be at least 16 years old and literate, and if less than 18 years old, shall work under the direct supervision of the operator or other staff person who is at least 21 years old.~~

(d) ~~No one who is under the age of 18 years shall be left in charge of the home or shall be solely responsible for the care of children.~~

(e) ~~All staff shall meet the health standards for staff set forth in Rule .0701 of this Subchapter.~~

(f) ~~The operator of each large home shall comply with the special training requirements in Rule .0705 in this Subchapter.~~

(g) ~~The operator and each staff person required to meet the staff/child ratio shall participate in in-service training activities in accordance with the provisions of Paragraphs (b), (c) and (d) of Rule .0707, and with Rule .0708 of this Subchapter.~~

Authority G.S. 110-86(3); 110-91(8), (11); 143B-168.3.

				Maximum
Age of Children	No. Children	No. Staff	Group Size	No. Staff
0 to 4 years	5	1	10	2
Maximum Age of Children	No. Children	No. Staff	Group Size	No. Staff
0 to 13 years	5	1	10	2
Maximum Age of Children	No. Children	No. Staff	Group Size	No. Staff
2 to 13 years	10	1	12	2
3 to 13 years	12	1	12	1
All School-aged	15	1	15	1

~~rest. The activities and allotted times reflected in the schedule shall be appropriate for the ages of the children in care.~~

(c) ~~When children two years old or older are in care, the schedule shall also reflect daily opportunities for both free-choice and caregiver-directed activities.~~

(d) ~~Each home providing care to children aged two years and older shall have equipment and materials available on a daily basis. The equipment and materials shall be appropriate for the age and size of the children in care.~~

(e) ~~Home-made equipment and materials may be used if they are safe and functional.~~

(f) ~~Each large home shall have items for each of the following types of activities: art and other creative play materials; children's books; manipulative toys; and dramatic play materials. The home shall have materials and equipment in sufficient quantity to allow at least three children to choose the same type of activity.~~

~~(g) The home shall make equipment and materials available for at least three of the activities designated in Paragraph (f) of this Rule each day. A variety of toys and materials in sufficient quantity to allow at least three related activities to occur at the same time shall be easily accessible to the children.~~

~~(h) Age appropriate equipment and materials shall be provided for a variety of outdoor activities which allow for vigorous play and large muscle development. Each child shall have the opportunity for outdoor play each day that weather conditions permit. The home shall provide space and time for vigorous indoor activities when children cannot play outdoors.~~

~~(i) The requirements for activities for infants and toddlers as specified in Rule .0511 of this Subchapter shall also apply to large homes which provide care to children under two years of age.~~

*Authority G.S. 110-86(3); 110-91(6), (12); 143B-168.3.*

## **.2609 OTHER CAREGIVING REQUIREMENTS**

~~(a) Meals and snacks shall be served in accordance with the requirements of Section .0900 of this Subchapter except that Rules .0901(b) and .0902(a) do not apply.~~

~~(b) All food shall be prepared and served in a sanitary manner. All food shall be served on an individual sanitary plate or other appropriate container. Snack foods may be placed on an individual napkin or paper towel. No food shall be placed directly on a countertop, table top or other such surface.~~

~~(c) No more than one child shall be fed with the same utensil or drink from the same cup or glass.~~

~~(d) The requirements of Rule .1801 shall apply to large homes.~~

~~(e) Diapers shall be changed whenever they are soiled or wet.~~

~~(f) Children shall be toilet trained according to individual readiness.~~

~~(g) Each preschool-age child shall be given time and a place to rest or nap comfortably each day. Each preschool-age child shall have an individual bed, crib, cot or two-inch mat with clean linens.~~

~~(h) A comfortable place with clean linens shall be made available to each school-aged child who wants to rest or who is ill.~~

*Authority G.S. 110-91(1), (2), (10); 143B-168.3.*

## **.2610 HEALTH AND EMERGENCY CARE REQUIREMENTS**

~~(a) The large home shall have on file medical statements and records of immunizations for each child in accordance with the provisions of G.S. 110-91(1).~~

~~(b) The home shall have the following information in written form for each child in care, including drop-in, part-time and part-day children. The information shall be on file from the first day the child attends and shall be easily~~

~~accessible to caregiving staff:~~

~~(1) The child's full name, date of birth, allergies, if any, any chronic illness the child may have, any medication the child may be taking, and any special fears or behavior characteristics that could affect the child's care.~~

~~(2) The names of individuals to whom the child may be released.~~

~~(3) Emergency medical care information to include the name, address and telephone number of the parent or other person to contact in an emergency; the name and telephone number of the child's physician; and name of preferred hospital.~~

~~(4) A statement signed by the child's parent or guardian authorizing the home operator to obtain emergency medical attention for the child.~~

~~(c) Each large home shall complete a form provided by the section which describes the procedures for obtaining emergency medical care for staff and children. The following information shall be included:~~

~~(1) The name, address and telephone number of a physician, other health professional or local health agency which is available to provide medical consultation.~~

~~(2) The name and telephone number of the local emergency medical service.~~

~~(3) Designation of a means of transportation which is always available in the event of an emergency.~~

~~(4) The name, address, and phone number of the person who has agreed to be available to provide emergency relief when the conditions stated in Rule .2607(c) exist.~~

~~(d) Each large home shall have a working telephone on the premises which is always accessible to caregiving staff. Telephone numbers for the fire department, law enforcement office, emergency medical service, poison control center and emergency relief person, when required, shall be posted near the telephone.~~

~~(e) Administration of medications shall be in accordance with the provisions of Rule .0803.~~

~~(f) An incident report shall be completed each time a child receives medical treatment by a physician, nurse, physician's assistant, nurse practitioner, community clinic, or local health department, as a result of an incident occurring while the child is at the large home. This incident report shall include, at a minimum: child's name, date and time of incident, part of body injured, type of injury, names of adult witnesses to incident, description of how and where incident occurred, piece of equipment involved (if any), treatment received and steps taken to prevent reoccurrence. This report shall be signed by the person completing it and by the parent, and maintained in the child's file. A copy of the incident report shall be mailed to the Division within seven calendar days after treatment.~~

~~(g) An incident log shall be completed any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for~~



review by a representative of the Division. This log shall be completed on a form provided by the Division:

Authority G.S. 110-86(3); 110-91(1); 143B-168.3.

## **.2611 PHYSICAL FACILITY AND SPACE REQUIREMENTS**

(a) Each large home shall comply with the North Carolina Building Code requirements for small group day care facilities caring for 6-15 children pursuant to G.S. 110-91(4) and Rule .1303 of this Subchapter:

(b) Each large home shall be inspected prior to the issuance of the initial license and at least annually thereafter by a local fire safety official for compliance with fire safety measures:

(c) Each large home shall be inspected prior to issuance of the initial license and at least annually thereafter by a sanitarian for compliance with appropriate sanitation requirements as codified in Section .1200:

(d) The home shall have at least two remotely located exits directly to the outside:

(e) Firearms and other weapons on the premises shall be secured so that they are inaccessible to the children:

(f) Each large home shall have at least 25 square feet of indoor space for each child for which the home is licensed. The indoor space shall be measured by a representative of the section and shall include only those areas of the home which are routinely made available to the children. The indoor space shall not include closets, bathrooms, storage areas, utility rooms, kitchens or space occupied by furniture or equipment that is not used by the children. The dining area of a kitchen may be counted if it is routinely used for children's activities in addition to eating:

(g) Each large home shall have an outdoor play area which provides at least 75 square feet of play area for each child present. The outdoor play area shall provide an area that is shaded by a building, awning, trees or other methods:

(h) The outdoor play area shall be free of equipment, litter, animals and other objects which may be hazardous to children:

(i) The requirements set forth in Rule .1403 for the use of swimming pools on or off the premises shall apply to large homes:

(j) The requirements relating to hazardous items, materials and equipment as specified in Rules .0601(a), (b), (c) and .0602 of this Subchapter shall apply to large homes:

(k) The requirements relating to safety as specified in Rule .0604 of this Subchapter shall apply to large homes:

Authority G.S. 110-86(3); 110-91(3), (4), (5), (6); 143B-168.3.

## **.2612 TRANSPORTATION REQUIREMENTS**

(a) The requirements set forth in Rule .1717(a)(4) for transportation of children in child day care homes shall apply to large homes:

(b) In addition, the staff/child ratios in Rule .2607 of this Section shall be maintained. If children under age two are

being transported, the driver shall not be counted in the staff/child ratio:

Authority G.S. 110-86(3); 110-91(13).

\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Health and Human Services - Division of Vocational Rehabilitation intends to amend rules cited as 10 NCAC 20C .0201 - .0203, .0601, .0603, .0604 and .0606. Notice of Rule-making Proceedings was published in the Register on October 15, 1997.

**Proposed Effective Date:** July 1, 1998

**A Public Hearing** will be conducted at 6:00 p.m. on January 20, 1998 at the Main Conference Room, Division of Rehabilitation Services, 805 Ruggles Drive, Dorothea Dix Campus, Raleigh, NC.

**Reason for Proposed Action:** 10 NCAC 20C .0201 and .0202 are being amended to correct references to federal regulations and to make content consistent with federal regulations. 10 NCAC 20C .0203, .0601, .0603, .0604 and .0606 are being amended to require that the Division determine each client's priority category and notify the individual of the category only when the Division implements an order of selection for services. This change will make the rules consistent with the final Federal regulation regarding order of selection for services issued February 11, 1997. The current N.C. rules require the determination and notification regarding an individual's priority category when eligibility is determined. However, individuals already receiving services when an Order of Selection for Services is implemented will not be affected by the Order of Selection. Their services will continue. Therefore, determination of priority category and notification of the individual of that determination will affect only those applying for services and those whose services have not been planned under an Individualized Written Rehabilitation Program.

**Comment Procedures:** Comments may be presented orally or in writing at the hearing. Oral statements may be limited at the discretion of the hearing officer. Written comments may also be submitted to Jackie Stalnaker, Division of Vocational Rehabilitation Services, P.O. Box 26053, Raleigh, NC 27611. To obtain additional information or indicate need for alternative communication format contact Ms. Stalnaker in writing or by phone (919) 733-3364 or TDD (919) 733-5924. In addition, a fiscal note is available upon written request from the same address. The deadline for receiving written comments is February 6, 1998.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million

dollars (\$5,000,000) in a 12-month period.

## CHAPTER 20 - VOCATIONAL REHABILITATION

### SUBCHAPTER 20C - PROGRAM RULES

#### SECTION .0200 - ELIGIBILITY

##### .0201 ELIGIBILITY AND INELIGIBILITY

(a) Eligibility for vocational rehabilitation services is based only upon the criteria specified in 34 C.F.R. 361.31(b): 361.42. A preliminary assessment diagnostic study that meets the requirements of 34 C.F.R. ~~361.32~~ 361.42 shall be used in order to determine whether an individual is eligible for vocational rehabilitation services or whether an extended evaluation is necessary to make such a determination. ~~The Division does not make interim determinations of eligibility as permitted by 34 C.F.R. 361.31(c).~~

(b) If an extended evaluation is necessary it will meet the requirements of 34 C.F.R. ~~361.34~~ 361.42.

(c) ~~Certification of Determinations~~ of eligibility, ~~certification for ineligibility, or the need~~ for extended evaluation to determine vocational rehabilitation potential, ~~and certification of ineligibility~~ shall meet the requirements of 34 C.F.R. ~~361.35~~ 361.42. The vocational rehabilitation counselor shall make the appropriate ~~certification determination and document it~~ in writing and include it in the individual's casefolder.

(d) The Code of Federal Regulations adopted by reference in this Rule shall automatically include any later amendments thereto as allowed by G.S. ~~150B-14(c)~~: 150B-21.6.

Authority G.S. 143-545A; 143-546A; 150B-21.6; 34 C.F.R. 361.42.

##### .0202 PROCESSING REFERRALS AND APPLICANTS

(a) The Division shall maintain cooperative agreements with other public agencies and shall establish and maintain information and referral programs as ~~specified in the Three-Year State Plan for Vocational Rehabilitation Services under Title I of the Rehabilitation Act of 1973, as amended, covering Fiscal Years 1989, 1990, and 1991, required by 34 C.F.R. 361.37. This adoption by reference is made under G.S. 150B-14(c).~~

(b) Each rehabilitation counselor is assigned to a local office or vocational rehabilitation facility within a particular geographic area. Referrals may be made to the individual counselor, to the local community office, to a vocational rehabilitation facility, or to the state office of the Division. Information regarding referrals shall be forwarded to the appropriate counselor for processing. The counselor shall process the information regarding referrals as promptly as possible.

(c) The counselor shall contact all individuals referred and make a ~~preliminary~~ determination of eligibility, ineligibility, or the need for extended evaluation. The Division shall

utilize any ~~collateral~~ existing data and information available from the cooperating agencies to assure quick and equitable handling of referrals.

Authority G.S. 143-545A; 143-546A; 34 C.F.R. 361.22; 34 C.F.R. 361.23; 34 C.F.R. 361.37; 34 C.F.R. 361.41.

##### .0203 APPLICANT NOTIFICATION

(a) The Division shall provide written notification to all applicants for services at the time of application ~~of either:~~

(1) ~~the existing order of selection as set out in Section .0600 of this Subchapter, or~~

(2) that an order of selection as set out in Section .0600 of this Subchapter will be implemented if or when it is determined the Division has insufficient resources to serve all applicants who are determined eligible.

(b) ~~The Division shall determine each client's priority category at the time the individual is determined eligible for services. The client shall be placed in the highest category (beginning with Category One) for which he/she qualifies.~~

(c) ~~In establishing functional limitations as part of the priority category determination as set out in Rule .0603 of this Subchapter, Division staff shall review all functional capacities that may pose problems in the rehabilitation program and employment outcomes with the eligible individual in order to identify functional limitations related to the person's disability(ies).~~

(d) ~~The Division shall notify each eligible individual of his/her priority classification in writing at the same time the notification of eligibility is provided.~~

(e) ~~The record of services shall contain documentation of the rationale for the client's priority category assignment.~~

(f) ~~The Division shall change a client's priority classification immediately if there are changes in the client's circumstances that warrant a change. The Division shall notify the client in writing of any change in priority classification.~~

Authority G.S. 143-545A; 143-546A; 34 C.F.R. 361.36; P.L. 102-569, s. 101(a)(5)(A).

#### SECTION .0600 - ORDER OF SELECTION FOR SERVICES

##### .0601 APPLICABILITY OF POLICY

The rules in this Section specify the order of selection for services that shall be followed by the Division in its general program when it does not have the financial or staff resources to serve all eligible individuals who apply for services. The rules do not apply to the Independent Living Program. The rules do not apply if an order of selection for services has not been implemented by the Division Director.

Authority G.S. 143-545A; 143-546A; P.L. 102-569, s. 101(a)(5)(A); 34 C.F.R. 361.36.



**.0603 PRIORITY CATEGORIES**

(a) The Division shall determine each client's priority category at the time the individual is determined eligible for services. The client shall be placed in the highest category (beginning with Category One) for which he/she qualifies.

(b) The Division shall notify each eligible individual of his/her priority classification in writing at the same time the notification of eligibility is provided.

(c)(a) The priority categories for the order of selection for services for eligible individuals are as follows:

(1) Category One. Individuals who have the most severe disabilities;

(2) Category Two. Individuals with severe disabilities;

(3) Category Three. Individuals with non-severe and permanent disability who will need multiple vocational rehabilitation services to attain a suitable employment outcome; and

(4) Category Four. Any eligible individual who does not qualify for placement in a higher priority category.

(d)(b) The Division shall follow the provisions of P.L. 102-569, Section 101(a)(13)(B) which is incorporated by reference regarding public safety officers when applicable in its order of selection. This incorporation by reference shall automatically include any later amendments to the cited section of the public law as allowed by G.S. 150B-21.6. A copy of the cited section of the public law may be obtained at no cost from the Division.

~~(e) An individual's priority category is determined when eligibility is determined as outlined in Rule .0203 of this Subchapter.~~

(e) The Division shall change a client's priority classification immediately if there are changes in the client's circumstances that warrant a change. The Division shall notify the client in writing of any change in priority classification.

*Authority G.S. 143-545A; 143-546A; P.L. 102-569, s. 101(a)(5)(A); 34 C.F.R. 361.36.*

**.0604 PROCEDURES**

(a) Eligible individuals who are already receiving services under an Individualized Written Rehabilitation Program (IWRP) at the time the order of selection is implemented shall not be subject to the order of selection process. Their rehabilitation programs will continue until their records of service are closed.

(b) In establishing functional limitations as part of the priority category determination as set out in Rule .0603 of this Section, Division staff shall review all functional capacities that may pose problems in the rehabilitation program and employment outcomes with the eligible individual in order to identify functional limitations related to the person's disability(ies).

(c)(b) The Division shall serve individuals in Priority Category One first and individuals in the other priority categories in descending order from Priority Category Two down through Priority Category Five ~~Four~~ according to the

availability of resources.

(d)(c) Eligible individuals for whom rehabilitation services have not been planned under an Individualized Written Rehabilitation Program prior to the implementation of the order of selection and whose classification is below the categories approved for service shall be placed in a "waiting" status. They shall remain in the "waiting" status until their priority category is opened for services.

(e)(d) When the order of selection is implemented, all individuals whose classification will mean they will be placed in a "waiting" status shall be notified in writing of their status. When services are made available to any category in which individuals have been in a "waiting" status, the Division shall notify all persons in that priority category that their rehabilitation program can be developed.

(f)(e) Individuals determined eligible after the order of selection for service is implemented shall receive services if they are classified in the categories being served or shall be placed in a "waiting" status if their classification places them in a category not currently being served.

*Authority G.S. 143-545A; 143-546A; P.L. 102-569, s. 101(a)(5)(A); 34 C.F.R. 361.36.*

**.0606 CASE FINDING AND INFORMATION AND REFERRAL PROGRAMS**

(a) Case finding efforts shall not be modified because of an order of selection. The Division has a continuing responsibility to make the public and referral sources aware of the services it has to offer eligible individuals with disabilities, especially those with severe disabilities. Referral sources shall be informed of an existing order of selection or of the potential of an order of selection being implemented, but they shall be reassured that this should not discourage referrals or applications.

(b) The Division also may elect to establish an expanded information and referral program while operating under an order of selection for services. An expanded information and referral program may include counseling, guidance, and referral for job placement for those eligible individuals who are not in the priority categories to receive services under the State's order of selection, but the program shall meet the requirements of 34 C.F.R. 361.37 (c).

*Authority G.S. 143-545A; 143-546A; P.L. 102-569.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10H .0802, .0810. Notice of Rule-making Proceedings was published in the Register on September 15, 1997.

**Proposed Effective Date: July 1, 1998**

A Public Hearing will be conducted at 10:00 a.m. on January 21, 1998 at the Archdale Building, Room 332, 512 N. Salisbury St., Raleigh, NC 27604.

**Reason for Proposed Action:** Set/amend falconry regulations necessary to manage and preserve the resource.

**Comment Procedures:** Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from January 2, 1998 to February 2, 1998. Such written comments must be delivered or mailed to the NC Wildlife Resources Commission, 512 N. Salisbury St., Raleigh, NC 27604-1188.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

### SUBCHAPTER 10H - REGULATED ACTIVITIES

#### SECTION .0800 - FALCONRY

##### .0802 PERMIT AND LICENSE REQUIREMENTS

(a) No person shall take a raptor in this state for falconry purposes without having first obtained:

- (1) a resident falconry permit issued by this state;
- (2) or, a General or Master Class falconry permit as defined in Rule .0801 of this Section from another state that issues non-resident falconry permits or licenses;
- ~~(2)~~(3) a North Carolina resident or non-resident falconry license as required by G.S. 113-270.3(b)(5).

(b) No person shall possess, transport, or import a raptor for falconry purposes or practice falconry in this state without having first obtained and having in possession:

- (1) a falconry permit as defined in Rule .0801 of this Section from this state or another state that issues non-resident falconry permits or licenses.
- (2) a North Carolina resident or non-resident falconry license as required by G.S. 113-270.3(b)(5),
- (3) any other general purpose or special purpose license required by the applicable laws of this state.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.28; 50 C.F.R. 21.29.

##### .0810 TAKING RAPTORS

No raptor shall be taken from the wild in this state except by a person holding a currently valid resident falconry permit as defined in Rule .0801 of this Section from this state or another state that issues non-resident falconry permits or licenses and a currently valid resident or non-resident

falconry license, and then only in accordance with the following instructions:

- (1) Young birds not capable of flight (eyasses) may not be taken without a special permit issued by the commission. These permits will be issued only to persons holding general or master class falconry permits and are valid during the period May 1 through June 30. No more than two eyasses may be taken by the same permittee during this period.
- (2) First year (passage) birds may be taken only during the period September 4 through December 31, except that marked raptors may be retrapped at any time.
- (3) Only American kestrels (*Falco sparverius*) and great horned owls (*Bubo Virginianus*) may be taken when over one year old, except that any raptor other than an endangered or threatened species taken under a depredation or other special purpose permit issued by the U.S. Fish and Wildlife Service may be used for falconry by general and master class falconers.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

## TITLE 21 - OCCUPATIONAL LICENSING BOARDS

### CHAPTER 8 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Board of CPA Examiners intends to amend rules cited as 21 NCAC 8A .0301; 8F .0103, .0105, .0302, .0304, .0401; 8G .0404, .0406; 8H .0001; 8I .0004, .0005; 8J .0001, .0005, .0006, .0008, .0010; 8K .0301; 8M .0101, .0102, .0201, .0204. Notice of Rule-making Proceedings was published in the Register on October 15, 1997.

**Proposed Effective Date:** August 1, 1998

A Public Hearing will be conducted at 10:00 a.m. on January 26, 1998 at the NC State Board of CPA Examiners, 1101 Oberlin Rd, Suite 104, Raleigh, NC 27605.

**Reason for Proposed Action:** To clarify application and conditioning requirements for CPA exam candidates. To clarify CPA certification requirements, continuing professional education (CPE), and certificate status. To clarify filing requirements for firms and registered limited liability partnerships.

**Comment Procedures:** Any person interested in these rules may submit comments by mailing the comments to Robert N. Brooks, Executive Director, NC State Board of CPA Examiners, PO Box 12827, Raleigh, NC 27605.



**Fiscal Note:** *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

**SUBCHAPTER 8A - DEPARTMENTAL RULES**

**SECTION .0300 - DEFINITIONS**

**.0301 DEFINITIONS**

(a) The definitions set out in G.S. 93-1(a) shall apply when those defined terms are used in 21 NCAC 8.

(b) In addition to the definitions set out in G.S. 93-1(a), the following definitions and other definitions in this Section apply when these terms are used in 21 NCAC 8:

- (1) "Active," when used to refer to the status of a person, describes a person who possesses a North Carolina certificate of qualification and who has not otherwise been granted "Retired," "Inactive," or "Conditional" status;
- (2) "AICPA" means the American Institute of Certified Public Accountants;
- (3) "Applicant" means a person who has applied to take the CPA examination;
- (4) "Attest service" means:
  - (A) any audit,
  - (B) any review of a financial statement,
  - (C) any compilation of a financial statement when the CPA expects, or reasonably might expect, that a third party will use the compilation and the CPA does not disclose a lack of independence, and
  - (D) any examination of prospective financial information;
- (5) "Audit" means an examination of financial statements of a person by a CPA, conducted in accordance with generally accepted auditing standards, to determine whether, in the CPA's opinion, the statements conform with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;
- (6) "Board" means the North Carolina State Board of Certified Public Accountant Examiners;
- (7) "Calendar year" means the 12 months beginning January 1 and ending December 31;
- (8) "Candidate" means a person whose application to take the CPA examination has been accepted and who may sit for the CPA examination;
- (9) "Client" means one who orally or in writing agrees with a person or firm holding out pursuant to 21 NCAC 8A .0308 to receive any services included in 21 NCAC 8A .0307;
- (10) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person;
- (11) "Compilation of a financial statement" means

presenting in the form of a financial statement information that is the representation of any other person without the CPA's undertaking to express any assurance on the statement;

- (12) "Conditional," when used to refer to the status of a person, describes a person who holds a North Carolina certificate of qualification under certain conditions as imposed by the Board, such as additional requirements for failure to complete the required CPE hours in a calendar year;
- (13) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service;
- (14) "CPA" means certified public accountant;
- (15) "CPE" means continuing professional education;
- (16) "Disciplinary action" means revocation or suspension of, or refusal to grant, membership, or the imposition of a reprimand, probation, constructive comment, or any other penalty or condition;
- (17) "Disclosure" means a written statement of the service to be rendered with the contingent fee to be charged and which is dated and signed by the client;
- (18) "Examination of prospective financial information" means an evaluation by a CPA of:
  - (A) a forecast or projection,
  - (B) the support underlying the assumptions in the forecast or projection,
  - (C) whether the presentation of the forecast or projection is in conformity with AICPA presentation guidelines, and
  - (D) whether the assumptions in the forecast or projection provide a reasonable basis for the forecast or projection;
- (19) "FASB" means the Financial Accounting Standards Board;
- (20) "Firm" means an individual proprietor, a partnership, a professional corporation, a professional limited liability company, or a registered limited liability partnership;
- (21) "Forecast" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects to exist and the course of action it expects to take;
- (22) "GASB" means the Governmental Accounting Standards Board;
- (23) "Inactive," when used to refer to the status of a person, describes one who has ~~voluntarily surrendered a certificate of qualification requested~~

inactive status and been approved by the Board and who does not use the title "certified public accountant" nor does he or she allow anyone to refer to him or her as a "certified public accountant," and neither he or she nor anyone else refers to him or her in any representation as described in 21 NCAC 8A .0308(b); .0308(b): Unrevoked inactive certificates shall be kept by the Board until change of status of the former certificate holder;

- (24) "IRS" means the Internal Revenue Service;
- (25) "License year" means the 12 months beginning July 1 and ending June 30;
- (26) "Member of a firm" means any CPA who has an ownership interest in a CPA firm including owners, partners and shareholders;
- (27) "NASBA" means the National Association of State Boards of Accountancy;
- (28) "NCACPA" means the North Carolina Association of Certified Public Accountants;
- (29) "North Carolina office" means any office physically located in North Carolina;
- (30) "Participating firm" means a firm participating in the SQR program. It does not include firms exempt by reason of 21 NCAC 8M .0102(a) or deemed in compliance pursuant to 21 NCAC 8M .0104;
- (31) "Person" means any natural person, corporation, partnership, professional limited liability company, registered limited liability partnership, unincorporated association, or other entity;
- (32) "Projection" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions;
- (33) "Referral fee" means compensation for recommending or referring any service of a CPA to any person;
- (34) "Retired," when used to refer to the status of a person, describes one possessing a North Carolina certificate of qualification who ~~does not receive any earned compensation for current personal services in any job whatsoever; verifies to the Board that the applicant either:~~

- (A) does not receive or intend to receive in the future any earned compensation for current personal services in any job whatsoever and will not return to active status; or
- (B) does not perform any personal services related to the field of accounting. however, this Retired status does not preclude

volunteer services for which the retired CPA receives no direct nor indirect compensation so long as the retired CPA does not sign any documents, related to such services, as a CPA; ~~Limited exemptions may be granted in the discretion of the Board only in the following instances when the applicant verifies no intent to return to active status and either:~~

- (A) ~~the applicant performs no personal services related to the field of accounting; or~~
- (B) ~~the applicant is not providing accounting services, is 70 years of age or more, and agrees not to hold himself or herself out as a CPA or use the title in connection with any type of service provided to the public;~~
- (35) "Revenue Department" means the North Carolina Department of Revenue;
- (36) "Review" means to perform an inquiry and analytical procedures that permit a CPA to determine whether there is a reasonable basis for expressing limited assurance that there are no material modifications that should be made to financial statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting;
- (37) "SQR Advisory Committee" means the State Quality Review Advisory Committee to the Board;
- (38) "SQR Program" means the State Quality Review Program of the North Carolina State Board of Certified Public Accountant Examiners;
- (39) "SQR Review team" means that team of CPAs which reviews a firm pursuant to the requirements of Subchapter 8M. A review team may be comprised of one or more members;
- (40) "SQR Review team captain" means that member of a review team who is responsible for the review and supervises the other members of the team;
- (41) "SQR Reviewer" means a member of a review team including the review team captain;
- (42) "Suspension" means a revocation for a specified period of time. A CPA may be reinstated after a specific period of time if the CPA has met all conditions imposed by the Board at the time of suspension; and
- (43) "Trade name" means a name used to designate a business enterprise.

Authority G.S. 93-1; 93-12(8c).

## SUBCHAPTER 8F - REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANT EXAMINATION AND CERTIFICATE APPLICANTS

### SECTION .0100 - GENERAL PROVISIONS



**.0103 FILING OF EXAMINATION APPLICATIONS AND FEES**

(a) All applications for CPA examinations must shall be filed with the Board, accompanied by the examination fee. The Board sets the fee for each examination at the amount that enables the Board to recover its costs in administering the examination. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned.

(b) Completed initial applications shall be postmarked with proper postage not later than the last day of January for the spring examination and not later than the last day of July for the fall examination. Completed re-exam applications shall be postmarked with proper postage not later than the last day of February for the spring examination and not later than the last day of August for the fall examination. If one of those dates falls on a weekend or federal holiday, the application must shall be postmarked or received in the Board office on the next business day. Only a U.S. Postal Service cancellation with shall be considered as the postmark. If an application is sent to the Board office via a private delivery service, the date the package is received by the delivery service shall be considered as the postmark.

(c) The initial application filed to take the examination must shall include supporting documentation demonstrating that all legal requirements have been met, such as:

- (1) minimum legal age;
- (2) education;
- (3) experience, if required in order to qualify for the examination; and
- (4) good moral character.
- (5) Any person born outside the United States must shall furnish to the Board office evidence of citizenship; evidence of resident alien status; or
  - (A) other bona fide evidence that the applicant is legally allowed to remain in the United States for the purposes of becoming a U.S. citizen, or
  - (B) a notarized affidavit of intention to become a U.S. citizen, or
  - (C) evidence that the applicant is a citizen of a foreign jurisdiction which extends to citizens of this state like or similar privileges to be examined.

(d) Official transcripts (originals - not photocopies) signed by the college registrar and bearing the college seal are required to prove education and degree requirements. A letter from the college registrar of the school may be filed as documentation that the applicant has met the graduation requirements if the degree has not been awarded and posted to the transcript. However, no examination grades shall be released until an official transcript is filed confirming the information supplied in the college registrar's letter. All applicants submitting transcripts from foreign schools for consideration of degree and of meeting accountancy course requirements must shall have had the transcript(s) evaluated by Foreign Academic Credential Service, Inc. (FACS) or a

comparable qualified educational evaluation service. Applicants are responsible for determining that their transcripts contain all information required by these Rules.

(e) If experience is required to qualify for examination, affidavits must shall be prepared and signed by employers on forms supplied by the Board.

(f) In order to document good moral character as required by Subparagraph (c)(4) of this Rule, three certificates of good moral character signed by persons not related by blood or marriage to the applicant shall accompany the application.

(g) All applications for re-examination must shall be accompanied by three new certificates of moral character. No additional statements and affidavits regarding experience and education shall be required for applications for re-examination.

(h) An applicant shall include as part of any application for the CPA examination a statement of explanation and a certified copy of court records if the applicant has been convicted or found guilty of or pleaded nolo contendere to any felony, or to any other criminal offense of which an essential element is:

- (1) dishonesty, deceit, or fraud;
- (2) violation of a federal or state tax law; or
- (3) commission of any act or conduct discreditable to the accountancy profession in violation of the Rules of Professional Ethics and Conduct for Certified Public Accountants, unless such information has been furnished in a previous application filed with the Board.

(i) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(j) Two recent identical photographs must shall accompany the application for the CPA examination. These photographs shall have been taken within the last six months. The photographs shall be of the applicant alone, 2 x 2 inches in size, with an image size from the bottom of the chin to the top of the head, including hair, of between 1 and 1-3/8 inches. Photographs must shall be clear, front view, full face, taken in normal street attire without a hat or dark glasses, and printed on thin paper with a plain light background. They must shall be capable of withstanding a mounting temperature of 225 degrees Fahrenheit (107 degrees Celsius). They may be in black and white or in color. Snapshots, most vending-machine prints, and magazine or full-length photographs are unacceptable. Photographs retouched so that the applicant's appearance is changed are unacceptable. Applicants shall write their names on the back of their photos.

(k) If an applicant's name has legally changed and is different from the name on any transcript or other document supplied to the Board, the applicant shall furnish copies of the documents legally authorizing the name change.

Authority G.S. 93-12(3); 93-12(4); 93-12(5).

# **.0105 CONDITIONING REQUIREMENTS**

(a) Passing Grades. A candidate shall be required to pass all sections of the examination with a grade of 75 or higher.

(b) Conditional Credit. If a candidate does not pass all of the sections in one sitting, conditional credit ~~can~~ may be retained for passed sections subject to the following:

- (1) No conditional credit ~~can~~ may be retained until the candidate has first passed at least two sections in one sitting;
- (2) To receive conditional credit for any section the candidate must sit for and make a grade of at least 50 on all unpassed sections; and
- (3) The conditional credit is good through the six succeeding times the exam is offered by the Board.

(c) Military Service. A candidate who was or is in active military service after receiving conditional credit shall have only those exams for which that candidate applied and was approved during active military service counted as succeeding examinations.

~~(d) Section Equivalency. For purposes of conditional credit, the following pre- and post-May 1994 exam sections are equivalent:~~

- ~~(1) accounting practice equals accounting and reporting;~~
- ~~(2) accounting theory equals financial accounting and reporting;~~
- ~~(3) auditing equals auditing; and~~
- ~~(4) business law equals business law and professional responsibilities.~~

~~(e)(d)~~ A candidate who has conditional credit prior to January 1, 1997, may continue to apply to sit for the examination as long as the conditional credit is valid. A candidate who no longer has valid conditional credit after January 1, 1997, ~~will~~ shall be required to meet all education requirements in effect at the time of their subsequent application.

Authority G.S. 93-12(3); 93-12(5).

## **SECTION .0300 - EDUCATIONAL REQUIREMENTS FOR EXAMINATION**

### **.0302 EDUCATION AND WORK EXPERIENCE REQUIRED PRIOR TO CPA EXAM**

(a) Under G.S. 93-12(5) there are ~~three~~ two ways an applicant for the CPA examination can demonstrate the possession of sufficient education to become a CPA:

- (1) the possession of a bachelor's degree in any subject, from a regionally accredited college or university, that either includes or is supplemented by a concentration in accounting as defined in 21 NCAC 8A .0309; and
- ~~(2) two years of college at a regionally accredited college or university plus two years of experience in the public practice of accountancy under the~~

~~direct supervision of a CPA; and~~

~~(3)(2)~~ compliance with the requirements set forth in 21 NCAC 8F .0304, which provides for special examinations in lieu of formal education.

(b) Applicants who intend to demonstrate their possession of sufficient education to become a CPA by showing that they possess ~~either a bachelor's degree or two years of college~~ must shall submit official transcripts with their application to take the CPA examination. Official transcripts shall show the grades the applicant received on courses completed and shall also show degrees awarded. An official transcript bears the seal of the school and the signature of the registrar or other appropriate official.

(c) With regard to Paragraph (a)(1) of this Rule, the Board may approve an application to take the CPA examination prior to the receipt of a bachelor's degree, if:

- (1) the concentration in accounting which ~~will~~ shall be included in or supplement the bachelor's degree is already complete or is reasonably expected to be completed by the end of the school term within which the examination falls; and
- (2) an applicant reasonably expects to receive the bachelor's degree within 90 days after the last day of the examination. However, if the applicant fails to receive the degree within the specified time, the CPA examination grades shall not be released and if the applicant wishes to retake the examination, the applicant must shall reapply.

~~(d) With regard to Paragraph (a)(2) of this Rule, the completion of two years in an accredited college or university or its equivalent means that the applicant has successfully completed, or reasonably expects to complete at the end of the school term within which the examination falls, at least 60 semester hours of course work, or the equivalent in quarter hours, in a school, college, or university accredited by a regional accrediting association. The 60 semester hours must include a concentration in accounting as defined in 21 NCAC 8A .0309. However, if the applicant fails to complete the necessary semester hours by the end of the school term within which the examination falls, the examination grades shall not be released and if the applicant wishes to retake the examination, the applicant must reapply.~~

~~(e) With regard to Paragraph (a)(2) of this Rule, the provisions set forth in 21 NCAC 8F .0401 regarding work experience apply to these two years of experience.~~

~~(f)(d)~~ With regard to Paragraph ~~(a)(3)~~ (a)(2) of this Rule, the applicant must shall complete the work experience that is required by all candidates for certification, and set forth in 21 NCAC 8F .0401, prior to the date the applicant applies for the CPA examination.

Authority G.S. 93-12(3); 93-12(5).

### **.0304 WAIVER OF EDUCATION REQUIRED PRIOR TO EXAMINATION**

(a) The Board ~~will~~ shall waive the education requirements specified in 21 NCAC 8F .0302(a)(1) ~~and (2)~~ upon receipt of



proof acceptable to the Board that the applicant has scored:

- (1) in the 50th percentile rank or higher on each part of either the Graduate Record Examination or the Graduate Management Admission Test; and
- (2) in the 50th percentile rank or higher on the AICPA Level II Achievement Test.

(b) The Board ~~will~~ shall waive the examination set forth in Paragraph (a) of this Rule upon proof acceptable to the Board that:

- (1) the applicant has enrolled for an advanced degree at a regionally accredited school and, prior to filing an application with the Board, has satisfactorily completed ten semester hours, or the equivalent, of graduate courses, including six semester hours in graduate accounting courses; or
- (2) the applicant has completed 15 semester hours, or the equivalent, of undergraduate courses, including six semester hours, or the equivalent, in undergraduate accounting courses at a regionally accredited school if the applicant possesses a bachelor's degree supplemented by a concentration in accounting but either the bachelor's degree or the concentration in accounting is not from a regionally accredited school.

*Authority G.S. 93-12(5); 93-12(7).*

## **SECTION .0400 - EXPERIENCE**

### **.0401 WORK EXPERIENCE REQUIRED OF CANDIDATES FOR CPA CERTIFICATION**

(a) G.S. 93-12(5) (in the text surrounding the second set of a., b., c., and d.) sets forth work experience alternatives, one of which is required of candidates applying for CPA certification. In connection with those requirements, the following provisions apply:

- (1) The work experience ~~must~~ shall be acquired prior to the date a candidate applies for certification.
- (2) ~~Two years of experience in the public practice of accountancy under the direct supervision of a CPA, which is acquired in order to meet the education requirement prior to the application to take the CPA examination set forth in G.S. 93-12(5)(first c.) and 21 NCAC 8F .0302(a)(2), shall not also count toward the experience requirement required of candidates for CPA certification set forth in G.S. 93-12(5) (in the text surrounding the second set of a., b., c., and d.).~~
- (3)(2) All experience which is required to be under the direct supervision of a CPA ~~must~~ shall be under the direct supervision of a CPA on active status.
- (4)(3) A candidate who applied for the CPA examination under the special examination exception set out in G.S. 93-12(5), and further described in 21 NCAC 8F .0302(a)(3) and (f); 8F .0302(a)(2) and (d) shall meet the work experience requirement prior to applying to take the CPA examination.

(b) The following provisions apply to all candidates seeking to meet the work experience requirement by working in the field of accounting. G.S. 93-12(5)(second a.) and (second c.).

- (1) One year of work experience is 52 weeks of full-time employment. The candidate is employed full-time when the candidate is expected by the employer to work for the employer at least ~~35~~ 30 hours each week for an indefinite period or for a set period of at least one year. Any other work, including working on an "as-needed" or a temporary basis, is working part-time.
- (2) All weeks of actual full-time employment are added to all full-time equivalent weeks in order to calculate how much work experience a candidate has acquired. Dividing that number by 52 results in the years of work experience the candidate has acquired.
- (3) Full-time-equivalent weeks are determined by the number of actual part-time hours the candidate has worked. Actual part-time hours do not include hours paid for sick leave, vacation leave, attending continuing education courses or other time not spent directly performing accounting services. For each calendar week during which the candidate worked actual part-time hours of ~~30~~ 35 hours or more, the candidate receives one full-time-equivalent week. The actual part-time hours worked in the remaining calendar weeks are added together and divided by 30. The resulting number is the additional number of full-time-equivalent weeks to which the candidate is entitled.
- (4) The candidate ~~must~~ shall submit experience affidavits on a form provided by the Board from all of the relevant employers; provided that when such experience was not acquired while employed with a CPA firm, the candidate ~~must~~ shall also submit details of the work experience and supervision on a form provided by the Board. Experience affidavits for part-time work ~~must~~ shall contain a record of the actual part-time hours the candidate has worked for each week of part-time employment. Both the experience affidavit and the form for additional detail ~~must~~ shall be certified by the employer's office supervisor or an owner of the firm who is a certificate holder.

(c) 21 NCAC 8F .0409 applies to teaching experience acquired pursuant to G.S. 93-12(5)(second b.).

*Authority G.S. 93-12(3); 93-12(5).*

## **SUBCHAPTER 8G - CONTINUING PROFESSIONAL EDUCATION (CPE)**

### **SECTION .0400 - CPE REQUIREMENTS**

**.0404 REQUIREMENTS FOR CPE CREDIT**

(a) A CPA ~~will~~ shall not be granted CPE credit for a course unless the course:

- (1) is in one of the six fields of study recognized by the Board and set forth in Paragraph (b) of this Rule;
- (2) is actually developed by an individual who has education and work experience in the subject matter of the course; and
- (3) uses instructional techniques and materials that are current and accurate.

(b) The six fields of study recognized by the Board are based on the subject areas that are set forth in the AICPA National CPE Curriculum. The six fields are accounting and auditing, consulting services, management, personal development, specialized knowledge and applications, and taxation.

- (1) The accounting and auditing field of study includes accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and the reporting on the results of audit findings, compilation, and review.
- (2) The consulting services field of study deals with all consulting services provided by professional accountants management, business, personal, and other. It includes management consulting services and personal financial planning services. This field also covers an organization's various systems, the services provided by consultant practitioners, and the engagement management techniques that are typically used. An organization's systems include those dealing with planning, organizing, and controlling any phase of individual financial activity and business activity. Services provided encompass those for management, such as designing, implementing, and evaluating operating systems for organizations, as well as business consulting services and personal financial planning.
- (3) The management field of study considers the management needs of individuals primarily in public practice, industry, and government. Some subjects concentrate on the practice management area of the public practitioner, such as organizational structures, marketing services, human resource management, and administrative practices. For individuals in industry, there are subjects dealing with the financial management of the organization, including information systems, budgeting, and asset management, as well as items covering management planning, buying and selling businesses, contracting for goods and services, and

foreign operations. For CPAs in government, this curriculum embraces budgeting, cost analysis, human resource management, and financial management in state and local governmental entities. In general, the emphasis in this field is on the specific management needs of CPAs and not on general management skills.

- (4) The personal development field of study includes becoming a competent people manager, which covers such skills as communications, managing the group process, and dealing effectively with others in interviewing, counseling, and career planning. Public relations and professional ethics are also treated.
- (5) The specialized knowledge and applications field of study treats subjects related to specialized industries, such as not-for-profit organizations, health care, and oil and gas. An industry is defined as specialized if it has unusual:
  - (A) forms of organization;
  - (B) economic structure;
  - (C) sources of financing;
  - (D) statutory or regulatory requirements;
  - (E) marketing or distribution;
  - (F) terminology; or
  - (G) technology; and
  - (H) employs unique accounting principles and practices;
    - (I) encounters unique tax problems;
    - (J) requires unique consulting services; or
    - (K) faces unique audit issues.
- (6) The taxation field of study includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising the client on tax saving opportunities are also part of tax planning.

(c) In addition to courses sponsored by approved sponsors, the following may qualify as acceptable types of continuing education programs, provided the programs comply with the requirements set forth in Paragraph (a) of this Rule:

- (1) professional development programs of national and state accounting organizations;
- (2) technical sessions at meetings of national and state accounting organizations and their chapters;
- (3) courses taken at regionally accredited colleges and universities;
- (4) formal educational programs conducted within an association of accounting firms; and
- (5) formal correspondence courses. A CPA may claim credit for a course offered by a non-approved sponsor provided that the course meets the requirements of 21 NCAC 8G .0403(d), 8G .0404,



and 21 NCAC 8G .0409. It is the responsibility of the CPA to maintain documentation proving that the course met these standards.

(d) Notwithstanding Paragraph (a) of this Rule, CPE credit may be granted for teaching a CPE course or authoring a publication as long as the preparation to teach or write increased the CPA's professional competency and was in one of the six fields of study recognized by the Board and set forth in Paragraph (b) of this Rule.

(e) CPE credit shall not be granted for a self-study course if the material that the CPA must study to take the examination is not designed for CPE purposes. This includes periodicals, guides, magazines, subscription services, books, reference manuals and supplements which contain an examination to test the comprehension of the material read.

*Authority G.S. 93-12(8b).*

#### **.0406 COMPLIANCE WITH CPE REQUIREMENTS**

(a) All active CPAs ~~must~~ shall file with the Board a completed CPE reporting form by the July 1 renewal date of each year.

(b) If a CPA fails to complete the CPE requirements prior to the end of the previous calendar year but the CPA has completed them by ~~the July 1 renewal date, June 30,~~ the Board may, in its discretion:

- (1) change the CPA's status from active to conditional, and may impose any conditions that the Board considers appropriate in the circumstances, as a penalty for the first such failure within a five calendar year period;
- (2) place the CPA on conditional status again and require the payment of a civil penalty of one hundred dollars (\$100.00) for the second such failure within a five calendar year period; and
- (3) deny the renewal of the CPA's certificate for a period of not less than 30 days and until the CPA meets the reinstatement requirements set forth in 21 NCAC 8J .0006 for the third such failure within a five calendar year period.

*Authority G.S. 93-12(8b); 93-12(9)(e).*

### **SUBCHAPTER 8H - RECIPROCITY**

#### **.0001 RECIPROCAL CERTIFICATES**

(a) Persons who meet the requirements of G.S. 93-12(6) may apply to the Board for a reciprocal certificate.

(b) The fee for a reciprocal certificate shall be the maximum amount allowed by statute.

(c) An applicant for a reciprocal certificate ~~must~~ shall meet all of the current requirements imposed on an applicant under G.S. 93-12(5) or the following requirements, which the Board considers to be substantially equivalent to those requirements:

- (1) The applicant has the unrestricted privilege to use the CPA title and to practice public accountancy in

any state or territory of the United States, or the District of Columbia.

(2) The applicant:

- (A) within ten years immediately preceding the filing date of the application, has had four years of experience in the field of accounting under the direct supervision of a CPA who held a valid license during the period of supervision in any state or territory of the United States or the District of Columbia; or
- (B) has ten years of experience in the field of accounting, or ten years of experience teaching accounting as defined and calculated in 21 NCAC 8F .0409, or any combination of such experience earned within the 12 years immediately preceding the filing date of the application.

(3) The applicant received a score of at least 75 on each part of the Uniform CPA Examination.

(4) During the two years preceding the applicant's filing date for a reciprocal certificate, the applicant has completed 80 hours of CPE in courses meeting the requirements of 21 NCAC 8G .0401(a). However, applicants who received their initial CPA license within four years from the filing date of their application for a reciprocal certificate are exempt from this CPE requirement.

(d) An applicant for change in ~~status~~ status, reissuance, or reinstatement of a reciprocal certificate that was inactive, forfeited, or retired more than 10 years before the date of reapplication, ~~must~~ shall comply with all current requirements for a reciprocal certificate.

*Authority G.S. 93-12(6); 93-12(7a).*

### **SUBCHAPTER 8I - REVOCATION OF CERTIFICATES AND OTHER DISCIPLINARY ACTION**

#### **.0004 MODIFICATION OF DISCIPLINE AND NEW CERTIFICATE**

(a) A person or firm that has been disciplined by the Board may apply to the Board for modification of the discipline at any time after the effective date of the Board's decision imposing it; however, if any previous application has been made with respect to the same discipline, no additional application shall be considered before the lapse of one year following the Board's decision on that previous application. Provided, however, that an application to modify permanent revocation shall not be considered until after five years from the date of the original discipline, nor more often than three years after the Board's last decision on any prior application for modification.

(b) The application for modification of discipline or for a new certificate shall be in writing, shall set out and, as appropriate, shall demonstrate good cause for the relief sought. The application for an individual shall be accompanied by at least three supporting recommendations,

made under oath, from CPAs who have personal knowledge of the activities of the applicant since the discipline was imposed. The application for a firm shall be accompanied by at least three supporting recommendations, made under oath, for each partner, member, or shareholder, from CPAs who have personal knowledge of the activities of the partner, member, or shareholder, since the discipline was imposed.

(c) "Good cause" as used in Paragraph (b) of this Rule means that the applicant is completely rehabilitated with respect to the conduct which was the basis of the discipline. Evidence demonstrating such rehabilitation shall include evidence:

- (1) that such person has not engaged in any conduct during the discipline period which, if that person had been licensed or registered during such period, would have constituted the basis for discipline pursuant to G.S. 93-12(9);
- (2) that, with respect to any criminal conviction which constituted any part of the previous discipline, the person has completed the sentence imposed; and
- (3) that, with respect to a court order, restitution has been made to any aggrieved party.

(d) In determining good cause, the Board may consider all the applicant's activities since the ~~disciplinary penalty~~ discipline was imposed, the offense for which the applicant was disciplined, the applicant's activities during the time the applicant was in good standing with the Board, the applicant's rehabilitative efforts, restitution to damaged parties in the matter for which the ~~penalty~~ discipline was imposed, and the applicant's general reputation for truth and professional probity. For the purpose of this Paragraph, "applicant" shall, in the case of a firm, include partners, members, or shareholders.

(e) Any person who applies for a modification of discipline and for a new certificate after revocation shall, in addition to the other requirements of this Section, comply with all qualifications and requirements for initial certification which exist at the time of the application.

(f) No application for a new certificate or for modification of discipline shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or suspended sentence, any of which are imposed as a result of having been convicted or plead to a criminal charge.

(g) An application shall ordinarily be ruled upon by the Board on the basis of the disciplinary file along with the recommendations and evidence submitted in support thereof. However, the Board may make additional inquiries of any person or persons, or request additional evidence it deems appropriate.

(h) As a condition for a new certificate or modification of discipline, the Board may impose terms and conditions it considers suitable.

Authority G.S. 55B-12; 93-2; 93-12(7a).

## **.0005 REVOCATION OF CERTIFICATES**

(a) When a certificate is revoked either for a specific period of time or permanently, the certificate holder shall return the certificate to the Board office within ~~five~~ 15 days of receipt of notice of revocation.

(b) Pursuant to the provisions of 21 NCAC 8I .0004, the Board may issue a new certificate under a new number to anyone whose certificate has been revoked.

Authority G.S. 55B-12; 93-12(8); 93-12(9); 93-12(15).

## **SUBCHAPTER 8J - RENEWALS AND REGISTRATIONS**

### **.0001 ANNUAL RENEWAL OF CERTIFICATE, FORFEITURE, AND REAPPLICATION**

(a) All active CPAs must shall renew their certificates annually by the first day of July. The fee for such renewal is the maximum amount allowed by statute.

(b) To renew a certificate a CPA must shall submit to the Board:

- (1) a properly completed certificate renewal application form;
- (2) a properly completed CPE report, as required by 21 NCAC 8G .0406(a); and
- (3) the annual renewal fee.

(c) Upon failure of a CPA to comply with any applicable part of Paragraph (b) of this Rule by July 1, the Board will shall send notice of such failure in the form of a demand letter to the CPA at the most recent mailing address the Board has on file. Completed renewal application packages shall be postmarked with proper postage not later than 30 days after the mailing date of the demand letter, unless that date falls on a weekend, in which case the renewal package must be postmarked or received in the Board office on the next business day. For renewal packages sent via the U.S. Postal Service, only a U.S. Postal Service cancellation shall be considered as the postmark. If the renewal package is sent to the Board office via a private delivery service, the date the package is received by the delivery service shall be considered as the postmark. Subsequent failure of the CPA to comply with any applicable part of Paragraph (b) of this Rule within 30 days after such notice is mailed automatically results in forfeiture of the CPA's certificate, as required by G.S. 93-12(15).

(d) Upon forfeiture of a certificate, the certificate holder is no longer a CPA and the Board will shall send notice of such forfeiture to the certificate holder by certified mail to the most recent mailing address the Board has on file. The certificate holder shall return the certificate to the Board office within ~~five~~ 15 days after receipt of notice of forfeiture or, if the certificate has been destroyed or lost, shall submit an affidavit, on a form supplied by the Board, within ~~ten~~ 15 days of receipt of such notice that the certificate has been destroyed or has been lost and will shall be returned to the Board if found.

(e) A person who has forfeited a certificate pursuant to



G.S. 93-12(15) for failure to renew his or her certificate may apply for reinstatement reissuance under 21 NCAC 8J .0006.

(f) If a check or credit card authorization for the annual renewal fee fails to clear the bank, the annual renewal shall be deemed incomplete and returned.

*Authority G.S. 93-12(7a); 93-12(8); 93-12(8a).*

**.0005 RETIRED AND INACTIVE STATUS:  
CHANGE OF STATUS**

(a) A CPA may apply to the Board for change of status to retired status or inactive status provided the CPA meets the description of the appropriate status as defined in 21 NCAC 8A .0301. Application for any status change may be made on the annual certificate renewal form or another form provided by the Board.

(b) A CPA who does not meet the description of inactive or retired as defined in 21 NCAC 8A .0301 may not be or remain on inactive or retired status.

(c) A CPA on retired status may change to active status by:

- (1) paying the certificate renewal fee for the license year in which the application for change of status is received; and
- (2) furnishing the Board with evidence of satisfactory completion of 40 hours of acceptable CPE courses during the 12 month period immediately preceding the application for change of status. Eight of the required hours must be credits derived from a course or examination in North Carolina accountancy statutes and rules (including the Code of Professional Ethics and Conduct contained therein) as set forth in 21 NCAC 8G .0401(a).

(d) A CPA on retired status may change to inactive status by surrendering his or her certificate requesting inactive status and, if approved by the Board, shall be considered inactive.

(e) Any individual on inactive status may change to active status by complying with the requirements of 21 NCAC 8J .0006(c).

*Authority G.S. 93-12(8); 93-12(8b).*

**.0006 FORFEITURE OR INACTIVATION OF  
CERTIFICATE AND REISSUANCE  
OR REINSTATEMENT**

(a) A certificate holder who determines that the certificate of qualification issued by the Board is no longer needed or desired may voluntarily surrender the certificate and request inactive status and, if approved, shall be considered inactive.

(b) A person who is inactive or has surrendered or forfeited a certificate is no longer a CPA and thus is not subject to the renewal fee or CPE requirements contained in these Rules.

(c) A person who desires to reinstate a surrendered an inactive certificate or reissue a forfeited certificate shall make application and provide the following to the Board:

- (1) payment of the current certificate application fee;
- (2) three certificates of moral character and endorsements as to eligibility signed by CPAs holding valid certificates granted by any state or territory of the United States or the District of Columbia; and
- (3) evidence of satisfactory completion of the CPE requirement described in 21 NCAC 8J .0005(c)(2).
- (d) The certificate may be reinstated or reissued in the discretion of the Board.

*Authority G.S. 93-12(5); 93-12(8a); 93-12(8b).*

**.0008 FIRM REGISTRATION**

(a) All CPA firms must shall register with the Board within 30 days after opening a North Carolina office or beginning a new firm unless they are a professional corporation, professional limited liability company, or registered limited liability partnership, in which case they must shall register prior to formation pursuant to 21 NCAC 8K ~~.0104~~ .0104 and .0301.

(b) In addition to the initial registration required by Paragraph (a) of this Rule, all CPA firms must shall register annually by January 31 with the Board upon forms provided by the Board.

(c) The information provided by the registration shall include:

- (1) Either an application for exemption from SQR, a request to be deemed in compliance with SQR or registration for SQR, pursuant to 21 NCAC 8M .0102 and .0104;
- (2) For all firms not exempt from the SQR program, with the registration immediately following its review, the affidavit required by 21 NCAC 8M .0102(d);
- (3) For all North Carolina offices, an office registration form indicating the name of the office supervisor, the location of the office and its telephone number;
- (4) For all partnerships or registered limited liability partnerships, a list of all resident and nonresident partners of the partnership;
- (5) For all professional limited liability companies, the information set forth in 21 NCAC 8K .0104(d);
- (6) For all incorporated firms, the information set forth in 21 NCAC 8K .0104(d);
- (7) For all firms, the appropriate registration fees as set forth in 21 NCAC 8J .0010; and
- (8) For all new firms, the percentage of ownership held individually by each partner, shareholder, or member:
  - (A) in the new firm; and
  - (B) at the year-end in each firm in which that partner, member, or shareholder was a partner, member, or shareholder during the preceding two years.
- (9) For all changes in ownership of a firm, the

percentage of ownership held individually by each partner, shareholder, or member.

(d) All information provided for registration with the Board shall pertain to events of and action taken during the year preceding the year of registration. The last day of the preceding calendar year is the "year-end".

(e) With regard to Paragraph (c)(3) of this Rule, one representative of a firm may file all documents with the Board on behalf of the firm's offices in North Carolina. However, responsibility for compliance with this Rule ~~will~~ shall remain with each office supervisor.

(f) With regard to Paragraph (c)(4) or (c)(5) of this Rule, one annual listing by a representative of the partnership, registered limited liability partnership, or professional limited liability company shall satisfy the requirement for all partners or members of the firm. However, each partner or member shall remain responsible for compliance with this Rule. The absence of a filing under Paragraph (c)(4) or (c)(5) of this Rule shall be construed to mean that no partnership, registered limited liability partnership, or professional limited liability company exists.

(g) Notice that a firm has dissolved or any change in the information required by Paragraph (c)(3) of this Rule ~~must~~ shall be delivered to the Board's office within 30 days after the change or dissolution occurs.

(h) Upon written petition by a firm, the Board may, in its discretion, grant the firm a conditional registration for a period of 60 days or less, if the firm shows that circumstances beyond its control prohibited it from registering with the Board, completing a quality review or notifying the Board of change or dissolution pursuant to Paragraphs (a), (b), (c), and (g) of this Rule. The Board may grant a second extension under continued extenuating circumstances.

(i) A complete registration, as required by 21 NCAC 8J .0008(b) and (c), shall be postmarked with proper postage not later than the last day of January unless that date falls on a weekend or federal holiday, in which case the registration shall be postmarked or received in the Board office on the next business day. Only a U.S. Postal Service cancellation shall be considered as the postmark. If a registration is sent to the Board office via a private delivery service, the date the package is received by the delivery service shall be considered as the postmark.

Authority G.S. 55B-10; 55B-12; 57C-1; 57C-2.

#### **.0010 REGISTRATION AND SQR FEES**

The annual registration fees shall be as follows:

- (1) For exemption from SQR, no more than ten dollars (\$10.00);
- (2) For participation within SQR or for a request to be deemed in compliance with SQR, seventy-five dollars (\$75.00) plus five dollars (\$5.00) for each additional North Carolina office of the firm not excused from SQR by 21 NCAC 8M .0204;
- (3) For all professional corporations or professional limited liability companies, twenty-five dollars

(\$25.00); and

- (4) For all non-incorporated firms which have offices both within and outside the state of North Carolina, whether sole proprietorships, partnerships, or registered limited liability partnerships, an amount equal to two thousand five hundred dollars (\$2,500.00) or the number of owners of the firm multiplied by ten dollars (\$10.00), whichever is less.

Authority G.S. 55B-11; 55B-12; 57C-1.

### **SUBCHAPTER 8K - PROFESSIONAL CORPORATIONS AND PROFESSIONAL LIMITED LIABILITY COMPANIES**

#### **SECTION .0300 - REGISTERED LIMITED LIABILITY PARTNERSHIPS**

##### **.0301 REGISTERED LIMITED LIABILITY PARTNERSHIPS**

(a) Any Registered Limited Liability Partnership created pursuant to and in compliance with G.S. 59 shall also comply with all accountancy laws and rules pertaining to partnerships.

(b) Before any CPA registered limited liability partnership may perform or offer to perform any professional services in this state, it shall file with the Board the certificate of registration of the Secretary of State and appropriate fees payable to the Secretary of State.

Authority G.S. 59-84.2; 59-84.3; 93-12.

### **SUBCHAPTER 8M - STATE QUALITY REVIEW PROGRAM**

#### **SECTION .0100 - GENERAL SQR REQUIREMENTS**

##### **.0101 PURPOSE**

The Board has adopted a state quality review (SQR) program to help CPA professionals in the public practice of accountancy maintain the quality of their audit, ~~review,~~ ~~review and compilation services,~~ ~~services,~~ and agreed upon procedures. Participation in the program does not, however, guarantee or warrant that any services rendered by the reviewed firm do or ~~will~~ shall comply with the applicable professional standards.

Authority G.S. 93-12(8c).

##### **.0102 REGISTRATION REQUIREMENTS**

(a) A firm which has not performed any audits, ~~reviews~~ ~~reviews,~~ ~~or compilations~~ compilations, or agreed upon procedures during the 12 months prior to the year-end of the registration required by 21 NCAC 8J .0008(a) and (b) shall be exempt from the SQR program for the 12 months following the year-end but not from registering with the



Board.

(b) Unless exempt under Paragraph (a) of this Rule, each ongoing firm ~~must~~ shall complete an SQR within ~~12~~ 24 months following the year-end of each registration unless it has completed an SQR within 24 months prior to the year-end.

(c) Unless exempt under Paragraph (a) of this Rule, a new firm shall complete its initial SQR within 24 months of the date of its initial registration pursuant to 21 NCAC 8J .0008(a).

(d) Every firm not exempt from SQR by Paragraph (a) of this Rule, after completion of a quality review, ~~must~~ shall procure a statement signed by the review team captain, a statement signed by a member of the firm being reviewed, or letter of acceptance from an approved review program, stating that the firm has completed an SQR or one of the review programs listed or referred to in 21 NCAC 8M .0104. The firm shall submit the statement or documentation with the annual registration following the review as set forth in 21 NCAC 8J .0008(c)(2).

(e) For purposes of this Rule, an SQR is complete when the review team has delivered its report required by 21 NCAC 8M .0306 to the reviewed firm. Any quality review other than SQR is complete when the review team has delivered its final report to the reviewed firm. If mailed, a report shall be deemed delivered when postmarked.

*Authority G.S. 93-12(7b); 93-12(8c).*

## **SECTION .0200 - DUTIES OF THE REVIEWED FIRM**

### **.0201 SELECTION OF ENGAGEMENTS TO BE REVIEWED**

(a) Each office of the reviewed firm not excused under 21 NCAC 8M .0204 shall select a set of ~~three~~ engagements to be submitted for review ~~review as required by the programs listed in 21 NCAC 8M .0104(b)(1) and (2).~~

(b) A set of engagements for review shall include the accountant's report and financial statements for one audit, one review, ~~and~~ one compilation, and one agreed upon procedure, if these ~~three~~ levels of service have been performed by the office within the 12 months preceding the year-end.

(1) If one or more levels of service have not been performed, the office shall select reports of the next highest level of service for ~~a total of three~~ reports required to be submitted.

(2) If, of the ~~three~~ levels of service, only compilations have been performed by the office, the set of ~~three~~ engagements shall include at least one compilation report on a complete set of financial statements which includes disclosures and one compilation report on a financial statement where management has elected to omit substantially all of the disclosures normally required by generally accepted accounting principles set forth in 21 NCAC 8N .0209, if both types of compilations are performed.

(c) The set of engagements, if possible, shall include clients operating in different industries. For example, submission of one governmental audit, one manufacturing review and one contractor compilation would satisfy this requirement.

(d) If a firm to be reviewed does a governmental audit, at least one shall be included in the set of engagements.

(e) An office of the reviewed firm not participating in the programs listed in 21 NCAC 8M .0104(b)(1) and (2) shall select a set of engagements to be submitted for review as required by the AICPA Off-site Peer Review Program.

*Authority G.S. 93-12(8c).*

### **.0204 CERTAIN OFFICES EXCUSED**

The following offices of participating firms are not required to participate in the SQR program:

- (1) offices which are not North Carolina offices, and which have not performed any audits, reviews, compilations, or agreed upon procedures for clients in North Carolina; and
- (2) North Carolina offices which have not performed any audits, ~~reviews, or compilations,~~ reviews, compilations, or agreed upon procedures for the 12 months prior to the year-end set forth in 21 NCAC 8J .0008.

*Authority G.S. 93-12(8c).*

\*\*\*\*\*

## **CHAPTER 8 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS**

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Board of CPA Examiners intends to adopt rule cited as 21 NCAC 8F .0410 and amend 21 NCAC 8A .0309. Notice of Rule-making Proceedings was published in the Register on October 15, 1997.

**Proposed Effective Date:** January 1, 2001

**A Public Hearing** will be conducted at 10:00 a.m. on January 26, 1998 at the NC State Board of CPA Examiners, 1101 Oberlin Rd, Suite 104, Raleigh, NC 27605.

**Reason for Proposed Action:** To amend and adopt language resulting from recent statutory changes pursuant to the education requirements for certified public accountants.

**Comment Procedures:** Any person interested in these rules may submit comments by mailing the comments to Robert N. Brooks, Executive Director, NC State Board of CPA Examiners, PO Box 12827, Raleigh, NC 27605.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do

not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## SUBCHAPTER 8A - DEPARTMENTAL RULES

### SECTION .0300 - DEFINITIONS

#### .0309 CONCENTRATION IN ACCOUNTING

(a) A concentration in accounting ~~must~~ shall include:

- (1) at least ~~24~~ 30 semester hours, or the equivalent in quarter hours, of undergraduate accountancy courses which shall include no more than six semester hours of accounting principles and no more than three semester hours of business law;
- (2) at least ~~16~~ 20 semester hours or the equivalent in quarter hours, of graduate accounting courses that are open exclusively to graduate students; or
- (3) a combination of undergraduate and graduate courses which would be equivalent to Subparagraph (1) or (2).

~~(b) If an applicant has a concentration in accounting but does not possess a bachelor's degree, or does not expect to receive such a degree within 90 days after the last day of the CPA examination, then the applicant's concentration in accounting must include:~~

- ~~(1) four courses in principles of accounting;~~
- ~~(2) one course in cost accounting;~~
- ~~(3) one course in auditing; and~~
- ~~(4) one course in income tax.~~

~~(c)(b)~~ In recognition of differences in the level of graduate and undergraduate courses, one semester (or quarter) hour of graduate study in accounting will shall be considered the equivalent of one and one-half semester (or quarter) hours of undergraduate study in accounting.

~~(d)(c)~~ Up to four semester hours, or the equivalent in quarter hours, of graduate income tax courses completed in law schools may count toward the semester hour requirement of Paragraph (a) of this Rule.

~~(e)(d)~~ Where, in the Board's discretion, an accounting course duplicates another course previously taken, only the semester (or quarter) hours of one of the courses will shall be counted in determining if the applicant has a concentration in accounting.

~~(f)(e)~~ Accounting courses include such courses as principles courses at the elementary, intermediate and advanced levels; managerial accounting; business law; cost accounting; fund accounting; auditing; and taxation. There are many college courses offered that would be helpful in the practice of accountancy, but are not included in the definition of a concentration in accounting. Such courses include business finance, ~~business law~~, business management, computer science, economics, writing skills, accounting internships, and CPA exam review.

(f) A candidate who has conditional credit prior to January 1, 2001, may continue to apply to sit for the examination as long as the conditional credit is valid. A candidate who no longer has valid conditional credit after January 1, 2001,

shall be required to meet all education requirements in effect at the time of their subsequent application.

Authority G.S. 93-12(5).

## SUBCHAPTER 8F - REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANT EXAMINATION AND CERTIFICATE APPLICANTS

### SECTION .0400 - EXPERIENCE

#### .0410 EDUCATION REQUIRED OF CANDIDATES FOR CPA CERTIFICATION

(a) G.S. 93-12(5)(a) sets forth the education required of candidates applying for CPA certification. The 150 semester hours required shall include a concentration in accounting, as defined by 21 NCAC 8A .0309, and other courses as required by the Board as follows: 24 semester hours of coursework which shall include one three semester hour course from at least eight of the following ten fields of study:

- (1) communications;
- (2) computer technology;
- (3) economics;
- (4) ethics;
- (5) finance;
- (6) humanities/social science;
- (7) international environment;
- (8) law;
- (9) management; or
- (10) statistics.

(b) Anyone applying for CPA certification who holds a Master's or more advanced degree in accounting, tax law, economics, finance, business administration, or a law degree with an emphasis in taxation or accounting from an accredited college or university or the equivalent thereof shall be in compliance with G.S. 93-12(5)(a).

Authority G.S. 93-12(5).

\*\*\*\*\*

## CHAPTER 48 - BOARD OF PHYSICAL THERAPY EXAMINERS

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Physical Therapy Examiners intends to adopt rules cited as 21 NCAC 48C .0401; 48D .0112, amend 21 NCAC 48A .0103, .0105; 48B .0102; 48C .0101 - .0103, .0402; 48D .0102, .0105 - .0106, .0109 - .0110; 48E .0101, .0104, .0110; 48F .0102; 48G .0202 - .0203, .0402 - .0404, .0504; 48G .0601; 48H .0701, .0704, and repeal 21 NCAC 48C .0301 - .0302; and 48D .0103. Notice of Rule-making Proceedings was published in the Register on October 15, 1997.

Proposed Effective Date: August 1, 1998



**A Public Hearing** will be conducted at 10:00 a.m. on February 5, 1998 at the Sienna Hotel, 1505 E. Franklin St., Chapel Hill, NC.

Authority G.S. 90-270.25; 90-270.26.

**Reason for Proposed Action:** *These proposed rule changes will bring the rules into compliance with changes in testing procedures from paper and pencil examinations to computer based testing (CBT), to eliminate the categories of "Graduate Physical Therapist and Graduate Physical Therapist Assistant" as CBT has replaced this need, to set the language requirements for foreign trained applicants to the standards recommended by the Federation of State Boards of Physical Therapy, to clarify responsibilities of licensees, to raise application fees (\$10.00) for Physical Therapist Assistants to more accurately reflect actual costs of administration, to identify new areas of disciplinary action as suggested by the Board's Investigative Committee, to clearly authorize subpoena power to the Investigative Committee for patient records, and to make rules gender neutral.*

**Comment Procedures:** *Written comments may be submitted on the proposed rules to Ben F. Massey, Jr., P.T., Executive Director, at the Board's office: 18 West Colony Place, Suite 120, Durham, NC 27705, Fax 919-490-5106.*

**Fiscal Note:** *These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

## SUBCHAPTER 48A - ORGANIZATION

### ~~0003~~ .0103 MEMBERSHIP OF BOARD

(a) Selection of Board Members. Nominations for members of the Board shall be sought from licensees residing in North Carolina. No more than ~~ten~~ 10 nominees receiving the highest number of nominations, plus ties, for each category (physical therapist, physical therapist assistant, medical doctor) shall be eligible to be placed on the ballot; provided, however, a nominee must receive more than one nomination to appear on the ballot. If no nominee receives more than one nomination, all nominees will be eligible to appear on the ballot. The ballots that are distributed to each licensee in North Carolina shall list each nominee's place and location of employment and practice setting. The results of the balloting shall be forwarded to the President of the North Carolina Physical Therapy Association, ~~or his designee~~, for submission to the Governor.

(b) Decisions. ~~All decisions of the Board will be reached by a majority of the entire Board.~~

(1) Decisions involving disciplinary proceedings will be reached by a majority of the Board Members present and eligible to participate in the disciplinary proceedings; provided that a quorum consists of five Board Members.

(2) All other decisions of the Board will be reached by a majority of the Board.

### ~~0005~~ .0105 DEFINITIONS

The following definitions and the definitions in G.S. 90-270.24 will apply throughout Chapter 48:

(1) "Educational programs" means ~~accredited physical therapy programs and accredited physical therapist assistant programs;~~ physical therapy and physical therapist assistant educational programs accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE).

(2) "Computer Based Testing or CBT" means the Federation approved National Physical Therapist and Physical Therapist Assistant Examinations administered by a testing agency approved by the Board.

(3) "Federation" means Federation of State Boards of Physical Therapy.

~~(3)(4)~~ "Graduated" or "graduation" means the completion of all requirements, including clinical experience, from an accredited program for physical therapists or physical therapist assistants. If an educational program certifies that the degree is assured and will be conferred at a later date, an applicant will be considered to have been graduated.

~~(4)(5)~~ Reserved.

~~(5)(6)~~ Reserved.

~~(6)(7)~~ Reserved.

~~(7)(8)~~ "PT exam" means a board approved licensing examination for physical therapists.

~~(8)(9)~~ Reserved.

~~(9)(10)~~ "PTA exam" means a board approved licensing examination for physical therapist assistants.

~~(10)(11)~~ Reserved.

~~(11)~~ "~~PT graduate or PTA graduate~~" refers to a person who has applied to the Board for licensure within six months of graduation and has received authorization from the Board to perform as a physical therapist or a physical therapist assistant under the required supervision.

(12) Reserved.

~~(13)~~ "~~Recent graduate~~" means a person who has been graduated from an educational program for six months or less.

~~(14)(13)~~ Reserved.

Authority G.S. 90-270.24; 90-270.26; 90-270.31.

## SUBCHAPTER 48B - TYPES OF LICENSES

### ~~0002~~ .0102 LICENSES BY ENDORSEMENT

(a) Endorsement. Each application for endorsement shall be considered on an individual basis.

(b) Examination Required. Only those persons initially licensed in another state by virtue of examination shall be considered for endorsement. Only the following

examinations shall be considered:

(1) For Physical Therapists:

- (A) Therapists licensed on the basis of a PT exam shall present total scores that meet the North Carolina passing level. If adequate scores and information are not available from the other state, the Board may ask the applicant to have ~~his~~ the scores issued through the appropriate testing service. If the total score on the examination is unsatisfactory, the exam shall be repeated. The cost of the examination shall be paid by the applicant.
- (B) If licensed in another state by an examination compiled by that Board, the applicant shall supply information for the Board to attempt to obtain the examination in order to determine if it was substantially equal to the examination required by North Carolina at that time. If it cannot be determined that the examination was equal to the North Carolina examination or if the scores received on an acceptable examination did not meet the North Carolina passing requirement, the applicant shall take the PT exam. The cost of the examination shall be paid by the applicant.
- (C) A physical therapist currently licensed in another state whose license in that state was granted on the basis of the American Registry of Physical Therapists Examination shall be considered for endorsement.
- ~~(D) If a foreign-trained physical therapist was licensed in another state on the basis of the American Physical Therapy Association's examination for foreign-trained physical therapists, this examination shall be considered for endorsement.~~

- (2) For Physical Therapist Assistants. Only those physical therapist assistants licensed in another state by a PTA exam shall be considered for endorsement. The examination score shall meet the North Carolina passing level. If not, the applicant shall be required to take the PTA exam and pay the cost of the examination.

(c) Active License. Evidence shall be presented by the licensing Board in the other state that the applicant's license in that state was in effect on the date the application for North Carolina licensure was filed with the executive director or that it has been activated since that date, if it was not in effect on the date the application was submitted. This shall be done in accordance with Rule .0105 of Subchapter E of this Chapter.

Authority G.S. 90-270.26; 90-270.31(b); 90-270.33.

SUBCHAPTER 48C - SCOPE OF PHYSICAL

THERAPY PRACTICE

SECTION .0100 - PHYSICAL THERAPISTS

.0101 PERMITTED PRACTICE

(a) Physical therapy is presumed to include any acts, tests, procedures, treatments or modalities that are routinely taught in educational programs (undergraduate and graduate) or in continuing education programs for physical therapists and are routinely performed in practice settings.

(b) A physical therapist who employs acts, tests, procedures and modalities in which professional training has been received through education or experience is considered to be engaged in the practice of physical therapy.

(c) A physical therapist must supervise physical therapist assistants, physical therapy aides, ~~PT graduates, PTA graduates~~, PT students and PTA students to the extent required under the Physical Therapy Practice Act and these Rules. Physical therapy aides include all non licensed individuals aiding in the provision of physical therapy services.

(d) The practice of physical therapy is the application of a broad range of evaluation and treatment procedures related to abnormality of human sensorimotor performance. It includes, but is not limited to, tests of joint motion, muscle length and strength, posture and gait, limb length and circumference, activities of daily living, pulmonary function, cardio-vascular function, nerve and muscle electrical properties, orthotic and prosthetic fit and function, sensation and sensory perception, reflexes and muscle tone, and sensorimotor and other skilled performances; treatment procedures such as hydrotherapy, shortwave or microwave diathermy, ultrasound, infra-red and ultraviolet radiation, cryotherapy, electrical stimulation including transcutaneous electrical neuromuscular stimulation, massage, debridement, intermittent vascular compression, iontophoresis, machine and manual traction of the cervical and lumbar spine, joint mobilization, machine and manual therapeutic exercise including isokinetics and biofeedback, and training in the use of orthotic, prosthetic and other assistive devices including crutches, canes and wheelchairs.

Authority G.S. 90-270.24; 90-270.26.

.0102 RESPONSIBILITIES

(a) The physical therapist must determine the patient care plan and the elements of that plan appropriate for delegation.

(b) The physical therapist must determine that those persons acting under his or her supervision possess the competence to perform the delegated activities.

~~(c) Prior to employing a PT graduate or PTA graduate, the physical therapist must submit a form to the Board acknowledging and accepting the supervision required.~~

~~(c)(d)~~ The physical therapist may delegate appropriate responsibilities to physical therapist assistants, but the supervising physical therapist is responsible for determining that the PT or PTA student is working under appropriate



supervision at all times.

~~(e) A licensee must be present in the facility when patient care activities are undertaken by PT or PTA graduates.~~

~~(d) A supervising physical therapist must be familiar with the patient's evaluation and plan of care. In addition, the supervising physical therapist must be available and accessible at all times via telecommunication to the physical therapist assistant administering the plan of care.~~

*Authority G.S. 90-270.24; 90-270.26; 90-270.31; 90-270.34.*

### **.0103 PROHIBITED PRACTICE**

(a) A physical therapist is prohibited from employing acts, tests, procedures, treatments and modalities in the treatment of patients that are beyond the scope of the practice of physical therapy. Any patient whose condition requires medical diagnosis of disease or treatment beyond the scope of physical therapy must be referred to a licensed medical doctor or dentist.

(b) A physical therapist may not permit any person working under his or her supervision to engage in acts or practices beyond the scope allowed by the Physical Therapy Practice Act or these Rules.

(c) Physical therapy does not include the application of roentgen rays or radioactive materials, but consistent with the requirements of G.S. 90-270.35(4) ~~this does not prevent a physical therapist is not prevented from requesting a radiologic consultation and reviewing x-rays.~~

*Authority G.S. 90-270.24; 90-270.26; 90-270.35.*

## **SECTION .0300 - RECENT GRADUATES**

### **.0301 PERMITTED ACTIVITIES**

~~A recent graduate, who has been approved to take the examination, may apply for an authorization to engage in patient treatment as delegated by a supervising physical therapist, so long as a physical therapist is present in the facility when patient treatment is undertaken.~~

*Authority G.S. 90-270.24; 90-270.26; 90-270.31.*

### **.0302 AUTHORIZATION**

~~(a) Prior to commencing employment, a recent graduate is required to furnish the Board with a completed application for licensure and a form signed by both the supervising physical therapist and the applicant acknowledging and accepting the limitations on practice imposed.~~

~~(b) In the event there is a change in employment by a supervising physical therapist, a PT graduate or a PTA graduate, a new authorization must be obtained.~~

~~(c) An authorization shall expire upon the occurrence of one of the following:~~

- ~~— (1) — failure to take the next scheduled examination;~~
- ~~— (2) — notification of exam failure;~~
- ~~— (3) — issuance of license.~~

~~(d) Any PT graduate or PTA graduate who fails to take the~~

~~next succeeding examination may request an informal meeting with the Board to explain why there was sufficient due cause for applicant's failure to take the examination. If due cause is established, the authorization can be extended for a period not to exceed nine months. The Board's determination as to whether there was due cause shall be final.~~

~~(e) If the authorization to perform as a PT graduate or PTA graduate expires prior to the issuance of a license, the PT graduate or PTA graduate will no longer be eligible to perform as a physical therapist or physical therapist assistant in this state. The Board will furnish the supervising physical therapist with a form when an authorization has expired, and the form must be acknowledged and returned to the Board.~~

*Authority G.S. 90-270.24; 90-270.26; 90-270.31.*

## **SECTION .0400 - PHYSICAL THERAPY AIDES**

### **.0401 DEFINITION**

Any person not licensed in accordance with the provisions of the physical therapy practice act when aiding in the provision of physical therapy services under the supervision of a licensed physical therapist or physical therapist assistant shall be referred to as a physical therapy aide.

*Authority G.S. 90-270.24; 90-270.26.*

### **~~.0401~~ .0402 FUNCTION**

(a) A physical therapy aide may perform only those acts delegated by a licensed physical therapist or physical therapist assistant.

(b) A physical therapist or physical therapist assistant must be present in the same facility and supervising any physical therapy aide to whom acts are delegated.

(c) A physical therapy aide shall not engage in the practice of physical therapy; performance of physical therapy activities without appropriate supervision by a licensee.

*Authority G.S. 90-270.24; 90-270.26.*

## **SUBCHAPTER 48D - EXAMINATIONS**

### **~~.0002~~ .0102 SCHEDULE AND LOCATION OF EXAMINATION**

Examinations will be scheduled at least twice annually with the date and place set at the discretion of the Board. Examinations may be scheduled by the applicant throughout the year at sites designated by the testing agency recognized by the Board.

*Authority G.S. 90-270.26.*

### **~~.0003~~ .0103 NOTICE OF EXAMINATION**

~~(a) Notices. Adequate notice of dates of examinations shall be furnished to all educational programs in North Carolina and to all persons currently licensed with the Board.~~

~~(b) Examinees. Written notice of time, date and place of~~

examination will be sent to each person scheduled to take the examination.

Authority G.S. 90-270.26; 93B-8(b).

**.0005 .0105 EXAMINATION SCORES**

(a) Passing Level. For examinations administered by a nationally recognized testing service the Professional Examination Service or Assessment Systems, Inc. prior to July 1, 1993, the passing level for the PT exam and the PTA exam shall be 1.5 standard deviations below the national average for the raw score of the examination. Thereafter, the The criterion-referenced passing point shall be equal to a scaled score of 600 based on a score range of 200 - 800 as adopted by the Federation of State Boards of Physical Therapy on February 2, 1993.

(b) Transfer of Scores. Scores will be released as follows:

- (1) To an individual who took the examination in North Carolina upon at his request and with no charge;
- (2) To licensing Boards in other states upon the request of the individual and the payment of the fee; licensure information may be included with the score release;
- (3) To other persons or institutions upon the request of the individual.

(c) Scores Related to Passing Level. Scores released to the individual will include the North Carolina passing level for the examination.

Authority G.S. 90-270.26; 90-270.33.

**.0006 .0106 NOTIFICATION OF EXAMINATION RESULTS**

(a) Individuals. All applicants will be notified in writing of the results of the examination examination within 10 days of the Board's receipt of the results.

(b) North Carolina Educational Programs. After each examination the North Carolina educational programs that had graduates taking the examination in North Carolina will be sent scores, but identification numbers and names will not be included. The North Carolina passing level for the examination will be included.

Authority G.S. 90-270.26.

**.0009 .0109 RETAKING EXAMINATION**

(a) Arrangements for Retake. To retake the examination, the applicant shall notify the executive director at least 60 days in advance of the examination date and pay the retake fee and the examination cost at that time.

(b) Retake Examination. The Board shall administer a particular form of the examination to an applicant only one time.

Authority G.S. 90-270.26; 90-270.29; 90-270.30; 90-270.33.

**.0010 .0110 ADMINISTRATION OF EXAMINATION**

The applicant shall be required to comply with the procedures established by the testing center at the site where the test is administered.

(a) Proctoring. The written examination shall be proctored by at least one member of the Board, by the executive director or by the personnel of a professional testing service. Other proctors shall be retained as required.

(b) Identification. A person shall bring identification with a photograph to the examination and show it to the proctor in order to sit for the examination.

(c) Questionable Conduct. A person engaged in questionable conduct that is either disruptive to other examinees or may appear to be cheating on the examination shall be required to sign a warning slip. Further violation of examination security shall result in forfeiture of his right to continue the examination and may subject the applicant to permanent denial of consideration for licensure.

(d) Cheating. A proctor shall stop a person engaged in flagrant and obvious cheating from continuing the examination. Such persons may be subject to permanent denial of consideration for licensure.

Authority G.S. 90-270.26; 90-270.29; 90-270.30; 90-270.36.

**.0112 COMPUTER EXAMINATION**

The test will be a Computer Based Test (CBT) and will be administered by the National Testing Service recognized by the Board.

Authority G.S. 90-270.26; 90-270.29; 90-270.30.

**SUBCHAPTER 48E - APPLICATION FOR LICENSURE**

**SECTION .0100 - REQUIREMENTS**

**.0101 FILING APPLICATION**

(a) It is the responsibility of the applicant to ascertain that his credentials are filed properly with the executive director.

(b) To be certain an applicant shall be considered for the desired examination date, the application shall be submitted to the executive director at least 60 30 days prior to the examination.

(c) The Board will not consider an application until the applicant has successfully completed all the academic requirements and all clinical affiliations.

Authority G.S. 90-270.26; 90-270.29; 90-270.31(b).

**.0104 EXAMINATION SCORES**

Persons seeking licensure by endorsement shall have their examination scores sent to the executive secretary director by a state of endorsement, by the state in which the examination was taken, or by report from the appropriate testing service. The scores shall be on a form bearing the official signature and seal of the reporting Board.



Authority G.S. 90-270.26; 90-270.31(b).

**LICENSEES**

**.0110 FOREIGN-TRAINED PHYSICAL THERAPISTS**

(a) English Translations. All application forms and supporting documents must be in English or accompanied by an English translation.

(b) Supporting Documents. In addition to the other requirements of this Section and G.S. 90-270.30, each foreign-trained applicant shall submit the following:

- (1) If the applicant has ~~been~~ graduated from a physical therapy educational program, a certification of physical therapy education shall be submitted directly to the Board.
- (2) If the applicant does not meet the requirements of ~~(b)(1) of this Rule, G.S. 90-270.29(2),~~ the Board shall examine the applicant's educational background to determine if the general college and professional instruction is substantially equivalent to that of a United States physical therapy educational program. At a minimum, 120 semester hours of college education is required, which includes a minimum of ~~57~~ 60 semester hours of professional curriculum, including basic health sciences, clinical sciences and clinical ~~education~~. education, and a minimum of 50 semester hours of general education. It is the responsibility of the applicant to make arrangements with a credentialing service to have the credentials evaluated. Evaluation of credentials, to be acceptable to the Board, shall be done by a service that has a physical therapist consultant on its staff. The Board shall make its own review of applicant's educational program and is not bound by the findings of the credentialing service.
- (3) Proof acceptable to the Board shall be provided that:
  - (A) For examinations administered prior to August 1, 1998, July 1, 1995, the required minimum score of 210 on the TSE (Test of Spoken English) or the SPEAK (Speaking Proficiency English Assessment Kit) examination was obtained;
  - (B) For examinations administered on or after August 1, 1998, July 1, 1995, the required minimum score of ~~45~~ 50 on the TSE examination or the SPEAK examination was ~~obtained; obtained, the required minimum score of the Test of Written English (TWE) of 4.5, and the Test of English as a Foreign Language (TOEFL) of 560;~~ or
  - (C) English is the applicant's native language.

Authority G.S. 90-270.26; 90-270.29; 90-270.30; 90-270.31.

**SUBCHAPTER 48F - CERTIFICATES: FEES: INVESTIGATIONS: RECORD OF**

**~~.0002~~ .0102 FEES**

(a) The following fees are charged by the Board:

- (1) application for physical therapist licensure:
    - (A) by endorsement or examination taken in another state, one hundred dollars (\$100.00);
    - (B) by examination, one hundred dollars (\$100.00) plus cost of examination;
    - (C) by revival of lapsed license pursuant to 21 NCAC 48G .0203(2)(a), one hundred dollars (\$100.00) plus cost of examination;
    - (D) by revival of lapsed license pursuant to 21 NCAC 48G .0203(2)(b), one hundred dollars (\$100.00);
  - (2) application for physical therapist assistant licensure:
    - (A) by endorsement or examination taken in another state, ~~ninety dollars (\$90.00)~~ one hundred dollars (\$100.00);
    - (B) by examination, ~~ninety dollars (\$90.00)~~ one hundred dollars (\$100.00) plus cost of examination;
    - (C) by revival of lapsed license pursuant to 21 NCAC 48G .0203(2)(a), ninety dollars (\$90.00) plus cost of examination;
    - (D) by revival of lapsed license pursuant to 21 NCAC 48G .0203(2)(b), ninety dollars (\$90.00);
  - (3) renewal for all persons, forty dollars (\$40.00);
  - (4) penalty for late renewal, twenty dollars (\$20.00) plus renewal fee;
  - (5) revival of license lapsed less than five years, twenty-five dollars (\$25.00) plus renewal fee;
  - (6) transfer of licensure information fee, including either the examination scores or licensure verification or both, fifteen dollars (\$15.00);
  - (7) retake examination, thirty dollars (\$30.00) plus actual cost of examination;
  - (8) certificate replacement or duplicate, fifteen dollars (\$15.00);
  - (9) directory of licensees, five dollars (\$5.00);
  - (10) computer print-out or labels of any portion of list of physical therapists, sixty dollars (\$60.00);
  - (11) computer print-out or labels of any portion of list of physical therapist assistants, sixty dollars (\$60.00);
  - (12) processing fee for returned checks, maximum allowed by law.
- (b) The application fee is not refundable. The Board shall consider written requests for a refund of other fees based on personal or economic hardship.

(c) A certified check, money order or cash is required for payment of application fees listed in ~~paragraph~~ Parts (a)(1)(A),(B), (C),(D), and (2)(A),(B),(C), and (D) of this ~~rule.~~ Rule.

Authority G.S. 25-3-512; 90-270.33.

## SUBCHAPTER 48G - RETENTION OF LICENSE

### SECTION .0200 - LAPSED LICENSES

#### .0202 NOTIFICATION

A person who has not renewed his the license by February 1 will be advised that the his license has lapsed by written communication to the last known mailing address on record with the Board. Unless the person has advised the Board that they do not intend to renew their license, then a similar notification will be sent to the person's last known employer. If the person continues to work in North Carolina, his employer will be notified of the lapsed license.

Authority G.S. 90-270.26; 90-270.32.

#### .0203 REVIVAL OF LAPSED LICENSE

The following methods may be used to revive a license:

- (1) A license that has lapsed less than five years may be revived by payment of the revival of lapsed license fee and the current year's renewal fee and by completion of the revival form.
- (2) A license that has lapsed more than five years may be revived by payment of the application fee, completion of the application forms, and:
  - (a) passing the "PT exam" (if trained as a physical therapist) or the "PTA exam" (if trained as a physical therapist assistant); or
  - (b) satisfactorily compiling at least 500 hours within the period of one year in the following manner: between 50 and 200 class hours of course work (ie, refresher courses, continuing education, pertinent college courses) approved by the Board and the remaining hours working as an aide under the supervision of a licensed physical therapist, providing the Board authorizes the training and the supervising physical therapist accounts for the clinical hours; or
  - (c) endorsement of a current license in another state as provided by ~~Subchapter 48B Rule .0002 of this Chapter.~~ 21 NCAC 48B .0102.

Authority G.S. 90-270.26; 90-270.32; 90-270.33.

### SECTION .0400 - PROBATION OR WARNING

#### .0402 GROUNDS FOR WARNING

The Board may issue a warning to any licensee person who engages in conduct that might lead to the revocation or suspension of a license for the commission of acts prohibited by G.S. 90-270.35 or G.S. 90-270.36.

Authority G.S. 90-270.26; 90-270.35; 90-270.36.

#### .0403 CONDITIONS FOR PROBATION OR WARNING

The Board may require any licensee person placed on probation and any licensee person to whom a warning is issued to furnish the Board with a certified statement that he the licensee will not engage in conduct prohibited by G.S. 90-270.35 or G.S. 90-270.36.

Authority G.S. 90-270.26; 90-270.35; 90-270.36.

#### .0404 NOTIFICATION AND HEARING

(a) Any licensee person subject to being placed on probation or receiving a warning will be notified of the alleged acts or conduct warranting the intended action, and such licensee person shall be given an opportunity for an informal meeting with the Board to show why he the licensee should not be placed on probation or receive a warning. Provided, however, nothing herein shall limit a licensee's right to request a contested case hearing.

(b) Before a private reprimand is issued to a licensee, the licensee may request an informal meeting with the Board to show why the licensee should not receive a private reprimand.

Authority G.S. 90-270.26; 90-270.35; 90-270.36.

### SECTION .0500 - COMPLAINTS, INVESTIGATIONS, CONTESTED CASE HEARINGS

#### .0504 COMPLAINTS AND INVESTIGATIONS

(a) In order to file a complaint with the Board, the following information shall be submitted to the Board in writing:

- (1) name and address of person alleged to have violated Physical Therapy Practice Act;
- (2) succinct statement of conduct giving rise to complaint;
- (3) name, address and telephone number of complainant.

(b) Upon receipt of a written complaint alleging misconduct that might subject a licensee to disciplinary action, or upon the receipt of confirmation that a violation of the Physical Therapy Practice Act has occurred, the Board may investigate such matter to determine whether probable cause exists to institute formal disciplinary proceedings.

(c) The executive director of the Board and a member appointed by the Chair shall serve as a probable cause or investigating committee. This committee may be assisted by the Board's attorney or investigator or by a former member of the Board retained for the purpose of such investigation.

(d) The probable cause committee shall investigate the complaint. In conducting its investigation, the investigative committee shall have the authority to issue subpoenas for the production of documents pursuant to the provision of 21 NCAC 48G. 0512. The committee shall determine whether or not there is probable cause to believe that the licensee has



violated any statute or board rule which would justify a disciplinary hearing. If the committee determines that such probable cause exists, the committee may confer with the licensee in an attempt to settle the matter through informal means. If the committee and the licensee reach an agreement on the disposition of the matter under investigation, the committee may cause to be drafted a proposed settlement agreement, which may include findings of fact, conclusions of law, and a consent order, for presentation to and consideration by the Board. Such settlement agreement shall be presented to and approved by the licensee before they are presented to the Board for consideration and approval.

(e) If the probable cause committee and the licensee are not able to settle the matter under investigation by informal means, the licensee may request a contested case hearing pursuant to Rule .0502 of this Section or the Board may give notice of a disciplinary or contested case hearing, if required.

(f) If probable cause is found, but it is determined that a disciplinary hearing is not warranted, the committee may recommend that the Board issue a reprimand to the licensee. The committee shall mail a copy of its recommendation to the licensee.

(g) Within 20 days after receipt of the recommendation, the licensee may refuse the reprimand and request a contested case hearing pursuant to this Section. Such refusal and request shall be filed with the Board. The legal counsel for the Board shall thereafter prepare, file, and serve a Notice of Hearing.

(h) In the alternative, within 20 days after receipt of the recommendation, the licensee may request an informal meeting with the Board to discuss the basis of the committee's recommendation and present reasons why the Board should not follow the committee's recommendation. There shall be no sworn testimony presented, nor shall there be a formal record of the proceedings.

(i) If the licensee does not request a contested case hearing or an informal meeting with the Board, the Board shall determine whether to accept the committee's recommendation and issue the reprimand. A letter of caution is not considered disciplinary action against a licensee.

(j) Participation by a current Board member in the investigation of a complaint shall disqualify that Board member from participating in the decision making process of a contested case hearing.

(k) Subsequent to the issuance of a notice of hearing, the attorney prosecuting the contested case for the Board may not communicate, directly or indirectly, in connection with any issue of fact or question of law, with any party, including the members of the Board assigned to make a decision or to make findings of fact and conclusions of law in the contested case, except on notice and opportunity for all parties to participate. However, the attorney prosecuting the matter for the Board may continue to communicate concerning such contested case with the members of the probable cause committee who investigated such matter, with persons not parties to the contested case who may be called as witnesses, including the person who filed the complaint and with the Board members

about other matters.

*Authority G.S. 90-270.26; 150B-38; 150B-40.*

## SECTION .0600 - DISCIPLINARY ACTION

### .0601 PROHIBITED ACTIONS

(a) Behaviors and activities which may result in disciplinary action by the Board pursuant to G.S. 90-270.36(1), (6), (7), (8) and (9) and G.S. 90-270.35(4) include, but are not limited to, the following:

- (1) recording false or misleading data, measurements or notes regarding a patient;
- (2) delegating responsibilities to a person when the licensee delegating knows or has reason to know that the competency of that person is impaired by physical or psychological ailments, or by alcohol or other pharmacological agents, prescribed or not;
- (3) practicing or offering to practice beyond the scope permitted by law;
- (4) accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;
- (5) performing, without adequate supervision, professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;
- (6) harassing, abusing, or intimidating a patient either physically or verbally;
- (7) failure to exercise supervision over persons who are authorized to practice only under the supervision of the licensed professional;
- (8) exercising undue influence on the patient, including with respect to the recommendation of recommending unnecessary treatment, treatment, supplies, or equipment; for the financial gain of the practitioner or of a third party;
- (9) directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a client;
- (10) failure to file a report, or filing a false report or failure to respond to an inquiry within a reasonable time, required by law or by the Board, or impeding or obstructing such filing or inducing another person to do so;
- (11) revealing identifiable data, or information obtained in a professional capacity, without prior consent of the patient, except as authorized or required by law;
- (12) guaranteeing that a cure will result a patient will benefit from the performance of professional services;
- (13) altering a license or renewal card by changing the

- expiration date, certification number, or any other information appearing ~~thereon; on the license;~~
- (14) using a license or renewal card which has been altered;
  - (15) permitting or allowing another person to use his or her license or renewal card for the purpose practice of physical therapy;
  - (16) delegating professional responsibilities to a person when the licensee delegating such responsibilities ~~know~~ knows or has reason to know that such a person is not qualified by training, by experience, or by ~~licensure; licensure to perform such responsibilities;~~
  - (17) violating any term of probation, condition, or limitation imposed on the licensee by the Board;
  - (18) inappropriately kissing, fondling, touching, or engaging in any other ~~activities of a sexual nature with a patient; inappropriate activities, advances, or comments of a sexual nature with any person with whom the licensee interacts in practicing physical therapy;~~
  - (19) billing or charging for services or treatment not performed;
  - (20) ~~refusing to treat a patient because third party benefits have expired; making treatment recommendations or basing a patient's continued treatment on the extent of third party benefits instead of the patient's condition;~~
  - (21) willfully or intentionally communicating false or misleading information regarding a patient;
  - (22) harassing, abusing, or intimidating any person, either physically or verbally, in the presence of a patient;
  - (23) using a form of a license or renewal card that was not issued by the Board or is not current.

(b) When a person licensed to practice physical therapy is also licensed in another jurisdiction and that other jurisdiction takes disciplinary action against the licensee, the North Carolina Board of Physical Therapy Examiners may summarily impose the same or lesser disciplinary action upon receipt of the other jurisdiction's actions. The licensee may request a hearing. At the hearing the issues shall be limited to:

- (1) whether the person against whom action was taken by the other jurisdiction and the North Carolina licensee are the same person;
- (2) whether the conduct found by the other jurisdiction also violates the North Carolina Physical Therapy Act; and
- (3) whether the sanction imposed by the other jurisdiction is lawful under North Carolina law.

(c) In accordance with G.S. 150B-3(C) a license may be summarily suspended if the public health, safety, or welfare requires emergency action. This determination is delegated to the Chairman or Executive Director of the Board pursuant to G.S. 90-270.26(8). Such a finding shall be incorporated with the order of the Board of Physical Therapy Examiners and the

order shall be effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and continues to be effective during the proceedings. Failure to receive the order because of refusal of service or unknown address does not invalidate the order. Proceedings shall be commenced promptly.

(d) When the Board receives a notice from a Clerk of Superior Court that the license of a physical therapist or a physical therapist assistant has been forfeited pursuant to G.S. 15A-1331A, the licensee shall be required to surrender the license to the Board immediately and not to engage in the practice of physical therapy during the period of forfeiture. Forfeiture under this section shall not limit in any way the Board's authority to take further disciplinary action against the licensee in accordance with the Board's rules and procedures.

Authority G.S. 15A-1331A; 90-270.24; 90-270.26; 90-270.35(4); 90-270.36; 150B-3.

## SUBCHAPTER 48H - RULEMAKING AND ADMINISTRATIVE HEARING PROCEDURES

### SECTION .0700 - ADOPTION OF RULES

#### .0701 PETITIONS

(a) Any person wishing to submit a petition to the Board requesting the adoption, amendment or repeal of a rule shall file the petition with the Board's executive ~~director, director~~ at the address specified in 21 NCAC 48A .0001 of these Rules.

(b) The petition shall contain the following information:

- (1) a proposed text of the rule to be adopted or 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 physical therapy;
- (4) any data supporting the proposal;
- (5) name, address and telephone number of each petitioner.

(c) The Board shall consider whether to grant or deny a petition at its next regularly scheduled meeting following receipt of a completed petition, but in any event, no more than 120 days after a completed petition is filed with the Board.

(d) If the Board denies the petition, the petitioner shall be notified in writing, stating the reasons for the denial. If the decision is to approve the petition, the Board shall initiate a rulemaking proceeding by issuing a rulemaking notice, as provided in this Subchapter.

Authority G.S. 90-270.26; 150B-20.

#### .0704 DECLARATORY RULINGS

(a) All requests for a declaratory ruling shall be in writing



and submitted to the ~~Board at the address specified in 21 NCAC 48A .0001~~ Board's Executive Director and must include the following information:

- (1) name and address of person requesting declaratory ruling;
- (2) statute or rule to which request relates;
- (3) statement of the manner in which the person requesting declaratory ruling is aggrieved by the rule or statute or its potential application; and
- (4) the consequences of a failure to issue a declaratory ruling.

(b) Whenever the Board for good cause finds that issuance of a declaratory ruling is undesirable, it may refuse to issue one. The person requesting the declaratory ruling shall be furnished with a full and complete statement from the Board as to why the request is being denied.

Authority G.S. 90-270.26; 150B-4.

\*\*\*\*\*

## CHAPTER 58 - REAL ESTATE COMMISSION

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Real Estate Commission intends to adopt rules cited as 21 NCAC 58A .0114, .0614; 58B .0402, amend 21 NCAC 58A .0101, .0103 - .0105, .0107 - .0110, .0302, .0502, .0505 - .0506, .0601, .1702; 58E .0407, and repeal 21 NCAC 58A .0613. Notice of Rule-making Proceedings was published in the Register on October 15, 1997.

**Proposed Effective Date:** August 1, 1998

**A Public Hearing** will be conducted at 3:00 p.m. on February 10, 1998 at the North Raleigh Hilton, 3415 Wake Forest Rd., Raleigh, NC 27609.

**Reason for Proposed Action:** 21 NCAC 58A .0101 - to eliminate the requirement that real estate licensees display their license certificates at their offices, and instead require licensees to produce their license pocket cards upon request as proof of licensure. 21 NCAC 58A .0103 - to clarify that licensees must report personal and business name changes to the Commission within 10 days of such change. 21 NCAC 58A .0104 - to include a discussion of designated agency in the "Description of Agent Duties and Relationships" statement. 21 NCAC 58A .0105 - to eliminate the requirement that licensees furnish the Commission a copy of their assumed name registration certificate(s) when a firm or assumed name does not set forth the surname of the licensee. 21 NCAC 58A .0107 - to codify the requirement that brokers shall deposit cash into their trust accounts within three banking days; to clarify that licensees must safeguard trust monies, and not convert or allow others to convert them to their personal use; to codify a procedure for disposing of disputed and abandoned trust monies. 21 NCAC 58A .0108 -

to codify that transaction records, including records of incomplete transactions, must be retained by the broker-in-charge of the office where the transaction was conducted. 21 NCAC 58A .0109 - to codify that real estate licensees shall not compensate unlicensed persons or entities engaging in real estate brokerage activity in this state. 21 NCAC 58A .0110 -to clarify that a broker can be the broker-in-charge of more than one firm when all of the firms have the same physical location; to clarify that an office can have only one broker-in-charge; and to eliminate the requirement that a "Verification of Salesman Experience" form be furnished to all salesmen when they terminate their association with their brokers-in-charge, and instead require that the form be provided upon request from the salesman. 21 NCAC 58A .0114 - to codify the Residential Property Disclosure Statement required by G.S. 47E-4(b) and the requirement that licensees use said form. 21 NCAC 58A .0302 -to reinsert paragraph (c) which was inadvertently omitted from the existing rule. 21 NCAC 58A .0502 - to codify the requirement that, when a licensed business entity is the principal broker of another licensed business entity, the individual licensed broker of the principal broker entity shall be responsible for assuring performance of the principal broker's duties with regard to both entities. 21 NCAC 58A .0505 - to refine the requirements for reinstatement of a license that has been suspended, especially when the suspension is for more than one year. 21 NCAC 58A .0506 - to codify the requirement that, in addition to the salesman's broker-in-charge, the salesman shall be responsible for notifying the Commission when the broker-in-charge terminates his/her supervision of the salesman. 21 NCAC 58A .0601 - to codify that licensees must respond in writing to written inquiries from the Commission. 21 NCAC 58A .0613 - to repeal obsolete rule regarding the Appraisal Board. 21 NCAC 58A .0614 - to codify procedures for the summary suspension of real estate licenses. 21 NCAC 58A .1702 - to codify that reinstatement of a revoked license, a surrendered license or a license expired for more than one year will be treated as an "initial licensure" for continuing education purposes. 21 NCAC 58B .0402 - to clarify that licensees must disclose their agency relationships to the parties in timeshare transactions. 21 NCAC 58E .0407 - to eliminate the requirement that continuing education sponsors must submit a separate check for each separate class session when paying student fees to the Commission.

**Comment Procedures:** Comments regarding the rules may be made orally or submitted in writing at the public hearing. Written comments not submitted at the hearing may be sent to or delivered to Ms. Janet B. Dutton c/o North Carolina Real Estate Commission, P.O. Box 17100, Raleigh, NC 27619-7100, so as to be received by February 2, 1998.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

SUBCHAPTER 58A - REAL ESTATE BROKERS  
AND SALESMEN

SECTION .0100 - GENERAL BROKERAGE

.0101 PROOF OF LICENSURE

(a) The annual license renewal pocket card issued by the Commission to each licensee shall be retained by the licensee as evidence of licensure of a real estate brokerage firm, its principal broker, broker-in-charge and the license of each broker and salesman engaged in real estate activities at the office of the broker-in-charge shall be prominently displayed at such office. Each licensee shall carry his pocket card on his person at all times while engaging in real estate brokerage and shall produce the card as proof of licensure whenever requested.

(b) The principal broker of a firm shall retain the firm's annual license renewal pocket card at the firm and issued by the Commission to each licensee shall produce it upon request as proof of firm be retained by the licensee as evidence of licensure as required by Rule .0502(e)(3) of this Subchapter.

(c) Every licensed real estate business entity or firm shall prominently display its license certificate or facsimile thereof in each office maintained by the entity or firm. A broker-in-charge shall also prominently display his license certificate in the office where he is broker-in-charge of this Subchapter.

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

.0103 LICENSEE NAME AND ADDRESS

Upon initial licensure and at all times thereafter, every licensee shall be responsible for assuring that the Commission has on record the licensee's current personal name, firm name, trade name, residence address and firm address. Every licensee All licensees shall notify the Commission in writing of each change of ~~business address, residence address, or trade name~~ personal name, firm name, trade name, residence address and firm address within ten days of said change. All addresses The address shall be sufficiently descriptive to enable the ~~commission~~ Commission to correspond with and locate the licensee.

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

.0104 AGENCY AGREEMENTS AND DISCLOSURE

Safeguard and account for any money handled for you  
Be loyal and follow reasonable and lawful instructions  
Act with reasonable skill, care and diligence  
Disclose to you any information which might influence your decision to buy or sell

Even if the agent does not represent you, the agent must still be fair and honest and disclose to you all "material facts" which the agent knows or reasonably should know. A fact is "material" if it relates to defects or other conditions affecting the property, or if it may influence your decision to buy or

(a) Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction shall be in writing, shall provide for its existence for a definite period of time and shall provide for its termination without prior notice at the expiration of that period.

(b) Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction shall contain the following provision: The broker shall conduct all his brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin, handicap or familial status of any buyer, prospective buyer, seller or prospective seller. The provision shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the agreement. For the purposes of this Rule, the term, familial status, shall be defined as it is in G.S. 41A-3(1b).

(c) Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction shall incorporate the "Description of Agent Duties and Relationships" prescribed by the Commission which shall be set forth in a clear and conspicuous manner and shall not include or be accompanied by any additional text which contradicts its meaning and substance. The "Description of Agent Duties and Relationships" shall read as follows:

DESCRIPTION OF AGENT DUTIES AND  
RELATIONSHIPS

**Before you begin working with any real estate agent, you should know who the agent represents in the transaction.** Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction in North Carolina must contain this "Description of Agent Duties and Relationships" [N.C. Real Estate Commission Rule 21 NCAC 58A .0104(c), eff. 7/1/95]. Real estate agents should carefully review this information with you prior to entering into any agency agreement.

AGENTS' DUTIES

When you contract with a real estate firm to act as your agent in a real estate transaction, the agent must help you obtain the best price and terms possible, whether you are the buyer or seller. The agent also owes you the duty to:

*sell. This does not require a seller's agent to disclose to the buyer the minimum amount the seller will accept, nor does it require a buyer's agent to disclose to the seller the maximum price the buyer will pay.*



### **AGENTS WORKING WITH SELLERS**

A seller can enter into a "listing agreement" with a real estate firm authorizing the firm and its agent(s) to represent the seller in finding a buyer for his property. The listing agreement should state what the seller will pay the listing firm for its services, and it may require the seller to pay the firm no matter who finds the buyer.

The listing firm may belong to a listing service to expose the seller's property to other agents who are members of the service. Some of those agents may be working with buyers as buyers' agents; others will be working with buyers but still representing the sellers' interests as an agent or "subagent." When the buyer's agents and seller's subagents desire to share in the commission the seller pays to the listing firm, the listing agent may share the commission with the seller's permission.

### **AGENTS WORKING WITH BUYERS**

A buyer may contract with an agent or firm to represent him (as a **buyer's agent**), or may work with an agent or firm that represents the seller (as a **seller's agent or subagent**). All parties in the transaction should find out at the beginning who the agent working with the buyer represents.

If a buyer wants a buyer's agent to represent him in purchasing a property, the buyer should enter into a "buyer agency agreement" with the agent. The buyer agency agreement should state how the buyer's agent will be paid. **Unless some other arrangement is made which is satisfactory to the parties, the buyer's agent will be paid by the buyer.** Many buyer agency agreements will also obligate the buyer to pay the buyer's agent no matter who finds the property that the buyer purchases.

A buyer may decide to work with a firm that is acting as agent for the seller (a **seller's agent or subagent**). If a buyer does not enter into a buyer agency agreement with the firm that shows him properties, that firm and its agents will show the buyer properties as an agent or subagent working on the seller's behalf. Such a firm represents the seller (**not** the buyer) and must disclose that fact to the buyer.

A seller's agent or subagent must still treat the buyer fairly and honestly and disclose to the buyer all material facts which the agent knows or reasonably should know. The seller's agent typically will be paid by the seller. **If the agent is acting as agent for the seller, the buyer should be careful not to give the agent any information that the buyer does not want the seller to know.**

### **DUAL AGENTS**

A real estate agent or firm may represent more than one party in the same transaction only with the knowledge and written

consent of all parties for whom the agent acts. "Dual Agency" is most likely to occur when a buyer represented by a buyer's agent wants to purchase a property listed by that agent's firm. A dual agent must carefully explain to each party that the agent and the agent's firm are also acting for the other party.

In some situations, the agents may practice a form of dual agency known as "designated agency:" an agent in a firm is designated to represent the interests of the seller, and another agent in the same firm is designated to represent the interests of the buyer. This form of dual agency allows the designated agent to more fully represent the interests of the party with whom the agent is working.

In any dual agency situation, the agent must obtain a written agreement from the parties which fully describes the obligations of the agent and the agent's firm to each of them.

Immediately after the "Description of Agent Duties and Relationships", every listing and buyer agency agreement shall contain the following provision, including a box which the agent shall check when the provision is applicable: "This firm represents both sellers and buyers. This means that it is possible that a buyer we represent will want to purchase a property owned by a seller we represent. When that occurs, the agent and firm listed above will act as **dual agents** if all parties agree."

(d) A broker or brokerage firm representing one party in a transaction shall not undertake to represent another party in the transaction without the express, written authority of each party.

(e) In every real estate sales transaction, a broker or salesman working directly with a prospective buyer as a seller's agent or subagent shall disclose to the prospective buyer at the first substantial contact with the prospective buyer that the broker or salesman represents the interests of the seller. The broker or salesman shall make the disclosure on the "Disclosure to Buyer from Seller's Agent or Subagent" form prescribed by the Commission. If the first substantial contact occurs by telephone or by means of other electronic communication where it is not practical to provide written disclosure, the broker or salesman shall immediately disclose by similar means whom he represents and shall immediately, but in no event later than three days from the date of first substantial contact, mail or otherwise transmit a copy of the form to the buyer.

(f) In every real estate sales transaction, a broker or salesman representing a buyer shall, at the initial contact with the seller or seller's agent, disclose to the seller or seller's agent that the broker or salesman represents the buyer's interests. In addition, in every real estate sales transaction other than auctions, the broker or salesman shall, no later than the time of delivery of an offer to the seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the

buyer. The written confirmation may be made in the buyer's offer to purchase.

(g) The provisions of Paragraphs (c), (d) and (e) of this Rule shall not apply to real estate licensees representing sellers in auction sales transactions.

(h) A broker or salesman representing a buyer in an auction sale transaction shall, no later than the time of execution of a written agreement memorializing the buyer's contract to purchase, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the written agreement.

(i) A firm which represents both the buyer and the seller in the same real estate sales transaction is a dual agent and through the brokers and salesmen associated with the firm shall disclose its dual agency to the buyer and seller.

(j) When a firm represents both the buyer and seller in the same real estate sales transaction, the firm may, with the prior written approval of its buyer and seller clients, designate one or more individual brokers or salesmen associated with the firm to represent only the interests of the seller and one or more other individual brokers and salesmen associated with the firm to represent only the interests of the buyer in the transaction. An individual broker or salesman shall not be so designated and shall not undertake to represent only the interests of one party if the broker or salesman has actually received confidential information concerning the other party in connection with the transaction. A broker-in-charge shall not act as a designated agent for a party in a real estate sales transaction when a salesman under his supervision will act as a designated agent for another party with a competing interest.

(k) When a firm acting as a dual agent designates an individual broker or salesman to represent the seller, the broker or salesman so designated shall represent only the interest of the seller and shall not, without the seller's permission, disclose to the buyer or a broker or salesman designated to represent the buyer:

- (1) that the seller may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the seller's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the seller which the seller has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(l) When a firm acting as a dual agent designates an individual broker or salesman to represent the buyer, the broker or the salesman so designated shall represent only the interest of the buyer and shall not, without the buyer's permission, disclose to the seller or a broker or salesman designated to represent the seller:

- (1) that the buyer may agree to a price, terms, or any conditions of sale other than those offered by the buyer;

- (2) the buyer's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the buyer which the buyer has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(m) A broker or salesman designated to represent a buyer or seller in accordance with Paragraph (j) (b) of this Rule shall disclose the identity of all of the brokers and salesmen so designated to both the buyer and the seller. The disclosure shall take place no later than the presentation of the first offer to purchase or sell.

(n) When an individual broker or salesman represents both the buyer and seller in the same real estate sales transaction pursuant to a written agreement authorizing dual agency, the parties may provide in the written agreement that the broker or salesman shall not disclose the following information about one party to the other without permission from the party about whom the information pertains:

- (1) that a party may agree to a price, terms or any conditions of sale other than those offered;
- (2) the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by statute or rule; and
- (3) any information about a party which that party has identified as confidential, unless disclosure is otherwise required by statute or rule.

*Authority G.S. 41A-3(1b); 93A-3(c).*

## .0105 ADVERTISING

(a) **Blind Ads.** A licensee shall not advertise the sale, purchase, exchange, rent or lease of real estate, for another or others, in a manner indicating the offer to sell, purchase, exchange, rent, or lease is being made by the licensee's principal. Every such advertisement shall clearly indicate that it is the advertisement of a broker or brokerage firm and shall not be confined to publication of only a post office box number, telephone number, or street address.

(b) **Registration of Assumed Name.** In the event that any licensee shall advertise in any manner using a firm name or an assumed name which does not set forth the surname of the licensee, he shall first file the appropriate certificate with the office of the county register of deeds in compliance with G.S. 66-68 and notify the Commission in writing of the use of such a firm name or assumed name, and furnish the Commission with a copy of each certificate filed with the office of the county register of deeds in compliance with G.S. 66-68.

(c) **Authority to Advertise.**

- (1) A salesman shall not advertise the sale, purchase, exchange, rent or lease of real estate for another or others without his broker's consent and without including in the advertisement the name of the broker or firm with whom he is associated.
- (2) A licensee shall not advertise or display a for sale



or for rent sign on any real estate without the consent of the owner or his authorized agent.

(d) Business names. A licensee shall not include the name of a salesman or an unlicensed person in the name of a sole proprietorship, partnership or non-corporate business formed for the purpose of real estate brokerage.

*Authority G.S. 55B-5; 66-68; 93A-3(c).*

#### **.0107 HANDLING AND ACCOUNTING OF FUNDS**

(a) All monies received by a broker acting in his fiduciary capacity shall be deposited in a trust or escrow account not later than three banking days following receipt of such monies except that earnest money deposits paid by means other than currency which are received on offers to purchase real estate and tenant security deposits paid by means other than currency which are received in connection with real estate leases shall be deposited in a trust or escrow account not later than three banking days following acceptance of such offer to purchase or lease; the date of acceptance of such offer to purchase or lease shall be set forth in the purchase or lease agreement. All monies received by a salesman shall be delivered immediately to the broker by whom he is employed.

(b) In the event monies received by a broker while acting in a fiduciary capacity are deposited in a trust or escrow account which bears interest, such broker shall first secure from all parties having an interest in the monies written authorization for the deposit of such monies in an interest-bearing account. Such authorization shall specify how and to whom the interest will be disbursed, and, if contained in an offer, contract, lease, or other transaction instrument, such authorization shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the instrument.

(c) Closing statements shall be furnished to the buyer and the seller in the transaction at the closing or not more than five days after closing.

(d) Trust or escrow accounts shall be so designated by the bank or savings and loan association in which the account is located, and all deposit tickets and checks drawn on said account as well as the monthly bank statement for the account shall bear the words "Trust Account" or "Escrow Account".

(e) A broker shall maintain and retain records sufficient to verify the accuracy and proper use of his trust or escrow accounts, including, but not limited to:

- (1) bank statements;
- (2) canceled checks which shall be referenced to the corresponding transaction or owner ledger sheet;
- (3) deposit tickets and, if necessary, a supplemental worksheet for each deposit ticket identifying the property and the parties to each transaction for which funds are deposited;
- (4) a separate ledger sheet for each sales transaction and for each owner of property managed by the broker identifying the property, the parties to the transaction, the amount, date, and purpose of the deposits and from whom received, the amount,

date, check number, and purpose of disbursements and to whom paid, and the running balance of funds on deposit for the particular transaction or owner of property;

- (5) a journal or check stubs identifying each transaction and showing a running balance for all funds in the account;
- (6) copies of contracts, leases and management agreements;
- (7) closing statements and property management statements; and
- (8) any other documents necessary and sufficient to verify and explain record entries.

A broker shall maintain records of all receipts and disbursements of trust or escrow monies in such a manner as to create a clear audit trail from deposit tickets and canceled checks to check stubs or journals and to the ledger sheets. A broker must reconcile ledger sheets and his journals or check stubs to the trust or escrow account bank statements on a monthly basis. A broker shall create a worksheet for each such monthly reconciliation and retain it as part of his records.

(f) All trust or escrow account records shall be made available for inspection by the Commission or its authorized representatives in accordance with Rule 58A .0108.

(g) In the event of a dispute between the seller and buyer or landlord and tenant over the return or forfeiture of any deposit other than a residential tenant security deposit held by a broker, the broker shall retain said deposit in his trust or escrow account until he has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. If it appears to a broker holding a disputed deposit that a party has abandoned his claim, the broker may disburse the money to the other claiming parties according to their written agreement provided that the broker first makes a reasonable effort to notify the party who has apparently abandoned his claim and provides that party with an opportunity to renew his claim to the disputed funds.

(h) A broker may transfer earnest money deposits in his possession collected in connection with a sales transaction to the closing attorney or other settlement agent not more than ten days prior to the anticipated settlement date. A broker or salesman shall not disburse prior to settlement any earnest money in his possession for any other purpose without the written consent of the parties.

(i) The funds of a property owner association, when collected, maintained or disbursed by a licensee of the Commission, are trust monies and shall be treated as such in the manner required by this Rule.

(j) Every broker or salesman shall safeguard the money or property of others coming into his possession in a manner consistent with the requirements of the Real Estate License Law and the rules promulgated by the Commission. A licensee shall not convert the money or property of others to his own use, apply such money or property to a purpose other than that for which it was paid or entrusted to him, or permit or assist any other person in the conversion or misapplication

of such money or property.

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

#### .0108 RETENTION OF RECORDS

Licensees ~~Brokers~~ shall retain records of all transactions conducted in such capacity for a period of three ~~years~~ years, whether the transaction is pending, completed or terminated prior to its successful conclusion. Such records shall include contracts of sale, written leases, agency listing contracts, options, offers to purchase, trust or escrow records, earnest money receipts, disclosure documents, closing statements and any other records pertaining to real estate transactions. All such records shall be made available for inspection by the Commission or its authorized representatives without prior notice.

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

#### .0109 BROKERAGE FEES AND COMPENSATION

(a) A licensee shall not receive, either directly or indirectly, any commission, rebate or other valuable consideration from a vendor or a supplier of goods and services for an expenditure made on behalf of his principal in a real estate transaction without the written consent of the licensee's principal.

(b) A licensee shall not receive, either directly or indirectly, any commission, rebate or other valuable consideration for services which he recommends, procures, or arranges relating to a real estate transaction for any party, without full disclosure to such party; provided, however, that nothing in this Rule shall be construed to permit a licensee to accept any fee, kickback or other valuable consideration that is prohibited by the Real Estate Settlement Procedures Act of 1974 (12 USC 2601 et. seq.) or any rules and regulations promulgated by the United States Department of Housing and Urban Development pursuant to such Act.

(c) The Commission is not a Board of Arbitration and has no jurisdiction to settle disputes between parties concerning such matters as the rate of commissions, the division of commissions, pay of salesmen, and similiar matters.

(d) A licensee shall not undertake in any manner, any arrangement, contract, plan or other course of conduct, to compensate or share compensation with unlicensed persons or entities for any acts performed in North Carolina for which licensure by the Commission is required.

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

#### .0110 BROKER-IN-CHARGE

(a) Every real estate firm shall designate ~~one~~ a broker to serve as the broker-in-charge at its principal office and a broker to serve as broker-in-charge at any each of the firm's branch offices: office. No broker shall be broker-in-charge of more than one office or branch office. If a firm shares office space with one or more other firms, one broker may serve as broker-in-charge of each firm at that location. No

office or branch office of a firm shall have more than one designated broker-in-charge. A broker practicing alone shall designate himself as a broker-in-charge. Each broker-in-charge shall make written notification of his status as broker-in-charge to the Commission on a form prescribed by the Commission within 10 days following the broker's designation as broker-in-charge. The broker-in-charge shall assume the responsibility at his office for:

- (1) ~~the proper display of license certificates of the brokers and salesmen associated with or engaged on behalf of the firm at such office; the retention and display of current license renewal pocket cards by all brokers and salesmen employed at the office for which he is broker-in-charge; the proper display of licenses at such office in accordance with Rule .0101 of this Subchapter; and assuring that each licensee employed at the office has complied with Rules .0503, .0504 and .0506 of this Subchapter;~~
- (2) the proper notification to the Commission of any change of business address or trade name of the firm and the registration of any assumed business name adopted by the firm for its use;
- (3) the proper conduct of advertising by or in the name of the firm at such office;
- (4) the proper maintenance at such office of the trust or escrow account of the firm and the records pertaining thereto;
- (5) the proper retention and maintenance of records relating to transactions conducted by or on behalf of the firm at such ~~office; office, including those required to be retained pursuant to Rule .0108 of this Subchapter;~~
- (6) the proper supervision of salesmen associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter; and
- (7) the verification to the Commission of the experience of any salesman at such office who may be applying for licensure as a broker.

(b) When used in this Rule, the term:

- (1) "Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business; and
- (2) "Office" means any place of business where acts are performed for which a real estate license is required.

(c) A broker-in-charge must continually maintain his license on active status.

(d) Each broker-in-charge shall notify the Commission in writing of any change in his status as broker-in-charge within ten days following the change. Upon written request of a salesman within 5 years after termination of his association with a broker-in-charge, Within 10 days following termination of his supervisory responsibilities over any salesman, the broker-in-charge shall provide the salesman, in a form prescribed by the Commission, an accurate written



**PROPOSED RULES**

		Yes*	No	No Repre- sentation
1.	FOUNDATION, SLAB, FIREPLACES/CHIMNEYS, FLOORS, WINDOWS (INCLUDING STORM WINDOWS AND SCREENS), DOORS, CEILINGS, INTERIOR AND EXTERIOR WALLS, GARAGE, DRIVEWAY AND SIDEWALKS, OUTSIDE FENCES, PATIO, DECK OR OTHER STRUCTURAL COMPONENTS and any modifications to them? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	a. Siding is <input type="checkbox"/> Masonry <input type="checkbox"/> Wood <input type="checkbox"/> Masonite <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Other .....			<input type="checkbox"/>
	b. Age of Structure? .....			<input type="checkbox"/>
2.	ROOF (leakage or other problem)? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	a. Age of roof covering? .....			<input type="checkbox"/>
3.	BASEMENT, CRAWL SPACE OR SLAB (including water seepage, leakage, dampness or standing water)? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	ELECTRICAL SYSTEM (outlets, wiring, panel, etc.)? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	PLUMBING SYSTEM (pipes, fixtures, etc.)? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	HEATING AND AIR CONDITIONING? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	a. Heat Source is: <input type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Baseboard <input type="checkbox"/> Other .....			<input type="checkbox"/>
	b. Fuel Source is: <input type="checkbox"/> Electricity <input type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Oil <input type="checkbox"/> Other .....			<input type="checkbox"/>
7.	WATER SUPPLY (including water quality and water pressure)? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	a. Water supply is: <input type="checkbox"/> City/County <input type="checkbox"/> Community System <input type="checkbox"/> Private Well <input type="checkbox"/> Other .....			<input type="checkbox"/>
	b. Water pipes are: <input type="checkbox"/> Copper <input type="checkbox"/> Galvanized <input type="checkbox"/> PVC (plastic) .....			<input type="checkbox"/>
8.	SEWER SYSTEM? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	a. Sewerage disposal system is: <input type="checkbox"/> Septic Tank <input type="checkbox"/> Community System <input type="checkbox"/> Connected to City/County System <input type="checkbox"/> City/County System available <input type="checkbox"/> Other .....			<input type="checkbox"/>
9.	APPLIANCES included in sale: RANGE/OVEN, MICROWAVE, HOOD/FAN, DISHWASHER, DISPOSAL, REFRIGERATOR, WASHER/DRYER, TRASH COMPACTOR, WINDOW OR IN-WALL AIR CONDITIONER, OR OTHER APPLIANCES? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	OTHER SYSTEMS AND FIXTURES: T.V. ANTENNA, CABLE WIRING OR SATELLITE DISH, CENTRAL VACUUM, POOL, ATTIC FAN, EXHAUST FAN, CEILING FAN, WATER HEATER, SUMP PUMP, IRRIGATION SYSTEM, OR OTHER SYSTEMS? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	DRAINAGE, GRADING OR SOIL STABILITY OF LOT? .....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12.	WOOD-DESTROYING INSECTS (Present infestation or damage from past infestation which			

has not been repaired)? . . . . . ☐ ☐

**Also regarding the property identified above, are you aware of any:**

- |     |  |                          |                          |                          |
|-----|--|--------------------------|--------------------------|--------------------------|
| 13. | ROOM ADDITIONS OR OTHER STRUCTURAL CHANGES (including separate structures)? . . . . .  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. | ENVIRONMENTAL HAZARDS (substances, materials or products) including asbestos, formaldehyde, radon gas, methane gas, lead-based paint, underground storage tank, or other hazardous or toxic material (whether buried or covered), contaminated soil or water, or other environmental contamination)? . . . . . | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. | ENVIRONMENTAL NUISANCES (noise, odor, smoke, etc.) affecting the property? . . .   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. | NON-CONFORMING USE OR VIOLATIONS OF LOCAL, STATE OR FEDERAL LAWS, BUILDING CODES, ZONING ORDINANCES, RESTRICTIVE COVENANTS OR OTHER LAND-USE RESTRICTIONS? . . . . .   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. | ENCROACHMENTS FROM OR TO ADJACENT PROPERTY, UTILITY OR OTHER EASEMENTS, SHARED DRIVEWAYS, PARTY WALLS or similar matters that could affect title to the property? . . . . .  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. | LAWSUITS, FORECLOSURES, BANKRUPTCY, DIVORCE ACTIONS, JUDGMENTS, TAX LIENS, PROPOSED ASSESSMENTS, MECHANICS' LIENS, MATERIALMENS' LIENS OR NOTICE FROM ANY GOVERNMENTAL AGENCY that could affect title to the property? . . . . .   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. | HOMEOWNERS' ASSOCIATION OR "COMMON AREA" EXPENSES OR ASSESSMENTS? . . . . .  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 20. | Evidence that the property is located in a FEDERALLY-DESIGNATED FLOOD PLAIN or that it has ever been damaged by flooding? . . . . .  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

\* If you answered "Yes" to any of the above questions, please explain (Attach additional sheets, if necessary):

(b) The form described in Subsection (a) above may be reproduced, but the form shall not be altered or amended in any way.

*Authority G.S. 47E-4(b); 93A-3(c); 93A-6.*

**SECTION .0300 - APPLICATION FOR LICENSE**

**.0302 FILING AND FEES**

(a) Completed applications must be received in the Commission's office or postmarked not later than the filing date established by the executive director for a scheduled examination and must be accompanied by the appropriate fee. A filing date shall be no more than 40 days prior to a scheduled examination. Once the application has been filed and processed, the application fee may not be refunded.

(b) The following fees shall be charged:

- (1) application for new broker license . . . . . \$30.00,
- (2) application for new salesman license . . . . . \$30.00.

For the purposes of this Section, the term, broker, shall refer to both an individual and a business entity.

(c) An applicant shall update information provided in connection with an application or submit a newly completed application form without request by the Commission to assure that the information provided in the application is complete and accurate. Failure to submit updated information prior to the issuance of a license may result in disciplinary action against a licensee in accordance with G.S. 93A-6(b)(1). In the event that the Commission requests an applicant to submit updated information and the applicant fails to submit such information within 60 days following the Commission's request, the Commission shall cancel the applicant's application.

*Authority G.S. 93A-4(a), (d).*



SECTION .0500 - LICENSING

**.0502 BUSINESS ENTITIES**

(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker. An entity which changes its business form shall be required to submit a new application immediately upon making the change and to obtain a new license. Incomplete applications shall not be acted upon by the Commission. Application forms for partnerships, corporations, limited liability companies, associations and other business entities required to be licensed as brokers shall be available upon request to the Commission and shall set forth the name of the entity, the name under which the entity will do business, the address of its principal office, and a list of all brokers and salesmen associated with the entity.

- (1) The application of any partnership, including a general partnership, limited partnership and limited liability partnership, shall also call for such information as a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the several partners; a copy of any Certificate of Limited Partnership as may be required by law; past conviction of criminal offenses of any general or limited partner; past revocation, suspension, or denial of a business or professional license of any general or limited partner; and the name and residence address of each general and limited partner.
- (2) The application of a limited liability company shall also call for such information as a copy of its Articles of Organization evidencing its authority to engage in the business of real estate brokerage; past conviction of criminal offenses of any manager or member; past revocation, suspension, or denial of a business or professional license of any manager or member; and the name and residence address of each manager or member.
- (3) The application of a corporation shall also call for such information as a copy of its Articles of Incorporation evidencing its authority to engage in the business of real estate brokerage; and shall call for such information as past conviction of criminal offenses of any corporate director, officer, employee or shareholder who owns ten percent or more of the outstanding shares of any class; past revocation, suspension, or denial of a business or professional license to any director, officer, employee or shareholder who owns ten percent or more of the outstanding shares of any class; the name and residence address of each director and officer of the corporation; and the name and address of each person, partnership, corporation, or other entity owning ten percent or more of the outstanding shares of any class.

- (4) The application of any other business entity shall also call for such information as a copy of its organizational documents evidencing its authority to engage in real estate brokerage; past conviction of criminal offenses of any principal in the company; past revocation, suspension or denial of a business or professional license of any principal; and the name and residence address of each principal. For purposes of this Paragraph, the term principal shall mean any person or entity who owns the business entity to any extent, or who is an officer, director, manager, member, partner or who holds any other comparable position.

(b) A foreign business entity shall further qualify by filing with its application for license a copy of any certificate of authority to transact business in this state issued by the North Carolina Secretary of State which may be required by law and a consent to service of process and pleadings which shall be accompanied by a duly certified copy of the resolution of the general partners, managers or board of directors authorizing the proper partner, manager or officer to execute said consent.

(c) After filing a written application with the Commission and upon a showing that at least one principal of said business entity holds a ~~broker's broker~~ license on active status and in good standing and will serve as principal broker of the entity, the entity shall be licensed provided it appears that the ~~applicant~~ applicant entity employs and is directed by personnel possessed of the requisite truthfulness, honesty, and integrity. The principal broker of a partnership of any kind must be a general partner of the partnership, the principal broker of a limited liability company must be a manager of the company, and the principal broker of a corporation must be an officer of the corporation. A licensed business entity may serve as the principal broker of another licensed business entity if the principal broker-entity has has its principal broker a natural person who is himself licensed as a broker. The natural person who is principal broker shall assure the performance of the principal broker's duties with regard to both entities.

(d) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers, members, directors, officers, employees or other persons acting for the entity in their individual capacities regardless of whether they are engaged in furthering the business of the licensed entity.

(e) The principal broker of a business entity shall assume responsibility for:

- (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity at which real estate brokerage activities are conducted;
- (2) renewing the real estate broker license of the entity;
- (3) ~~the proper display of the real estate license certificate of the entity~~ retaining the firm's renewal pocket card at the firm and producing it as proof ~~principal office of firm licensure upon request the~~

entity at which real estate brokerage activities are conducted and maintaining a photocopy of the firm such license certificate and pocket card at each branch office thereof;

- (4) notifying the Commission of any change of business address or trade name of the entity and the registration of any assumed business name adopted by the entity for its use; and
- (5) notifying the Commission in writing of any change of his status as principal broker within ten days following the change.

(f) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure to conforming conform to such requirements shall be grounds for disciplinary action or denial of the entity's application for licensure. Upon receipt of notice from an entity or agency of this state that a licensed entity has ceased to exist or that its authority to engage in business in this state has been terminated by operation of law, the Commission shall cancel the license of the entity.

Authority G.S. 93A-3(c); 93A-4(a), (b), (d).

#### **.0505 REINSTATEMENT OF EXPIRED LICENSE, REVOKED, SURRENDERED OR SUSPENDED LICENSE**

(a) Licenses expired for not more than 12 months may be reinstated upon proper application and payment of the thirty dollar (\$30.00) renewal fee plus five dollar (\$5.00) late filing fee. In order to reinstate such license on active status, the applicant shall also present evidence satisfactory to the Commission of having obtained such continuing education as is required by Rule .1703 of this Subchapter to change an inactive license to active status. A person reinstating such a license on inactive status shall not be required to have obtained any continuing education in order to reinstate such license; however, in order to subsequently change his reinstated license from inactive status to active status, the licensee must satisfy the continuing education requirement prescribed in Rule .1703 of this ~~Subchapter~~. Subchapter, and be supervised by a broker-in-charge in compliance with the requirements of Rule .0506 of this Subchapter.

(b) Reinstatement of licenses expired for more than 12 months may be considered upon proper application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the Commission that they possess the current knowledge, skills and competence, as well as the truthfulness, honesty and integrity, necessary to function in the real estate business in a manner that protects and serves the public interest. To demonstrate current knowledge, skills and competence, the Commission may require such applicants to complete real estate education or pass the license examination or both.

(c) Reinstatement of a revoked license may be considered upon proper application and payment of a thirty dollar

(\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than 12 months.

(d) Reinstatement of a license surrendered under the provisions of G.S. 93A-6(e) may be considered upon termination of the period of surrender specified in the order approving the surrender and upon proper application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than 12 months.

(e) When a license is suspended by the ~~Commission expires~~, Commission, the suspended license shall ~~may~~ be reinstated restored at the end of the period of active ~~suspension~~ suspension; ~~upon payment of the license renewal fee for the current license period~~; however, in order for the license to be reinstated restored on active status, the licensee shall be required to also demonstrate that he has satisfied the continuing education requirement for license activation prescribed by Rule .1703 of this ~~Subchapter~~. Subchapter and is supervised by a broker-in-charge in compliance with the requirements of Rule .0506 of this Subchapter, if applicable.

Authority G.S. 93A-3(c); 93A-4(c), (d); 93A-4A.

#### **.0506 SALESMAN TO BE SUPERVISED BY BROKER**

(a) A salesman may engage in or hold himself out as engaging in activities requiring a real estate license only while his license is on active status and he is supervised by the broker-in-charge of the real estate firm or office where the salesman is associated. A salesman may be supervised by only one broker-in-charge at a time.

(b) Upon a salesman's association with a real estate broker or brokerage firm, the salesman and the broker-in-charge of the office where the salesman will be engaged in the real estate business shall immediately file with the Commission a salesman supervision notification on a form prescribed by the Commission containing identifying information about the salesman and the broker-in-charge, a statement from the broker-in-charge certifying that he will supervise the salesman in the performance of all acts for which a license is required, the date that the broker-in-charge assumes responsibility for such supervision, and the signatures of the salesman and broker-in-charge. If the salesman is on inactive status at the time of associating with a broker or brokerage firm, the salesman and broker-in-charge shall also file, along with the salesman supervision notification, the salesman's request for license activation on a form prescribed by the Commission containing identifying information about the salesman, the salesman's statement that he has satisfied the continuing education requirements prescribed by Rule .1703 of this Subchapter, the date of the request, and the signatures of the salesman and the salesman's proposed broker-in-charge. Upon the mailing or delivery of the required form(s), the salesman may engage in real estate brokerage activities requiring a license under the supervision of the



broker-in-charge; however, if the salesman and broker-in-charge do not receive from the Commission a written acknowledgment of the salesman supervision notification and, if appropriate, the request for license activation, within 30 days of the date shown on the form, the broker-in-charge shall immediately terminate the salesman's real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the salesman and broker-in-charge are notified that the salesman is not eligible for license activation due to a continuing education deficiency, the broker-in-charge shall cause the salesman to immediately cease all activities requiring a real estate license until such time as the continuing education deficiency is satisfied and a new salesman supervision notification and request for license activation is submitted to the Commission.

(c) A broker-in-charge who certifies to the Commission that he will supervise a licensed salesman shall actively and personally supervise the salesman in a manner which reasonably assures that the salesman performs all acts for which a real estate license is required in accordance with the Real Estate License Law and Commission rules. A supervising broker who fails to supervise a salesman as prescribed in this Rule may be subject to disciplinary action by the Commission.

~~(d) Upon termination of his supervision of a salesman, a broker-in-charge shall immediately:~~

- ~~(1) notify the Commission in writing setting forth the date of termination; and~~
- ~~(2) give the salesman, in a form prescribed by the Commission, an accurate written statement regarding the number and type of properties listed, sold, bought, leased or rented for others by the salesman while under the supervision of the broker-in-charge.~~

(d) Upon the termination of the supervisory relationship between a salesman and his broker-in-charge, the salesman and the broker-in-charge shall provide written notification of the date of termination to the Commission not later than 10 days following said termination.

*Authority G.S. 93A-2(b); 93A-3.*

## **SECTION .0600 - REAL ESTATE COMMISSION HEARINGS**

### **.0601 COMPLAINTS/INQUIRIES/ MOTIONS/OTHER PLEADINGS**

(a) There shall be no specific form required for complaints. To be sufficient, a complaint shall be in writing, identify the respondent licensee and shall reasonably apprise the Commission of the facts which form the basis of the complaint.

(b) When investigating a complaint, the scope of the Commission's investigation shall not be limited only to matters alleged in the complaint. In addition, a person making a complaint to the Commission may change his complaint by submitting the changes to the Commission in

writing.

(c) When a complaint is not verified by the person making the complaint, the Commission, through its legal counsel may consider the complaint on its own motion.

(d) There shall be no specific forms required for answers, motions, or other pleadings relating to contested cases before the Commission, except they shall be in writing. To be sufficient, the document must reasonably apprise the Commission of the matters it alleges or answers. To be considered by the Commission, every answer, motion, request or other pleading must be submitted to the Commission in writing or made during the hearing as a matter of record.

(e) When the Commission, upon its own motion or upon the complaint of any person, commences an investigation of a licensee, the Commission may send the licensee a Letter of Inquiry requesting the licensee to respond. The Letter of Inquiry, or attachments thereto, shall set forth the subject matter being investigated. Upon receipt of the Letter of Inquiry, the licensee shall respond to the Commission within 14 calendar days. Such response shall include a full and fair disclosure of all information requested. Licensees shall include with their written response copies of all documents requested by the Commission in the Letter of Inquiry.

(e) (f) Hearings in contested cases before the Commission shall be conducted according to the provisions of Article 3A of Chapter 150B of the General Statutes of North Carolina.

(f) (g) Persons who make complaints are not parties to contested cases, but may be witnesses.

*Authority G.S. 93A-6(a); 150B-38(h).*

### **.0613 SCOPE**

~~The provisions of this Section shall apply to contested cases heard by the Real Estate Commission only and shall not apply to hearings conducted by the Real Estate Appraisal Board pursuant to Article 5 of Chapter 93A of the General Statutes.~~

*Authority G.S. 93A-3(c).*

### **.0614 SUMMARY SUSPENSION**

(a) If the Commission finds that the public health, safety, or welfare requires emergency action, it may, pursuant to G.S. 150B-3(c), summarily suspend a license without a hearing or opportunity for the licensee to be heard. A motion for summary suspension shall be presented to the Chairman of the Commission by counsel for the State and may be presented *ex parte*. The motion shall be supported by an affidavit of a person with first-hand knowledge of the facts alleged which require emergency action.

(b) The Commission shall, when it summarily suspends a license, immediately schedule a hearing, to occur at the earliest practicable date, on the merits of the charges set out in a notice of hearing issued contemporaneously with the order of summary suspension. The motion, supporting affidavit, order for summary suspension and notice of hearing shall be served on the licensee as soon as possible and the

summary suspension shall be effective no earlier than the date of service of the summary suspension order on the licensee. The order of summary suspension shall remain in effect until the Commission vacates it.

(c) A summarily suspended licensee may petition the Commission to vacate the summary suspension order. If the Chairman of the Commission finds that the summary suspension order was issued in error or on insufficient factual grounds to justify emergency action, the Chairman of the Commission may vacate the summary suspension order.

(d) Neither an order of summary suspension nor a denial of a motion to vacate an order of summary suspension is a final agency decision.

Authority G.S. 93A-6(a); 150B-3(c).

## SECTION .1700 - MANDATORY CONTINUING EDUCATION

### .1702 CONTINUING EDUCATION REQUIREMENT

(a) In order to renew a broker or salesman license on active status, the person requesting renewal of a license shall, upon the second renewal of such license following initial licensure, and upon each subsequent annual renewal, have completed, within one year preceding license expiration, eight classroom hours of real estate continuing education in courses approved by the Commission. Four of the required eight classroom hours must be obtained each license period by completing a mandatory update course developed annually by the Commission. The remaining four hours must be obtained by completing one or more Commission-approved elective courses described in Rule .0305 of Subchapter 58E. The licensee bears the responsibility for providing, upon request of the Commission, evidence of continuing education course completion satisfactory to the Commission.

(b) No continuing education shall be required to renew a broker or salesman license on inactive status; however, to change a license from inactive status to active status, the licensee must satisfy the continuing education requirement described in Rule .1703 of this Section.

(c) No continuing education shall be required for a licensee who is a member of the North Carolina General Assembly to renew his license on active status.

(d) The terms "active status" and "inactive status" are defined in Rule .0504 of this Subchapter. For continuing education purposes, the term "initial licensure" shall include means the first time that a license of a particular type is issued to a person: person, and reinstatement of an expired or revoked license. Thus, issuance of a broker license to a person previously licensed as a salesman is considered to be initial licensure; however, reinstatement of an expired, revoked or suspended license does not constitute initial licensure.

Authority G.S. 93A-3(c); 93A-4A.

## SUBCHAPTER 58B - TIME SHARES

## SECTION .0400 - TIME SHARE SALES OPERATIONS

### .0402 TIME SHARE AGENCY AGREEMENTS AND DISCLOSURE

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

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

## SUBCHAPTER 58E - REAL ESTATE CONTINUING EDUCATION

### SECTION .0400 - GENERAL SPONSOR REQUIREMENTS

#### .0407 PER STUDENT FEE

Following completion of any approved continuing education update or elective course, the sponsor must submit to the Commission, along with the reports required to be submitted by Rule .0406 of this Section, a fee in the amount of five dollars (\$5.00) for each licensee who satisfactorily completes the course according to the criteria in 21 NCAC 58A .1705. This fee is not required if the sponsor is a community college, junior college, college or university located in North Carolina and accredited by the Southern Association of Colleges and Schools, or is an agency of federal, state or local government. This fee may be paid by check payable to the North Carolina Real Estate Commission. ~~A separate check is required for each separate class session.~~

Authority G.S. 93A-3(c); 93A-4A.

## TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the Office of Administrative Hearings intends to amend rule cited as 26 NCAC 3 .0122. Notice of Rule-making Proceedings was published in the Register on October 15, 1997.

**Proposed Effective Date:** August 1, 1998

**A Public Hearing** will be conducted at 10:00 a.m. on February 2, 1998 at 422 N. Blount Street, Hearing Room 102, Raleigh, NC.

**Reason for Proposed Action:** By contracting with a court reporting service, transcripts can be obtained faster and at a lower cost.

**Comment Procedures:** Any interested person may present their views either orally or in writing at the hearing. Any other written comments should be directed to Susana Honeywell, Rule-making Coordinator, by mail to: PO



statement regarding the number and type of properties listed, sold, bought, leased, or rented for others by the salesman while under the supervision of the broker-in-charge.

(e) A licensed real estate firm which demonstrates on a form prescribed by the Commission that it has qualified for licensure solely for the purpose of receiving compensation for

brokerage services furnished by its principal broker through another firm, and that no person is affiliated with it other than its principal broker, shall not be required to designate a broker-in-charge.

*Authority G.S. 93A-3(c).*

#### **.0114 RESIDENTIAL PROPERTY DISCLOSURE STATEMENT**

(a) Every owner of real property subject to a transfer of the type contemplated by G.S. 47E-1, 2, and 3, shall complete the following residential property disclosure statement and furnish a copy of the complete statement to a purchaser in accordance with the requirements of G.S. 47E-4:

### **STATE OF NORTH CAROLINA RESIDENTIAL PROPERTY DISCLOSURE STATEMENT**

#### **Instructions to Property Owners**

1. North Carolina General Statute 47E requires owners of residential real estate (single-family homes and buildings with up to four dwelling units) to furnish purchasers a property disclosure statement. This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option and sale under a lease with option to purchase (unless the tenant is already occupying or intends to occupy the dwelling). A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see N.C.G.S. 47E-2.
2. You must check one of the boxes for each of the 20 questions on the reverse side of this form.
  - a. If you check "Yes" for any question, you must describe the problem or attach a report from an engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
  - b. If you check "No", you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
  - c. If you check "No Representation", you have no duty to disclose the conditions or characteristics of the property, even if you should have known of them.
- \* If you check "Yes" or "No" and something happens to the property to make your Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the purchaser a corrected Statement or correct the problem.
3. If you are assisted in the sale of your property by a licensed real estate broker or salesman, you are still responsible for completing and delivering the Statement to the purchasers; and the broker or salesman must disclose any material facts about your property which they know or reasonably should know, regardless of your responses on the Statement.
4. You must give the completed Statement to the purchaser no later than the time the purchaser makes an offer to purchase your property. If you do not, the purchaser can, under certain conditions, cancel any resulting contract (See "Note to Purchasers" below). You should give the purchaser a copy of the Statement containing your signature and keep a copy signed by the purchaser for your records.

**Note to Purchasers**

If the owner does not give you a Residential Property Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following the date of the contract or three calendar days following your receipt of the Statement, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

If you properly cancel the contract, you are entitled to a refund of any deposit monies you may have paid, and you cannot be otherwise penalized.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: \_\_\_\_\_

Owner's Name(s): \_\_\_\_\_

*Owner(s) acknowledge having examined this Statement before signing and that all information is true and correct as of the date signed.*

Owner Signature: \_\_\_\_\_ Date \_\_\_\_\_, 19\_\_\_\_

Owner Signature: \_\_\_\_\_ Date \_\_\_\_\_, 19\_\_\_\_

*Purchaser(s) acknowledge receipt of a copy of this disclosure statement; that they have examined it before signing; that they understand that this is not a warranty by owner or owner's agent; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owner and not the owner's agent(s) or subagent(s).*

Purchaser Signature: \_\_\_\_\_ Date \_\_\_\_\_, 19\_\_\_\_

Purchaser Signature: \_\_\_\_\_ Date \_\_\_\_\_, 19\_\_\_\_

Property Address/Description:

Regarding the property identified above, are you aware of any problem (malfunction or defect) with the:



Drawer 27447, Raleigh, NC 27611-7447 or faxed to: 733-3407.

**Fiscal Note:** *This Rule does affect the expenditures or revenues of state government funds. This Rule does not affect local government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.*

### CHAPTER 3 - HEARINGS DIVISION

#### SECTION .0100 - HEARING PROCEDURES

##### .0122 OFFICIAL RECORD

(a) The official record of a contested case is shall be available for public inspection upon ~~reasonable~~ request. An administrative law judge may, ~~upon good cause shown and~~ consistent with law, order part or all of an official record sealed.

(b) ~~(+)~~ The official record shall be prepared in accordance with G.S. 150B-37(a).

(c) ~~(2)~~ Contested case hearings ~~are~~ shall be recorded either by a four-track recording system or a professional court reporter using stenomask or stenotype.

(d) ~~(a)~~ Transcript costs incurred shall be divided equally among the party(ies) requesting a transcript.

(e) ~~(b)~~ Any other costs incurred when using a professional court reporter shall be divided equally among the requesting party(ies).

(f) ~~(c)~~ A 24 hour cancellation notice is shall be required in all cases. The party(ies) responsible for the cancellation shall

be liable for any cancellation fees.

(g) ~~(3)~~ Transcripts of proceedings during which oral evidence is presented will be made only upon request of a party. OAH shall contract with an independent contractor to provide transcript services. Transcript requests must be made to the independent contractor. The name and phone number of the independent contractor may be obtained by calling the Office of Administrative Hearings. Transcript costs shall be provided to the requesting party by the independent contractor. Transcript costs shall include the cost of an original for the Office of Administrative Hearings. An attorney requesting a transcript on behalf of a party is shall be a guarantor of payment of the cost. ~~Cost shall be determined under supervision of the Chief Administrative Law Judge who, in cases deemed appropriate by him, The independent contractor may require an advance security deposit to cover the prospective cost. The security deposit shall be applied to the actual cost and any excess shall be returned to the party which submitted it.~~

(h) ~~(4)~~ Copies of tapes are available upon written request at a cost of three dollars (\$3.00) plus tax per tape.

(i) ~~(5)~~ Copies of OAH Hearings tapes or Non-OAH Certified transcripts therefrom are not part of the official record.

**Note:** Rule 5.3(B) of the Rules of Professional Conduct permits an attorney to advance or guarantee expenses of litigation provided the client remains ultimately liable for such expenses.

*Authority G.S. 150B-37.*

*The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.*

## TITLE 7 - DEPARTMENT OF CULTURAL RESOURCES

**Rule-making Agency:** North Carolina Historical Commission

**Rule Citation:** 7 NCAC 4R .0909 - .0915

**Effective Date of Temporary Rule:** January 1, 1998

**Findings Reviewed and Approved by:** Julian Mann, III

**Authority for the rule-making:** G.S. 105-130.42(b)(2); 105-151.23(b)(2)

**Effective Date of Permanent Rule:** August 1, 1998

**A Public Hearing** will be conducted at 10:00 a.m. on February 4, 1998 at the Archives/State Library Building, Room 305, 109 E. Jones St., Raleigh, NC.

**Reason for Proposed Action:** The rules shall govern the certification by the State Historic Preservation Officer of historic structures and the certification of the rehabilitation of historic structures. The certifications are required, under the above-cited statutory authority, in order for taxpayers to obtain an income tax credit for expenditures to rehabilitate nonincome-producing historic structures.

**Comment Procedures:** Written or oral comments may be given at public hearing. All other written comments should be sent to Archives/State Library Bldg, 109 East Jones Street, Raleigh, NC, to the attention of David Brook.

**Fiscal Note:** These Rules do affect the expenditures or revenues of state government funds. Local government funds are not affected. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

### CHAPTER 4 - DIVISION OF ARCHIVES AND HISTORY

#### SUBCHAPTER 4R - ARCHAEOLOGY AND HISTORIC PRESERVATION SECTION

#### SECTION .0900 - TAX ACT CERTIFICATION REVIEW

**.0909 OVERVIEW OF STATUTORY  
AUTHORITY UNDER G.S. 105-130.42  
AND G.S. 105-151.23**

(a) G.S. 105-130.42 and G.S. 105-151.23 require the State Historic Preservation Officer (SHPO) to make certifications of historic significance and certifications of rehabilitation in connection with tax incentives involving the rehabilitation of non-income-producing historic properties.

(b) The procedures for obtaining certifications are set forth in Rules .0909 - .0915 of this Section. Owners wishing certifications shall provide sufficient documentation to the SHPO to make certification decisions. These procedures shall be applicable to future and pending certification requests except as otherwise provided herein.

(c) Requests for certifications and approvals of proposed rehabilitation work shall be sent by an owner to the SHPO for review. All certification decisions shall be made by the SHPO based upon review by HPO staff of the application and supporting documentation.

**History Note:** Authority G.S. 105-130.42; 105-151.23; Temporary Adoption Eff. January 1, 1998.

#### **.0910 DEFINITIONS**

For purposes of Rules .0909 through .0916 of this Section, the following definitions shall apply:

(1) "Certification" means the process established by these Rules to determine the historic significance of properties within National Register or certified historic districts as well as to approve proposed and completed rehabilitation work.

(2) "Certified Historic District" means any district which is:

(a) designated under a local statute which has been certified by the Secretary of the Interior as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district; and

(b) certified by the Secretary of the Interior as meeting substantially all of the requirements for the listing of districts in the National Register of Historic Places.

(3) "Certified Historic Structure" means a structure which is either:

(a) individually listed in the National Register of Historic Places; or

(b) located in a National Register or certified historic district and certified by the SHPO as being of historic significance to the district.

Portions of larger buildings, such as single condominium apartment units, shall not be considered to be individual structures. Rowhouses, even with abutting or party walls, shall be considered as separate buildings. For purposes of



- the certification decisions set forth in these rules, a certified historic structure encompasses the historic building and its site, landscape features, and environment, generally referred to herein as a "property" as defined below.
- (4) "Department of the Interior" means the United States Department of the Interior.
  - (5) "Historic District" means a geographically definable area, urban or rural, possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.
  - (6) "Historic Preservation Certification Application Part A--Description of Rehabilitation" (Part A) means the state application form from which the SHPO determines if the proposed rehabilitation work:
    - (a) appears to meet the "Standards for Rehabilitation";
    - (b) appears to meet the "Standards for Rehabilitation" with conditions; or
    - (c) does not appear to meet the "Standards for Rehabilitation."

This is a preliminary application only, since a final certification of rehabilitation may be issued to the owner of a "certified historic structure" only after rehabilitation work is completed through Part B.
  - (7) "Historic Preservation Certification Application Part B--Request for Final Certification" (Part B) means the state application form from which the SHPO determines:
    - (a) if a property contributes to or does not contribute to the significance of a National Register or certified historic district; and;
    - (b) if the completed rehabilitation work meets or does not meet the "Standards for Rehabilitation."
  - (8) "Historic Preservation Certification Application Attachment 1--Information for Determination of Significance for Properties within National Register or Certified Historic Districts" (Attachment 1) means the state form from which the SHPO determines if a property contributes or does not contribute to the significance of the district.
  - (9) "Historic Preservation Certification Application Amendment Sheet" means the state form on which an owner amends an application.
  - (10) "Inspection" means a visit by the HPO to a historic structure for the purposes of reviewing and evaluating the significance of the structure and the proposed, ongoing, or completed rehabilitation work.
  - (11) "National Park Service" (NPS) means the division within the United States Department of the Interior responsible for administering national parks and historic preservation programs.
  - (12) "National Register Historic District" means any district listed in the National Register of Historic Places.
  - (13) "National Register Nomination" means the documentation for a resource that includes the National Register Nomination Form NPS 10-900 with accompanying continuation sheets, maps, and photographs and that is prepared in accord with requirements and guidance in the NPS publication *How to Complete the National Register Registration Form: Bulletin 16A* and in other NPS technical publications on the subject.
  - (14) "National Register of Historic Places" means the official federal roster of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture that the Secretary of the Interior is authorized to expand and maintain pursuant to the National Historic Preservation Act of 1966, as amended (often referred to as the "National Register").
  - (15) "Owner" means a person, partnership, corporation, or public agency holding a fee-simple interest in a property or any other person or entity recognized by the North Carolina Department of Revenue for purposes of the applicable tax benefits.
  - (16) "Property" means a building(s) and its site and landscape features.
  - (17) "Rehabilitation" means the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment which are significant to its historic, architectural, and cultural values as determined by the SHPO.
  - (18) "Secretary of the Interior" means the Secretary of the United States Department of the Interior or the designee authorized to carry out his/her responsibilities.
  - (19) "Standards for Rehabilitation" means the Secretary of the Interior's "Standards for Rehabilitation" as cited in the Code of Federal Regulations, 36 CFR 67.
  - (20) "State Historic Preservation Office" (HPO) means the section within the North Carolina Division of Archives and History responsible for administering historic preservation programs.
  - (21) "Structure" means something built or constructed such as a building or dam. However, sites, landscapes, and objects do not qualify as structures.
- History Note: Authority G.S. 105-130.42; 105-151.23; Temporary Adoption Eff. January 1, 1998.*

## PRESERVATION CERTIFICATIONS AND INFORMATION COLLECTION

(a) Ordinarily, only the fee-simple owner of the property in question may apply for the historic preservation certifications described in Rules .0912 and .0914 in this Section. If an application for a certification is made by someone other than the fee-simple owner, however, the application must be accompanied by a written statement from the fee-simple owner indicating that he or she is aware of the application and has no objection to the request for certification.

(b) Owners of properties which are not yet individually listed in the National Register of Historic Places or which are in areas that are not yet National Register or certified historic districts may obtain certifications from the SHPO on whether or not rehabilitation proposals meet the "Standards for Rehabilitation" through Part A and proceed with the rehabilitation prior to the listing of the individual property or district in the National Register. Because final certifications of rehabilitation will be issued only to owners of certified historic structures, properties must be individually listed in the National Register or be located within National Register or certified historic districts by the time Part B is submitted to the SHPO. Similarly, if a property is located in a National Register or certified historic district but outside the district's period of significance, the National Register nomination or certification report for the district must be amended to expand the period of significance by the time Part B is submitted to the SHPO.

(c) Applications for certifications of proposed rehabilitation, historic significance, and completed rehabilitation shall be submitted on the Historic Preservation Certification Application forms. Two copies of the application and supporting documentation such as photographs and plans are required. Part A shall be used in requesting a certification of a proposed rehabilitation project, and Part B shall be used in requesting a final certification of a completed rehabilitation project. Attachment 1 shall be submitted with Part B in order for the SHPO to certify a property's historic significance within a National Register or certified historic district. Attachment 1 may also be submitted with Part A if the applicant desires a preliminary and non-binding determination of a property's historic significance within a National Register or certified historic district prior to undertaking a rehabilitation project.

(d) Application forms are available from the HPO.

(e) Requests for certifications and approvals of proposed rehabilitation projects shall be sent to the HPO.

(f) Where adequate documentation is not provided, the owner will be notified in writing of the additional information needed to undertake or complete the review. At such time the application shall be placed on hold pending the receipt of complete information. If complete information is not received within 30 days from the date of the request to the owner, the application shall be returned to the owner due to insufficient documentation.

(g) Approval of applications and amendments to

applications shall be conveyed to the owner only in writing by the SHPO or his/her duly authorized representative. Decisions with respect to certifications shall be made on the basis of the descriptions contained in the application forms and other available information. In the event of any discrepancy between the application form and other supplementary material submitted with it (such as architectural plans, drawings, specifications, etc.), the applicant shall be requested to resolve the discrepancy in writing. In the event the discrepancy is not resolved, the description in the application form shall take precedence.

*History Note: Authority G.S. 105-130.42; 105-151.23;  
Temporary Adoption Eff. January 1, 1998.*

## .0912 CERTIFICATIONS OF HISTORIC SIGNIFICANCE

(a) Requests for determinations of historic significance for properties within National Register or certified historic districts shall be made by the owner to determine:

- (1) that a property located within a National Register or a certified historic district contributes to the historic significance to the district and is, therefore, a "certified historic structure"; or
- (2) that a property located within a National Register or certified historic district is not of historic significance to the district.

(b) The owner may contact the HPO to determine whether or not a property is individually listed in the National Register of Historic Places or is located within a National Register or certified historic district.

(c) If a property is located within the boundaries of a National Register or certified historic district and the owner seeks certification by the SHPO that the property contributes to the historic significance of the district, the owner must complete Attachment 1 and submit it with Part B. The documentation required on Attachment 1 includes:

- (1) Name and address of property.
- (2) Current photographs of property including photographs of the building and its site and landscape features; photograph(s) showing the property along with adjacent properties and structures on the street; and photographs of interior features and spaces adequate to document significance.
- (3) Brief written description of physical appearance including distinctive features and spaces, any alterations, and date(s) of construction.
- (4) Brief statement of significance summarizing how the property does or does not reflect the values that give the district its distinctive historical and visual character, and explaining any significance attached to the property itself (e.g., unusual building techniques, important event that took place there, etc.).
- (5) Map of the historic district clearly delineating property's location within the district.



(d) Properties in National Register or certified historic districts containing more than one building where the buildings are judged by the SHPO to have been functionally related historically to serve an overall purpose, such as a mill complex or a residence and carriage house, shall be treated as a single certified historic structure when rehabilitated as part of an overall project. Buildings that are functionally related historically are those which have functioned together to serve an overall purpose during the property's period of significance. An evaluation shall be made to determine whether the component buildings contribute to the historic significance of the property and whether the property contributes to the significance of the historic district.

(e) If a building is to be moved as part of a rehabilitation for which certification is sought, the owner must follow the procedures outlined in this Paragraph. When a building is moved, every effort shall be made to re-establish its historic orientation, immediate setting, and general environment. Moving a building within a National Register or certified historic district may result in denial of a certification of historic significance.

(1) Documentation must be submitted that demonstrates:

- (A) the effect of the move on the building's integrity and appearance (any demolition, changes in foundations, etc.);
- (B) photographs of the original site and general environment of the new site;
- (C) evidence that the new site does not possess historical significance that would be adversely affected by the moved building;
- (D) the effect of the move on the distinctive historical and visual character of the district, where applicable; and
- (E) the method of moving the building.

(2) If an owner moves a building into a National Register or certified historic district or moves a building elsewhere within a district, the required information described in Subparagraph (e)(1) shall be included in Attachment 1 which must be submitted with Part B. The moved building shall be evaluated to determine if it contributes to the historic significance of the district both before and after the move as in Paragraph (f) of this Rule. If the owner desires a preliminary and non-binding determination that a building proposed to be moved will contribute to the historic significance of the district after the move, Attachment 1 may be submitted with Part A.

(f) Properties within National Register or certified historic districts shall be evaluated to determine if they contribute to the historic significance of the district by application of the "Standards for Evaluating Significance within National Register or Certified Historic Districts" as set forth in Rule .0913.

(g) Once the significance of a property located within a National Register or certified historic district has been

determined by the SHPO, written notification shall be sent to the owner.

*History Note: Authority G.S. 105-130.42; 105-151.23; Temporary Adoption Eff. January 1, 1998.*

#### **.0913 STANDARDS FOR EVALUATING SIGNIFICANCE WITHIN NATIONAL REGISTER OR CERTIFIED HISTORIC DISTRICTS**

(a) Properties located within National Register or certified historic districts shall be reviewed by the SHPO to determine if they contribute to the historic significance of the district by applying the following Standards for Evaluating Significance within National Register or Certified Historic Districts.

- (1) A building contributing to the historic significance of a district is one which by location, design, setting, materials, workmanship, feeling, and association adds to the district's sense of time and place and historical development.
- (2) A building not contributing to the historic significance of a district is one which does not add to the district's sense of time and place and historical development; or one where the location, design, setting, materials, workmanship, feeling, and association have been so altered or have so deteriorated that the overall integrity of the building has been irretrievably lost.
- (3) Ordinarily buildings that have been built within the past 50 years do not meet the National Register Criteria for Evaluation and are not considered to contribute to the significance of a district. Buildings less than 50 years old are considered to contribute to the significance of a district if the period of significance specified in the National Register nomination (or Certified Historic District designation report) includes the date of the building, or if the nomination (or designation report) establishes that the building individually meets the National Register Criteria Exception for properties less than 50 years old.

(b) If non-historic surface material obscures a facade, it may be necessary for the owner to remove the surface material as part of the rehabilitation so that a determination of significance can be made. If the previously obscured facade has retained substantial historic integrity and the property otherwise contributes to the historic district, it will be determined to be a certified historic structure.

*History Note: Authority G.S. 105-130.42; 105-151.23; Temporary Adoption Eff. January 1, 1998.*

#### **.0914 CERTIFICATIONS OF REHABILITATION**

(a) Owners who want rehabilitation projects for certified historic structures to be certified by the SHPO as being consistent with the "Standards for Rehabilitation" shall comply with the procedures listed below.

(1) Part A must be approved by the SHPO prior to undertaking rehabilitation work. To initiate review of a rehabilitation project for certification purposes, an owner shall submit Part A to the SHPO. In all cases, documentation, including photographs adequate to document the appearance of the structure(s), both on the exterior and on the interior, and its site and environment prior to rehabilitation must accompany the application. The social security or taxpayer identification number(s) of all owners must be provided in the application. Other documentation, such as cleaning specifications, surveys of window conditions, or documentation of deterioration, may be required by the SHPO to evaluate rehabilitation projects. Plans for any attached, adjacent, or related new construction must also accompany the application. Because the circumstances of each rehabilitation project are unique to the particular certified historic structure involved, certifications that may have been granted to other rehabilitations are not specifically applicable and may not be relied on by owners as applicable to their projects.

(2) A project does not become a certified rehabilitation until it is completed by the owner and certified by the SHPO. When requesting certification of a completed rehabilitation project, the owner shall submit Part B and provide the project completion date and a signed statement that the completed rehabilitation project meets the "Standards for Rehabilitation" and is consistent with the work described in Part A. Also required in requesting certification of a completed rehabilitation project are costs attributed to the rehabilitation, photographs adequate to document the completed rehabilitation, and the social security or taxpayer identification number(s) of all owners.

(b) A rehabilitation project for certification purposes encompasses all work on the interior and exterior of the certified historic structure(s) and its site and environment as determined by the SHPO, as well as related demolition, new construction or rehabilitation work which may affect the historic qualities, integrity or landscape features, and environment of the certified historic structure(s). More specific considerations in this regard are as follows:

(1) All elements of the rehabilitation project must meet the "Standards for Rehabilitation"; portions of the rehabilitation project not in conformance with the "Standards for Rehabilitation" may not be exempted. An owner undertaking a rehabilitation project shall not be held responsible for prior rehabilitation work not part of the current project or rehabilitation work that was undertaken by previous owners or third parties.

(2) If the SHPO has reason to believe that a project submitted for certification does not include the entire rehabilitation project subject to review

hereunder, the SHPO may choose to withhold a decision on such a certification until such time as the proper scope of the rehabilitation project to be reviewed has been determined. Factors to be taken into account by the SHPO in this regard include, but are not limited to, the facts and circumstance of each application and

(A) whether previous demolition, construction, or rehabilitation work irrespective of ownership or control at the time was in fact undertaken as part of the rehabilitation project for which certification is sought, and

(B) whether property conveyances, reconfigurations, ostensible ownership transfers, or other transactions were transactions which purportedly limit the scope of a rehabilitation project for the purpose of review by the SHPO without substantially altering beneficial ownership or control of the property.

The fact that a property may still qualify as a certified historic structure after having undergone inappropriate rehabilitation, construction, or demolition work does not preclude the SHPO from determining that such inappropriate work is part of the rehabilitation project to be reviewed.

(3) Conformance to the "Standards for Rehabilitation" shall be determined on the basis of the application documentation and other available information by evaluating the property as it existed prior to the commencement of the rehabilitation project.

(4) For rehabilitation projects involving more than one certified historic structure where the structures are judged by the SHPO to have been functionally related historically to serve an overall purpose, such as a mill complex or a residence and carriage house, rehabilitation certification shall be issued on the merits of the overall project rather than for each structure or individual component. For rehabilitation projects where there is no historic functional relationship among the structures, the certification decision shall be made for each separate certified historic structure regardless of how they are grouped for ownership or development purposes.

(5) Demolition of a building as part of a rehabilitation project involving multiple buildings may result in denial of certification of the rehabilitation. In projects where there is no historic functional relationship among the structures being rehabilitated, related new construction which physically expands one certified historic structure undergoing rehabilitation and, therefore, directly causes the demolition of an adjacent structure will generally result in denial of certification of the rehabilitation unless a determination has been made that the building to be demolished is not a certified



historic structure. In rehabilitation projects where the structures have been determined to be functionally related historically, demolition of a component may be approved, in limited circumstances, when:

- (A) the component is outside the period of significance of the property;
  - (B) the component is so deteriorated or altered that its integrity has been irretrievably lost; or
  - (C) the component is a secondary one that generally lacks historic, engineering, or architectural significance or does not occupy a major portion of the site and persuasive evidence is present to show that retention of the component is not technically or economically feasible.
- (6) In situations involving the rehabilitation of a certified historic structure in a historic district, the SHPO shall review the rehabilitation project first as it affects the certified historic structure and second as it affects the district and make a certification decision accordingly.
- (7) In the event that an owner of a portion of a certified historic structure requests certification for a rehabilitation project related only to that portion of the structure, but there is or was a larger related rehabilitation project(s) occurring with respect to other portions of the certified historic structure, the SHPO's decision on the requested certification shall be based on review of the overall rehabilitation project(s) for the certified historic structure.

(c) Upon receipt of a complete Part A of the application describing the rehabilitation project, the SHPO shall determine if the project is consistent with the "Standards for Rehabilitation." If the proposed project does not meet the "Standards for Rehabilitation," the owner shall be advised of that fact in writing and, where possible, shall be advised of necessary revisions, in the form of conditions, that will bring the proposed rehabilitation project into compliance with the Standards.

(d) Once a proposed project has been approved, substantive changes in the work as described in the application must be brought promptly to the attention of the SHPO by written statement to ensure continued conformance to the Standards; such changes shall be made using the Amendment Sheet. The SHPO shall notify the owner in writing whether the revised project continues to meet the Standards. Oral approvals of revisions are not authorized or valid.

(e) Completed projects may be inspected by the HPO to determine if the work meets the "Standards for Rehabilitation."

(f) If a completed rehabilitation project does not meet the "Standards for Rehabilitation," an explanatory letter from the SHPO or his/her duly authorized representative shall be sent to the owner. If a submitted Part B documents that a property was not rehabilitated in conformance with the "Standards for

Rehabilitation" and that the nonconforming work appears to have resulted in the loss of the qualities for which the property or the district in which it is located was listed in the National Register, the SHPO, as administrator of the National Register program in North Carolina, shall notify the National Register of Historic Places in accord with the Code of Federal Regulations.

*History Note: Authority G.S. 105-130.42; 105-151.23; Temporary Adoption Eff. January 1, 1998.*

#### **.0915 STANDARDS FOR REHABILITATION**

(a) The North Carolina Historical Commission interprets the "Standards for Rehabilitation" to require that the quality of materials and craftsmanship used in a rehabilitation project must be commensurate with the quality of materials and craftsmanship of the historic building in question. Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerated physical deterioration of historic buildings. Inappropriate physical treatments include, but are not limited to: damaging masonry repointing techniques; exterior cleaning methods such as sandblasting or damaging water pressure; or the introduction of sealers or "non-breathable" materials on masonry surfaces, insulation, storm windows, and epoxy where the application of such treatments or materials does not conform to NPS *Guidelines for Rehabilitating Historic Buildings* and NPS "Preservation Briefs." Nonconforming use of these materials and treatments may result in denial of certification. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure shall result in denial of certification.

Other typical denial issues in which the historic integrity of the structure is compromised include but are not limited to the following: removal of character defining historic exterior/interior materials and features such as doors, windows, woodwork, and significant landscape features; excessive site paving; installing undocumented or non-period features; excessive alteration of exterior/interior features or spaces; removal of plaster from interior masonry walls to expose underlying masonry surface; installation of inappropriate replacement doors and windows such as metal or vinyl clad windows in place of wood windows; replacement of non-deteriorated or repairable materials such as windows or millwork; painting unpainted masonry surfaces; installation of artificial siding.

(b) In limited cases, it may be necessary to dismantle and rebuild portions of a certified historic structure to stabilize and repair weakened structural members and systems. In such cases, the SHPO shall consider such extreme intervention as part of a certified rehabilitation if:

- (1) the necessity for dismantling is justified in supporting documentation;
- (2) significant architectural features and overall design are retained; and
- (3) adequate historic materials are retained to maintain

the architectural and historic integrity of the overall structure.

The "Standards for Rehabilitation" require retention of distinguishing historic materials of external and internal walls as well as structural systems. In limited instances, rehabilitations involving removal of existing external walls, i.e., external walls that detract from the historic character of the structure such as in the case of a nonsignificant later addition or walls that have lost their structural integrity due to deterioration, may be certified as meeting the "Standards for Rehabilitation."

History Note: Authority G.S. 105-130.42; 105-151.23;  
Temporary Adoption Eff. January 1, 1998.

## TITLE 10 - DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: Social Services Commission

Rule Citation: 10 NCAC 24A .0508

Effective Date: December 8, 1997

Findings Reviewed by Beecher R. Gray: Approved

Authority for the rule-making: S.L. 1997-497

**Reason for Proposed Action:** Action to adopt temporary rules is required to insure that rules of the Social Services Commission are consistent with S.L. 1997-497. Current APA rules for recoupment of benefits do not address all programs of public assistance and do not include garnishment as a remedy. The ability to petition the court for an order of garnishment of wages is a new remedy and shall be used only after all administrative remedies have been exhausted unsuccessfully. This action is necessary because a section was added to G.S. 108A-25, which permits county departments of social services to petition the court for garnishment of wages to recoup fraudulent public assistance program payments. The law became effective December 1, 1997.

**Comment Procedures:** Anyone wishing to comment should contact Sharnese Ransome, APA Coordinator, Social Services Commission, NC Division of Social Services, 325 N. Salisbury St., Raleigh, NC 27603, phone 919/733-3055.

## CHAPTER 24 - SOCIAL SERVICES

### SUBCHAPTER 24A - GENERAL

#### SECTION .0500 - GENERAL POLICIES

#### .0508 ADVISORY TO COUNTIES REGARDING PETITION OF GARNISHMENT

The Division of Social Services shall advise county

departments of social services and consolidated human services boards of any State and federal laws and regulations that restrict the garnishment of wages to recoup a fraudulent public assistance program payment as provided in G.S. 108A-25.1.

History Note: Authority S.L. 1997-497; G.S. 108A-25.1; 143B-153;

Temporary Adoption Eff. December 8, 1997.

\*\*\*\*\*

Rule-making Agency: Social Services Commission

Rule Citation: 10 NCAC 42C .3401, .3403, .3404, .3601

Effective Date: December 8, 1997 - 10 NCAC 42C .3601; January 1, 1998 - 10 NCAC 42C .3401, .3403, .3404

Findings Reviewed and Approved by: Julian Mann, III

Authority for the rule-making: G.S. 131D-2, 131D-34, 143B-153

**Reason for Proposed Action:** Amendments required to bring current adult care home rules into compliance with changes in law enacted by the 1997 Session of the General Assembly, SL 1997-431 and 1997-522.

**Comment Procedures:** Anyone wishing to comment on these proposed rules should contact Sharnese Ransome, APA Coordinator, Social Services Commission, NC Division of Social Services, 325 N. Salisbury St., Raleigh, NC 27603, phone, 919/733-3055.

## CHAPTER 42 - INDIVIDUAL AND FAMILY SUPPORT

### SUBCHAPTER 42C - LICENSING OF FAMILY CARE HOMES

#### SECTION .3400 - LICENSING INFORMATION

#### .3401 THE LICENSE

(a) The license ~~will~~ shall be issued by the Division of Facility Services when ~~when, in the Division's judgment,~~ minimum requirements for licensing have been met under the rules of this Subchapter. ~~It— The license must~~ shall be conspicuously posted in a public place in the home.

(b) The license ~~will~~ shall be in effect for 12 months from the date of issuance unless revoked for cause, voluntarily or involuntarily terminated, or changed to provisional licensure status.

(c) A provisional license may be issued in accordance with the following: G.S. 131D-2(b).

(1) ~~A provisional license may be issued by the Division of Facility Services to a newly licensed facility or to a facility undergoing a planned change of~~



- administrator when there are minor deficiencies which would not endanger the health, safety or well-being of residents;
- (2) A provisional license may be issued to a facility when violations of the rules of this Subchapter endanger the health, safety or well-being of residents, or when the administrator fails to submit a plan of correction where lesser infractions have been cited, or when corrections have not been fully made in accordance with the administrator's approved plan of correction;
- (3) The monitoring and licensing process begins with the county department of social services citing all violations of the rules of this Subchapter and requesting the home to prepare a plan of correction. Upon approving the plan of correction, the county department of social services will monitor the home's compliance with the approved plan through follow-up visits to the home. If the planned corrections have not been made within the time agreed to by the administrator and approved by the county department of social services, the county department will immediately notify the Division of Facility Services and request its assistance in assuring compliance;
- (4) When it is alleged by the county department of social services that a facility is out of compliance with the rules of this Subchapter and that one of the conditions mentioned in Subparagraphs (c)(1) and (2) applies, the Division of Facility Services will provide written notification to the administrator of the alleged facts or alleged conduct which may warrant the issuance of a provisional license. This notice will also announce the forthcoming visit by a consultant of the Division of Facility Services to the facility to provide the administrator with an opportunity to show the home's compliance with the rules of this Subchapter;
- (5) Based on the consultant's findings regarding the alleged facts or alleged conduct which are to be shared in writing with the administrator, the Division of Facility Services may notify the administrator of the discontinuance of the plan of correction based on finding no violations, or extend the time allowed to correct the violations if there is just cause, or issue a provisional license to the home;
- (6) If a provisional license is issued, the Division of Facility Services will provide the administrator with a written notice specifying the reasons for the provisional license, the corrective action needed, the time frame and any other conditions imposed;
- (7) A provisional license may be issued for a duration of not less than 30 days nor more than 90 days. If the Division of Facility Services finds just cause for a home's failure to correct all violations within the initial time period, it may extend the provisional license an additional 30 to 90 days. Additional extensions of between 30 to 90 days may be allowed but in no case will a home be permitted to remain on extended provisional status for more than one year;
- (8) If a home has held a provisional license for one year, its license will terminate on the anniversary date of the initial issuance of the provisional license on the basis of its continued failure to comply with the rules of this Subchapter;
- (9) The administrator is responsible for notifying the Division of Facility Services through the county department of social services when it has corrected all violations. The Division of Facility Services must verify corrections within 10 working days of the notification and reissue the home's original license if corrections are confirmed;
- (10) During the time period in which a provisional license is initially issued, staff of the county department of social services and the Division of Facility Services will concentrate their efforts to provide the home with consultation and technical assistance through frequent visits to the facility and conferences with the administrator. The purposes of this contact are to aid the home in its efforts to achieve full compliance with the rules of this Subchapter, to make the home well aware of the consequences of non-compliance, and to document the home's progress toward compliance; and
- (11)(d) When a provisional license is issued, the administrator must shall post the licensure document provisional license and a copy of the notice from the Division of Facility Services identifying the reasons for it, in place of the full license.

*History Note: Authority G.S. 131D-2; 143B-153;  
Eff. January 1, 1977;  
Readopted Eff. October 31, 1977;  
Amended Eff. April 1, 1984;  
Temporary Amendment Eff. January 1, 1998.*

### .3403 TERMINATION OF LICENSE

(a) The Division of Facility Services shall take action to license will automatically terminate the license when one of the following situations exist:

- (1) change of administrator ownership of the adult care home business; or due to illness, retirement, death, personal request, or any other reason;
- (2) change of location of home; home;
- (3) sale or lease of home by administrator;
- (4) anniversary date of provisional license held continuously for one year;
- (5) required licensing renewal materials are not received by the Division of Facility Services by expiration date;
- (b) The license is not transferable or assignable.
- (c) The unexpired license shall be returned to the state

Division of Facility Services by the county department of social services with the following information:

- (1) reason for closing,
- (2) date of closing,
- (3) plans made for residents.

(d) When ~~an administrator~~ the owner of the adult care home business voluntarily closes his home, a signed statement to this effect ~~must~~ shall be submitted to the county department of social services who ~~will~~ shall immediately forward the statement to the Division of Facility Services. The ~~administrator~~ owner or his designee ~~must~~ shall give at least 30 days prior notice of the closing to the county department of social services and the residents or their responsible persons.

*History Note: Authority G.S. 131D-2; 143B-153;  
Eff. January 1, 1977;  
Readopted Eff. October 31, 1977;  
Amended Eff. July 1, 1990; April 1, 1984;  
Temporary Amendment Eff. January 1, 1998.*

#### **.3404 DENIAL AND REVOCATION OF LICENSE**

(a) A license may be denied ~~or revoked~~ by the Division of Facility Services ~~at any time~~ for substantial failure to comply with the rules of this Subchapter.

(b) ~~Denial or revocation of licensure~~ by the Division of Facility Services shall be effected by mailing to the applicant ~~or license holder~~, by registered mail, a notice setting forth the particular reasons for such action. ~~Such denial or revocation becomes effective 20 days after mailing the notice.~~

(c) A license may be revoked by the Division of Facility Services in accordance with G.S. 131D-2(b) and G.S. 131D-29.

~~(c)(d)~~ When a facility receives a notice of revocation, the administrator ~~must~~ shall inform each resident and his responsible person of the notice and the basis on which it was issued.

*History Note: Authority G.S. 131D-2; 131D-29; 143B-53;  
Eff. January 1, 1977;  
Readopted Eff. October 31, 1977;  
Amended Eff. April 1, 1984; May 1, 1981;  
Temporary Amendment Eff. January 1, 1998.*

#### **SECTION .3600 - ADMINISTRATIVE PENALTY DETERMINATION PROCESS**

##### **.3601 ADMINISTRATIVE PENALTY DETERMINATION PROCESS**

(a) The county department of social services ~~or the Division of Facility Services~~ shall identify areas of non-compliance resulting from a complaint investigation or monitoring or survey visit which may be violations of residents' rights contained in G.S. 131D-21 or rules contained in this Subchapter. If the county department of social services ~~or the Division of Facility Services~~ decides to

~~recommend an administrative penalty as defined in G.S. 131D-34; that the violation is a Type B violation as defined in G.S. 131D-34(a)(2), it shall require a plan of correction pursuant to G.S. 131D-34(a)(2). If the county department of social services or the Division of Facility Services decides that the violation is a Type A violation as defined in G.S. 131D-34(a)(1), it shall follow the procedure required in G.S. 131D-34(a)(1)(a-c) and prepare an administrative penalty proposal for submission to the Department. The proposal shall include a copy of the written confirmation required in G.S. 131D-34(a)(1)(c) and documentation that the licensee was notified of the county department of social services' or the Division of Facility Services' intent to prepare and forward an administrative penalty proposal to the Department; offered an opportunity to provide additional information prior to the preparation of the proposal; after the proposal is prepared, given a copy of the contents of the proposal; and then extended an opportunity to request a local conference with the county department of social services agency proposing the administrative penalty, allowing the licensee 10 days to respond prior to forwarding the proposal to the Department. The conference, if requested of the county department of social services, shall include the county department director or his designee, management staff. The licensee may request a conference and produce information to cause the county department of social services agency recommending the administrative penalty to change its proposal. The county department of social services agency recommending the administrative penalty may rescind its proposal; or change its proposal and submit it to the Department or submit it unchanged to the Department pursuant to G.S. 131D-34(c2).~~

(b) An assistant chief of the ~~Domiciliary and Group Care Licensure~~ Section shall receive the proposal, ~~and review it for completeness; completeness and evaluate it to determine the penalty amount.~~

- (1) If the proposal is complete, the assistant chief shall make a decision on the ~~type and~~ amount of penalty to be submitted for ~~consideration~~ consideration and whether to recommend training in lieu of an administrative penalty pursuant to G.S. 131D-34(g1).
- (2) If the proposal is incomplete, the assistant chief shall contact the ~~county department of social services to the agency that submitted the proposal~~ to request necessary changes or additional material.
- (3) When the proposal is complete and ~~a type and the~~ amount of penalty determined, the assistant chief shall forward the proposal to the administrative penalty monitor for processing. If the assistant chief recommends training in lieu of an administrative penalty pursuant to G.S. 131D-34(g1), the recommendation shall be forwarded with the proposal.

(c) The Department shall notify the licensee by certified mail within 10 working days from the time the proposal is received by the administrative penalty monitor that an



administrative penalty is being considered.

(d) The licensee shall have 10 working days from receipt of the notification to provide both the Department and the county department of social services any additional information relating to the proposed administrative penalty.

(e) If the penalty recommendation is classified as a Type B violation and is not a repeat violation as defined by G.S. 131D-34, the licensee shall be notified of the type and amount of the penalty and may accept the recommendation instead of review by the Penalty Review Committee. If the penalty recommendation is accepted, the licensee must notify the administrative penalty monitor by certified mail within five working days following receipt of the recommendation. The licensee must include payment of the penalty with the notification. If payment is not received, the recommendation shall be forwarded to the Penalty Review Committee. If a facility fails to correct a Type A or a Type B violation within the time specified on the plan of correction, an assistant chief of the Group Care Licensure Section shall make a decision on the amount of penalty pursuant to G.S. 131D-34(b)(1) and (2) and submit a penalty proposal for consideration by the Penalty Review Committee.

(f) The Penalty Review Committee must review a recommended penalty when: it is a Type A violation, is a Type B violation that has been previously cited during the previous 12 months or within the time period of the previous licensure inspection, whichever time is longer, or is a Type B violation as provided in Paragraph (e) of this Rule which is not accepted by the licensee.

(g) A subcommittee of the Penalty Review Committee consisting of four committee members assigned by the Penalty Review Committee chair shall meet to initially review non-repeat Type B violations. The Penalty Review Committee chair shall appoint the subcommittee chair and shall be an ex-officio member of the Penalty Review committee subcommittee. Providers, complainants, affected parties and any member of the public may attend this meeting. The administrative penalty monitor shall be responsible for informing parties of these meeting dates with the exception that the agency which conducted the complaint investigation shall be responsible for notifying the complainant, if any.

(h) Time shall be allowed during the Penalty Review committee subcommittee meetings for individual presentations concerning proposed penalties. The total time allowed for presentation concerning each facility, the order in which presenters shall speak and length of presentations shall be determined by the Penalty Review Committee subcommittee chair.

(i) The administrative penalty monitor shall have five working days from the meeting date to notify the facility and involved parties of penalty recommendations made by the Penalty Review Committee subcommittee with the exception that the agency which conducted the complaint investigation shall be responsible for notifying the complainant, if any. These recommendations including the vote of the Penalty Review Committee subcommittee shall be submitted for

review by the full Penalty Review Committee at a meeting scheduled for the following month.

(j)(f) The full Penalty Review Committee shall consider Type A violations and non-repeat Type A and Type B violations referred by the Penalty Review Committee subcommittee that have not been corrected within the time frame specified on the plan of correction. Providers, complainants, affected parties and any member of the public may attend full Penalty Review Committee meetings. Upon written request of any affected party for reasons of illness or schedule conflict, the department may grant a delay until the following month for Penalty Review Committee review. The Penalty Review Committee chair may ask questions of any of these persons, as resources, during the meeting. Time shall be allowed during the meeting for individual presentations which provide pertinent additional information. The order in which presenters speak and the length of each presentation shall be at the discretion of the Penalty Review Committee chair.

(k)(g) The Penalty Review Committee and the Penalty Review Committee subcommittee shall have for review the entire record relating to the penalty recommendation recommendation. The Penalty Review Committee and the Penalty Review Committee subcommittee and shall make recommendations after review of administrative penalty proposals, any supporting evidence, and any additional information submitted by the licensee as described in Paragraph (d) of this Rule that may have a bearing on the proposal such as documentation not available during the complaint investigation or monitoring or survey visit, action taken to correct the violation and plans to prevent the violation from recurring, Paragraph (d) and the factors specified in G.S. 131D-34(c).

(l)(h) There shall be no taking of sworn testimony nor or cross-examination of anyone during the course of the Penalty Review Committee subcommittee or full Penalty Review Committee meetings.

(m)(i) If the Penalty Review Committee determines that the licensee has violated applicable rules or statutes, the Penalty Review Committee shall recommend an administrative penalty type and amount for each violation pursuant to G.S. 131D-34. Recommendations for domiciliary adult care home penalties shall be submitted to the Chief of the Domiciliary and Group Care Licensure Section who shall have five working days from the date of the Penalty Review Committee meeting to determine and impose administrative penalties for each violation or require staff training pursuant to G.S. 131D-34(g1) and notify the licensee by certified mail.

(n)(j) The licensee shall have 60 days from receipt of the notification to pay the penalty or must file a petition for a contested case with the Office of Administrative Hearings within 30 days of the mailing of the notice of penalty imposition as provided by G.S. 131D-34.

*History Note: Authority G.S. 131D-2; 131D-34; 143B-153; Eff. December 1, 1992; Amended Eff. March 1, 1995; December 1, 1993; Temporary Amendment Eff. December 8, 1997.*

\*\*\*\*\*

**Rule-making Agency:** *Social Services Commission*

**Rule Citation:** *10 NCAC 42R .0201*

**Effective Date:** *December 8, 1997*

**Findings Reviewed by Beecher R. Gray:** *Approved*

**Authority for the rule-making:** *G.S. 143B-153; 1993 S.L., c. 591, s. 2(a); S.L. 1997-443*

**Reason for Proposed Action:** *The cost of providing adult day care and adult day health has increased since the last increase to the maximum rates (July 1994), therefore, the maximum rates must be increased to come closer to the provider's actual costs. The maximum rate for transportation has not been increased since the early 1980's, which has caused providers to operate at a loss when transportation is provided to participants. A separate rate is being established for adult day health services in recognition of the higher costs of providing this level of care and in order to match the rate being paid by the Division of Medical Assistance for the same service. The North Carolina General Assembly expanded the amount of SSBG/State funds available to the State Adult Day Care fund, allowing for the rate increases without reducing the numbers of clients to be served.*

**Comment Procedures:** *Anyone wishing to comment should contact Sharnese Ransome, APA Coordinator, Social Services Commission, NC Division of Social Services, 325 N. Salisbury St., Raleigh, NC 27603, phone 919/733-3055.*

## CHAPTER 42 - INDIVIDUAL AND FAMILY SUPPORT

### SUBCHAPTER 42R - ADULT DAY CARE-STATE FUND

#### SECTION .0200 - STATE ADULT DAY CARE FUND

##### .0201 NATURE AND PURPOSE OF STATE ADULT DAY CARE FUND

(a) The State Adult Day Care Fund shall be used for adult day care and adult day health services provided through county departments of social services for the purpose of enabling people to remain in or return to their own homes.

(b) The fund shall be used to increase state participation in the costs of this service

(c) The maximum rate for the purchase of adult day care

services under a vendor agreement shall not exceed five hundred dollars (\$500.00) per month, of which four hundred and fifty-five dollars (\$455.00) shall be for the purchase of daily care and forty-five dollars (\$45.00) shall be for transportation five hundred sixty-five dollars (\$565.00) per month, of which five hundred dollars (\$500.00) shall be for the purchase of daily care and sixty-five dollars (\$65.00) shall be for transportation. The maximum rate for the purchase of adult day health services under a vendor agreement shall not exceed seven hundred fifteen dollars (\$715.00) per month, of which six hundred fifty dollars (\$650.00) shall be for the purchase of daily care and sixty-five dollars (\$65.00) shall be for transportation. Adult day health services may only be purchased for an individual following a preadmission health assessment as specified in 10 NCAC 42Z .0604(b)(2) (A) and a determination that the individual needs one or more services delineated in 10 NCAC 42Z .0802 (a)(1) through (3).

*History Note: Filed as a Temporary Amendment Effective July 27, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Authority G.S. 143B-153; 1993 S.L., c. 591, s. 2(a); S.L. 1997-443; Eff. January 1, 1982; Amended Eff. December 1, 1994; July 1, 1990; Temporary Amendment Eff. December 8, 1997.*

## TITLE 13 - DEPARTMENT OF LABOR

**Rule-making Agency:** *North Carolina Department of Labor, Boiler & Pressure Vessel Division*

**Rule Citation:** *13 NCAC 13 .0213*

**Effective Date of Temporary Rule:** *December 10, 1997*

**Findings Reviewed and Approved by Julian Mann, III:**

**Authority for the rule-making:** *G.S. 95-69.11*

**Effective Date of Permanent Rule:** *August 1, 1998*

*A Public Hearing will be conducted at 10:00 a.m. on February 2, 1998 at the 4 West Edenton Street, Suite 238, Raleigh, NC.*

**Reason for Proposed Action:** *The Uniform Boiler and Pressure Vessel Act [G.S. Chapter 95, Article 7A] (the Act) charges, directs, and empowers the Commissioner of Labor and the Director of the Boiler and Pressure Vessel Division to carry out the provisions of the Act and to establish and collect reasonable fees to cover the operating expenses of the Division. This amendment to 13 NCAC 13 .0213 adjusts the fees established per the Act. The objective of the amendment is to protect public safety by ensuring that sufficient funds are available to accomplish the requirements of the Act and the*



related 13 NCAC 13 .0200 rules.

**Comment Procedures:** All interested and potentially affected persons or parties are encouraged to make their views known to the Department of Labor whether in support of or opposed to any and all provisions of this rule. Written comments, data, or other information relevant to this rule must be submitted within 30 days (February 2, 1998). Such materials may be submitted to Ms. Rane Sandy, Assistant

Deputy Commissioner for Legal Affairs. The address is 4 West Edenton St., Raleigh, NC 27601-1092 or fax (919) 715-5629.

**Fiscal Note:** This Rule does affect the expenditures or revenues of state and local government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## CHAPTER 13 - BOILER AND PRESSURE VESSEL

### SECTION .0200 - ADMINISTRATION

#### **.0213 CERTIFICATE AND INSPECTION FEES**

(a) A twenty five dollar (~~\$20.00~~) (\$25.00) certificate and processing fee for each boiler or pressure vessel inspected by an Insurance Inspector and found to be in compliance with the rules in this Chapter shall be paid to the North Carolina Department of Labor.

(b) An inspection and certificate fee shall be paid to the North Carolina Department of Labor for each boiler or pressure vessel inspected by a deputy inspector as follows:

(1) ~~External Inspection~~

(A) ~~pressure vessels ----- \$25.00;~~

(B) ~~boilers ----- \$35.00.~~

(2) ~~Internal Inspection~~

(A) ~~vessel entry not required ----- \$50.00;~~

(B) ~~vessel entry required ----- \$100.00.~~

(3) ~~Inspections performed outside of normal working hours shall be considered special inspections and the applicable fees shall apply, including the fee for working outside of normal working hours.~~

<u>Boilers - An inspection of a boiler where the heating surface is:</u>	<u>External Inspection</u>	<u>Internal Inspection</u>
<u>Less than 500 sq. ft.</u>	<u>\$40.00</u>	<u>\$70.00</u>
<u>500 or more sq. ft. but less than 5000 sq. ft.</u>	<u>\$100.00</u>	<u>\$200.00</u>
<u>5000 or more sq. ft.</u>	<u>\$250.00</u>	<u>\$400.00</u>

<u>Pressure Vessels - An inspection of a pressure vessel, other than a heat exchanger, where the product of measurement in feet of the diameter or width, multiplied by its length is:</u>	<u>External Inspection</u>	<u>Internal Inspection</u>
<u>Less than 20</u>	<u>\$30.00</u>	<u>\$35.00</u>
<u>20 or more but less than 50</u>	<u>\$40.00</u>	<u>\$50.00</u>
<u>50 or more but less than 70</u>	<u>\$70.00</u>	<u>\$100.00</u>
<u>70 or more</u>	<u>\$100.00</u>	<u>\$150.00</u>

<u>Heat Exchangers - An inspection of a heat exchanger, where the heating surface is:</u>	<u>External Inspection</u>
<u>Less than 500 sq. ft.</u>	<u>\$40.00</u>
<u>500 or more sq. ft. but less than 1000 sq. ft.</u>	<u>\$50.00</u>
<u>1000 or more sq. ft. but less than 2000 sq. ft.</u>	<u>\$75.00</u>
<u>2000 or more sq. ft. but less than 3000 sq. ft.</u>	<u>\$100.00</u>
<u>3000 or more sq. ft.</u>	<u>\$125.00</u>

**Note:** Inspections performed outside of normal working hours shall be considered special inspections and the applicable fees shall apply, including the fee for working outside of normal working hours.

(c) A fee of ~~sixty seventy~~ dollars (~~\$60.00~~) (\$70.00) per hour, including travel time, plus expenses including travel, hotel and meals shall be paid to the North Carolina Department of Labor for each special inspection [.0101(27)].

(d) A fee of two hundred ~~forty fifty~~ dollars (~~\$240.00~~) (\$250.00) per one-half day (four hours) or any part of one-half day or four hundred ~~twenty~~ dollars (~~\$400.00~~) (\$420.00) for one day (four to eight hours) plus, in either case, all expenses including travel hotel, and meals shall be paid to the North Carolina Department of Labor for each shop inspection [.0101(26)].

(e) A fee of ~~two hundred eighty three hundred~~ dollars (~~\$280.00~~) (\$300.00) per one-half day (four hours) or any part of one-half day or four hundred ~~sixty eighty~~ dollars (~~\$460.00~~) (\$480.00) for one day (four to eight hours), plus, in either case, all expenses including travel hotel, and meals shall be paid to the North Carolina Department of Labor for each nuclear inspection.

(f) A fee of three hundred ~~twenty fifty~~ dollars (~~\$320.00~~) (\$350.00) per one-half day (four hours) or any part of one-half day or five hundred ~~thirty fifty~~ dollars (~~\$530.00~~) (\$550.00) for one day (four to eight hours), plus, in either case, all expenses including travel hotel, and meals shall be paid to the North Carolina Department of Labor for audits.

(g) Fees for inspections and audits performed by the Director, his designee, or a deputy inspector outside of normal working hours or in excess of eight hours per inspection visit shall include an additional thirty dollar (\$30.00) fee per hour in addition to the normal inspection or audit fee.

(h) Printed information derived from the database for boilers and pressure vessels maintained by the Division, is available for public scrutiny. Charges for providing this service shall be payable upon receipt of invoice to the North Carolina Department of Labor. Charges for this service are as follows:

- (1) Requests for database information for which the Division has created the information selection criteria and printout format for its own use, and which can be furnished without the need for special programming will be furnished for twenty dollars (\$20.00) plus twenty-five cents (\$0.25) per page.
- (2) Requests for database information which requires special selection criteria or printout format, and which requires the need for special programming services to derive the requested information or format, will be furnished for seventy-five dollars (\$75.00) plus twenty-five cents (\$0.25) per page.

(i) Copies of inspection reports or other inspection records may be provided upon written request. Copies of these records are available for fifteen dollars (\$15.00) per request and twenty-five cents (\$0.25) per page.

*Eff. May 29, 1981;*

*Amended Eff. January 1, 1995; March 2, 1992; September 1, 1986;*

*Temporary Amendment Eff. March 11, 1997;*

*Temporary Amendment Eff. March 11, 1997 expired on December 27, 1997;*

*Temporary Amendment Eff. December 10, 1997.*

## TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

**Rule-making Agency:** *North Carolina Wildlife Resources Commission*

**Rule Citation:** *15A NCAC 10F .0311, .0333, .0360*

**Effective Date:** *January 1, 1998*

**Findings Reviewed and Approved by:** *Julian Mann, III*

**Authority for the rule-making:** *G.S. 75A-3; 75A-15*

**Reason for Proposed Action:** *Rule .0311 - The Vance County Board of Commissioners initiated the no-wake zone pursuant to G.S. 75A-15, to protect public safety in the area by restricting vessel speed. Rule .0333 - The Lake Wylie Marine Commission initiated the no-wake zone pursuant to G.S. 75A-15, to protect public safety in the area by restricting vessel speed. Rule .0360 - The Graham County Board of Commissioners initiated the no-wake zone pursuant to G.S. 75A-15, to protect public safety in the area by restricting vessel speed.*

**Comment Procedures:** *The North Carolina Wildlife Resources Commission has the authority to adopt temporary rules pursuant to S.L. 1997-0403. This temporary rule is adopted following the public hearing and public comment period established for permanent rule adoption. A public hearing was held on October 16, 1997 for the permanent rule and the record of hearing for public comment was closed on October 31, 1997. The submission for permanent rule is on file with the Rules Review Commission.*

## CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

### SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

#### SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

**.0311 GRANVILLE: VANCE AND WARREN**

*History Note: Authority G.S. 95-69.11;*



**COUNTIES**

(a) Definitions. In addition to the definitions set forth in Paragraph (b) of Rule .0301 of this Section, the following definitions shall apply in this Rule:

- (1) Corps. Corps of Engineers, United States Army;
- (2) Reservoir. John H. Kerr Reservoir in Granville, Vance and Warren Counties.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any concrete boat launching ramp located on the reservoir in said counties.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a designated mooring area established by or with the approval of the Corps on the waters of the reservoir in said counties.

(d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any designated swimming area established by or with the approval of the Corps on the waters of the reservoir in said counties.

(e) Speed Limit at Kimball Point. No person shall operate a vessel at greater than no-wake speed within 50 yards of the shoreline in the northernmost cove of the Kimball Point Recreation Area in the reservoir, such recreation area being at the western end of SR 1204 in Warren County.

(f) Speed Limit at Lower Mill Creek. No person shall operate a vessel at greater than no-wake speed beginning at a point on the eastern side of Lower Mill Creek where it intersects the North Carolina - Virginia state line, running across the creek with said state line and then running in a southerly direction on both the east and west sides of the creek to the head waters and including all waters of the creek south of the state line.

(g) Speed Limit at Kerr Lake Methodist Campground. No person shall operate a vessel at greater than no-wake speed beginning 50 yards north and ending 50 yards east of the Kerr Lake Methodist Campground.

(h)(g) Placement and Maintenance of Markers. The Corps is designated a suitable agency for placement and maintenance of markers implementing this Rule. The perimeters of designated swimming areas must be marked with float lines which, in conjunction with the shoreline, form completely enclosed areas. In addition, supplementary standards as set forth in Rule .0301(g)(2) to (7) and (9) of this Section shall apply.

*History Note: Authority G.S. 75A-3; 75A-15;*

*Eff. February 1, 1976;*

*Amended Eff. December 1, 1994; March 25, 1978;*

*Temporary Amendment Eff. January 1, 1998.*

**.0333 MECKLENBURG AND GASTON COUNTIES**

(a) Regulated Areas. This Rule applies only on that portion of the waters of Lake Wylie which lies within the boundaries of Mecklenburg and Gaston Counties and to the restricted zones indicated by Paragraphs (b), (c), (d), (e), (f), (g), (h), (i), and (j) (g) and (h) of this Rule on such waters.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat-launching ramp in Mecklenburg County.

(c) Speed Limit Near Piers. No person shall operate a vessel at greater than no-wake speed limit within 50 yards of any pier operated by Mecklenburg County for public use.

(d) Speed Limit at McDowell Park. No person shall operate a vessel at greater than no-wake speed on the waters of the coves adjoining McDowell Park and the Southwest Nature Preserve in Mecklenburg County, including the entrances to the coves on either side of Copperhead Island.

(e) Speed Limit at Gaston County Wildlife Club Cove. No person shall operate a vessel at greater than no-wake speed on the waters of the cove at the Gaston County Wildlife Club on South Point Peninsula in Gaston County.

(f) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area established in Mecklenburg County with the approval of the Executive Director, or his representative.

(g) Restricted Swimming Areas. No person operating a vessel shall permit it to enter any marked swimming area established in Mecklenburg County with the approval of the Executive Director, or his representative.

(h) Speed Limit Near Boating Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any boat launching ramp, dock, pier, marina, boat storage structure or boat service area on that part of Lake Wylie, including the South Fork River arm, which is located in Gaston County.

(i) No person shall operate a vessel at greater than no-wake speed within the area 250 feet to the north and 150 feet to the south of the Buster Boyd Bridge on Lake Wylie.

(j) Speed Limit Near Highway 27 Bridge. No person shall operate a vessel at greater than no-wake speed beginning 50 yards north of the NC 27 Bridge and extending 50 yards south of the southernmost of two railroad trestles immediately downstream from the NC 27 Bridge.

(k)(f) Placement and Maintenance of Markers. The Boards of Commissioners of Mecklenburg County and Gaston County are designated suitable agencies for placement and maintenance of markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers. With regard to marking the restricted zones indicated in this Rule, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.

*History Note: Authority G.S. 75A-3; 75A-15;*

*Eff. July 1, 1980;*

*Amended Eff. July 1, 1994; June 1, 1985; June 1, 1984; March 1, 1983;*

*Temporary Amendment Eff. January 1, 1998.*

**.0360 GRAHAM COUNTY**

(a) Regulated Area. This Rule applies to the waters and portions of waters described as follows:

## TEMPORARY RULES

---

- (1) Lake Santeetlah Boat Dock on Lake Santeetlah in Graham County.
  - (2) Entrance of Fontana Boat Dock in Fontana Lake in Graham County.
  - (3) Thomas Boat Dock on Fontana Lake in Graham County.
  - (4) Crisp's Boat Dock, Panther Creek on Fontana Lake in Graham County.
- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within 50 yards of the regulated areas as described in Paragraph (a) of this Rule.
- (c) Cheoah Point Swimming Area, Lake Santeetlah - No person shall operate a vessel within the Cheoah Point

Swimming Area which begins at the head of Cheoah Point Cove and extends to the mouth of the Cove as designated by marker buoys and float lines.

(d)(e) Placement and Maintenance of Markers. The Graham County Board of Commissioners is designated as a suitable agency for the placement and maintenance of markers implementing this Rule.

*History Note: Authority G.S. 75A-3; 75A-15;*

*Eff. May 1, 1989;*

*Amended Eff. February 1, 1996; February 1, 1994; September 1, 1989;*

*Temporary Amendment Eff. January 1, 1998.*



*This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, January 15, 1998, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, January 12, 1998, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.*

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**  
 Philip O. Redwine - Chairman  
 Jim Funderburke  
 Vernice B. Howard  
 Teresa L. Smallwood  
 David Twiddy

**Appointed by House**  
 Paul Powell - Vice Chairman  
 Mark Garside  
 Steve Rader  
 George Robinson  
 Anita White

**RULES REVIEW COMMISSION MEETING DATES**

January 15, 1998  
 February 19, 1998

March 19, 1998  
 April 15, 1998

**RULES REVIEW OBJECTIONS**

**COMMERCE**

**Community Assistance**

4 NCAC 19L .0401 - General	RRC Objection	11/20/97
4 NCAC 19L .0404 - Grant Category Allocation	RRC Objection	11/20/97
4 NCAC 19L .0505 - Selection Criteria	RRC Objection	11/20/97
4 NCAC 19L .0707 - Eligibility Requirements	RRC Objection	11/20/97
4 NCAC 19L .0708 - Selection Criteria	RRC Objection	11/20/97
4 NCAC 19L .0911 - Recordkeeping	RRC Objection	11/20/97
4 NCAC 19L .1009 - Housing Rehabilitation	RRC Objection	11/20/97
4 NCAC 19L .1011 - Lead-Based Paint	RRC Objection	11/20/97
4 NCAC 19L .1303 - Selection Criteria	RRC Objection	11/20/97
4 NCAC 19L .1703 - Selection Criteria	RRC Objection	11/20/97
4 NCAC 19L .1804 - Size of Loan Approvals	RRC Objection	11/20/97
4 NCAC 19L .1805 - Selection Criteria	RRC Objection	11/20/97

**ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

**Coastal Resources Commission**

15A NCAC 7H .1104 - General Conditions	RRC Objection	11/20/97
15A NCAC 7H .1304 - General Conditions	RRC Objection	11/20/97
15A NCAC 7H .1404 - General Conditions	RRC Objection	11/20/97
15A NCAC 7H .1504 - General Conditions	RRC Objection	11/20/97
15A NCAC 7H .1704 - General Conditions	RRC Objection	11/20/97
15A NCAC 7H .1804 - General Conditions	RRC Objection	11/20/97
15A NCAC 7H .1904 - General Conditions	RRC Objection	11/20/97
15A NCAC 7H .2004 - General Conditions	RRC Objection	11/20/97
15A NCAC 7H .2104 - General Conditions	RRC Objection	11/20/97
15A NCAC 7M .0303 - Policy Statements	RRC Objection	11/20/97

**Health Services**

15A NCAC 18A .1938 - Responsibilities	RRC Objection	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97
15A NCAC 18A .1958 - Non-Ground Absorption Sewage Treatment Systems	RRC Objection	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97

**Soil and Water Conservation**

15A NCAC 6E .0104 - Best Management Practices Eligible for Cost Share Payments	RRC Objection	10/16/97
Agency Responded	Obj. Cont'd	11/20/97
15A NCAC 6E .0105 - Cost Share and Incentive Payments	RRC Objection	10/16/97
Agency Responded	Obj. Cont'd	11/20/97

**Water Pollution Controls Systems**

15A NCAC 8F .0201 - Duties and Requirements of Owners	RRC Objection	09/18/97
No Response from Agency	Obj. Cont'd	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97
15A NCAC 8F .0203 - Duties and Requirements of an Operator in Charge	RRC Objection	09/18/97
No Response from Agency	Obj. Cont'd	10/16/97
Agency Revised Rule	RRC Objection	11/20/97

**HUMAN RESOURCES**

**Facility Services**

10 NCAC 3D .2001 - Definitions	RRC Objection	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97
10 NCAC 3D .2101 - Level I Trauma Center Criteria	RRC Objection	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97
10 NCAC 3D .2102 - Level II Trauma Center Criteria	RRC Objection	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97
10 NCAC 3D .2105 - Initial Designation Process	RRC Objection	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97
10 NCAC 3D .2106 - Renewal Designation Process	RRC Objection	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97
10 NCAC 3D .2201 - Denial, Probation, Vol. Withdrawal/Rev/Trauma Ctr Designation	RRC Objection	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97
10 NCAC 3D .2303 - Regional Trauma System Policy Development	RRC Objection	10/16/97
Agency Revised Rule	Obj. Removed	11/20/97
10 NCAC 3R .3073 - Dem/Proj/Pediatric Nursing Care Need Deter. (Review Cat. G)	RRC Objection	11/20/97
10 NCAC 3R .3074 - Home Health Agcy Off. Need Determination (Review Cat. F)	RRC Objection	11/20/97
10 NCAC 3R .3081 - Policies for Inpatient Rehabilitation Services	RRC Objection	11/20/97

**Medical Assistance**

10 NCAC 26B .0113 - NC Medicaid Criteria/Cont'd Acute Stay/Inpatient Psych. Facility		
Rule Withdrawn by Agency		09/18/97

**PUBLIC INSTRUCTION**

16 NCAC 6C .0307 - Certificate Renewal	RRC Objection	10/16/97
No Response from Agency	Obj. Cont'd	11/20/97
16 NCAC 6D .0103 - Graduation Requirements	RRC Objection	10/16/97
No Response from Agency	Obj. Cont'd	11/20/97
16 NCAC 6D .0301 - Testing Requirements and Opportunities	RRC Objection	10/16/97
No Response from Agency	Obj. Cont'd	11/20/97
16 NCAC 6G .0305 - End-of-Course Tests	RRC Objection	10/16/97
No Response from Agency	Obj. Cont'd	11/20/97
16 NCAC 6G .0306 - Testing Code of Ethics	RRC Objection	10/16/97
No Response from Agency	Obj. Cont'd	11/20/97



16 NCAC 6G .0307 - Assistance Teams

*RRC Objection*

10/16/97

*No Response from Agency*

*Obj. Cont'd*

11/20/97

16 NCAC 6G .0308 - Due Process Protections

*RRC Objection*

10/16/97

*No Response from Agency*

*Obj. Cont'd*

11/20/97

**SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS**

21 NCAC 64 .1002 - General Requirements

*RRC Objection*

11/20/97

21 NCAC 64 .1004 - Authorized Tasks of Speech-Language Pathology Assistants

*RRC Objection*

11/20/97

*This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.*

**OFFICE OF ADMINISTRATIVE HEARINGS**

*Chief Administrative Law Judge*  
**JULIAN MANN, III**

*Senior Administrative Law Judge*  
**FRED G. MORRISON JR.**

**ADMINISTRATIVE LAW JUDGES**

Brenda B. Becton  
Sammie Chess Jr.  
Beecher R. Gray

Meg Scott Phipps  
Robert Roosevelt Reilly Jr.  
Dolores O. Smith

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>ADMINISTRATION</b>				
E Edward Gambill v. Department of Administration	97 DOA 0364	Reilly	09/10/97	
<b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b>				
Michael's Mini Mart v. Alcoholic Beverage Control Commission	92 ABC 1601	Gray	08/18/97	
Everette Craig Hornbuckle v. Alcoholic Beverage Control Commission	93 ABC 0987	Gray	08/18/97	
Saleh Ahmed Ali Futhah v. Alcoholic Beverage Control Commission	94 ABC 0264	Gray	08/18/97	
Carolyn T. Ray v. Alcoholic Beverage Control Commission	95 ABC 0429	Gray	09/23/97	
Alcoholic Beverage Control Commission v. Fast Fare, Inc.	96 ABC 0483	Morrison	06/18/97	
Alcoholic Beverage Control Commission v. Mendoza Enterprises, Inc.	96 ABC 1196	Gray	08/26/97	
Paul Tyler IV Enterprises, Inc., Alpha Vinson T/A Mirrors (Sid's Showgirls) v. Alcoholic Beverage Control Commission	96 ABC 1804	Morrison	09/29/97	
and City of Goldsboro and Gurnan Khera				
George Robert Scott v. Alcoholic Beverage Control Commission	96 ABC 1995	Reilly	12/05/97	
Nasar Sader v. Alcoholic Beverage Control Commission	97 ABC 0030	Phipps	10/08/97	
Alcoholic Beverage Control Commission v. Paradise Landing, Inc.	97 ABC 0031	Gray	06/13/97	
OFFISS, Inc. v. Alcoholic Beverage Control Commission	97 ABC 0118	Gray	09/17/97	
Alcoholic Beverage Control Commission v. Altaf Hussain	97 ABC 0312	Mann	07/29/97	
Alcoholic Beverage Control Commission v. Robert Johnson	97 ABC 0321	Gray	08/25/97	
Alcoholic Beverage Control Commission v. Masonboro County Store, Inc.	97 ABC 0432	Reilly	09/09/97	
Daniel Gary Ledbetter v. Alcoholic Beverage Control Commission	97 ABC 0443	Gray	07/08/97	
Alcoholic Beverage Control Comm. v. Raymond Lee	97 ABC 0488	Smith	10/30/97	
Alcoholic Beverage Control Comm. v. Percy Daniel Bowen	97 ABC 0495	Morrison	09/24/97	
Alcoholic Beverage Control Commission v. Bridgette Dee Williams	97 ABC 0576	Phipps	09/04/97	
Alcoholic Beverage Control Commission v. Westside Tavern, Inc.	97 ABC 0586	Phipps	09/17/97	
Alcoholic Beverage Control Commission v. Grove Park Inn Resort, Inc.	97 ABC 0706	Morrison	09/15/97	12:07 NCR 609
Sunset Enterprises, Inc. v. Alcoholic Beverage Control Commission	97 ABC 0846	Gray	12/10/97	
Alcoholic Beverage Control Commission v. Kimberly Loette Hankins	97 ABC 0897	Gray	10/06/97	
<b>CORRECTION</b>				
David M. Boone v. Correction, Div. of Prison Admin Remedy Procedure	97 DOC 0534	Morrison	06/16/97	
<b>CRIME CONTROL AND PUBLIC SAFETY</b>				
Della Sherrod v. Crime Victims Compensation Commission	96 CPS 0300	Chess	07/18/97	
Mary A. Kearney v. CPS, Victims Compensation Commission	96 CPS 2033	Becton	09/26/97	
Mae Allen Murray v. Crime Victims Compensation Commission	96 CPS 2110	Chess	10/31/97	
Beverly McLaughlin v. Crime Victims Compensation Commission	97 CPS 0170	Phipps	08/29/97	
Malcolm W. Fields v. Crime Victims Compensation Commission	97 CPS 0360	Chess	09/12/97	
Rodney P. Hodge v. Crime Victims Compensation Commission	97 CPS 0449	Reilly	07/01/97	



# CONTESTED CASE DECISIONS

AGENCY	CASE NUMBER	ALJ	DATE OF DECISION	PUBLISHED DECISION REGISTER CITATION
Billy Steen v. Crime Victims Compensation Commission	97 CPS 0472	Morrison	07/23/97	
Clifford R. Pulley v. Crime Victims Compensation Commission	97 CPS 0523	Gray	08/06/97	
Curtis Jermaine Newkirk v. Crime Victims Compensation Commission	97 CPS 0645	Morrison	10/03/97	
Huston Christopher Mason v. Victims Compensation Commission	97 CPS 0691	Becton	12/04/97	
Gregory Bynum v. Crime Victims Compensation Commission	97 CPS 0901	Reilly	10/16/97	
Lisa S. Snead v. Crime Victims Compensation Commission	97 CPS 1025	Reilly	11/10/97	
Robert T. Blakeney v. Office of Administrative Hearings	97 CPS 1187	Becton	11/07/97	
Connie Cowan v. Crime Victims Compensation Commission	97 CPS 1214	Becton	12/03/97	
<b>ENVIRONMENT, HEALTH, AND NATURAL RESOURCES</b>				
Herbert C. Avery v. Environment, Health, and Natural Resources	96 EHR 0161	Chess	09/23/97	
Linda Collie v. Lenoir County Health Department	96 EHR 0264	Becton	07/16/97	
Leroy Anderson v. County of Moore Department of Health	96 EHR 1969	Morrison	07/15/97	12:03 NCR 223
E.H. Garner v. New Hanover Health Department	96 EHR 1972	Gray	08/07/97	
Peter D. McDowell, Sr. v. New Hanover Health Department	96 EHR 2075	Gray	08/07/97	
Dowell Gray v. Department of Environment and Natural Resources and Onslow County Department of Health	97 EHR 0195*27	Gray	12/01/97	12:13 NCR 1222
Riggings Homeowners Assoc. Inc. v. Environment, Health, & Natural Res.	97 EHR 0263	Reilly	08/13/97	
John Ronald Taylor v. Environment, Health, & Natural Resources	97 EHR 0275	Reilly	06/09/97	
Rick Parker v. Pitt County Health Dept./Mr. Ernie Nichols	97 EHR 0470	Phipps	07/01/97	
James R. Melvin v. Environment and Natural Resources	97 EHR 0682	Phipps	09/23/97	
Lee A. Riggs v. Craven County Health Department	97 EHR 0851	Becton	10/02/97	
Robert E. Cahoon v. Carteret County Health Department	97 EHR 0878	Becton	09/30/97	
John Martin v. Environment, Health, and Natural Resources	97 EHR 0993*21	Phipps	10/13/97	
John Martin v. Environment, Health, and Natural Resources	97 EHR 0994*21	Phipps	10/13/97	
Rachel S. Tugwell v. Environment, Health and Natural Resources	97 EHR 1086	Becton	12/03/97	
Gilbert T. Davis, Jr. v. Forsyth County Environmental Affairs Dept.	97 EHR 1281	Smith	11/10/97	
<b>Land Resources</b>				
James H. Lowdermilk & J. Wayne Lowdermilk v. EHNHR, Land Res.	96 EHR 0745	Gray	10/30/97	
Charles G. Smith v. EHNHR, Division of Land Resources	96 EHR 0855	Gray	10/30/97	
Henry Yancey Ingram, II & Hope Fanning Ingram v. EHNHR, Land Res.	96 EHR 0908	Gray	10/30/97	
<b>Environmental Management</b>				
Henry G. Dail, Dail Brothers v. EHNHR, Environmental Management	96 EHR 2104	Gray	08/27/97	
<b>Marine Fisheries</b>				
John A. Trahan v. EHNHR, Division of Marine Fisheries	97 EHR 0400	Chess	10/30/97	
<b>Maternal and Child Health</b>				
Evan's Mini Mart v. EHNHR, Maternal & Child Health, Nutrition Svcs Sec.	97 EHR 0599	Phipps	07/14/97	
<b>Solid Waste Management</b>				
Loie J. Priddy v. Division of Solid Waste Management, EHNHR	96 EHR 1838	Morrison	06/20/97	12:02 NCR 103
<b>Water Quality</b>				
Castle Hayne Steering Committee v. EHNHR, Division of Water Quality and New Hanover County Water and Sewer District	96 EHR 1731	Mann	06/30/97	
RAYCO Utilities, Inc., Briarwood WWTP v. EHNHR, Div. of Water Quality	97 EHR 0018	Chess	09/12/97	
RAYCO Utilities, Inc., Greystone Forrest WWTP v. EHNHR, Water Quality	97 EHR 0412	Smith	10/29/97	
RAYCO Utilities, Inc., Melbille Heights MHP and RAYCO Utilities, Inc., Penman Heights MHP v. EHNHR, Water Quality	97 EHR 0643*22	Smith	10/29/97	
RAYCO Utilities, Inc., Melbille Heights MHP and RAYCO Utilities, Inc., Penman Heights MHP v. EHNHR, Water Quality	97 EHR 0644*22	Smith	10/29/97	
<b>HUMAN RESOURCES</b>				
Sampson Health Care Facilities Inc. v. Dept. of Health & Human Services	96 DHR 0535	Reilly	11/06/97	
John & Veronica Spearman v. Department of Human Resources	96 DHR 1543	Chess	09/12/97	
New Beginnings Christian Academy v. Department of Human Resources	96 DHR 1925	Reilly	08/22/97	
Cindy G. Geho v. Office of Administrative Hearings, R. Marcus Lodge	97 DHR 0286	Chess	07/23/97	
Helen Wyman v. Department of Human Resources	97 DHR 0407	Reilly	08/08/97	
DeRothea G. Williams d/b/a Dee Williams & Company, a proprietorship v. Buncombe County Partnership for Children, Inc., a NC Nonprofit Corp.; NC Department of Human Resources [Division of Child Development]; NC Department of Environment, Health, and Natural Resources [Division of Maternal and Child Health]	97 DHR 0424	Morrison	09/22/97	
Lorraine M. Monroe v. Department of Human Resources	97 DHR 0540	Gray	10/30/97	
Linda Rouse Sharp v. Department of Human Resources	97 DHR 0610	Mann	08/28/97	
Ocelee Gibson v. Department of Human Resources	97 DHR 0658	Reilly	07/22/97	
Larry Patton v. Department of Human Resources	97 DHR 0829	Phipps	10/17/97	

# CONTESTED CASE DECISIONS

AGENCY	CASE NUMBER	ALJ	DATE OF DECISION	PUBLISHED DECISION REGISTER CITATION
Rita Faircloth v. Department of Human Resources	97 DHR 0900	Reilly	08/15/97	
<i>Division of Child Development</i>				
New Hanover Cty. Comm. Action v. DHR, Division of Child Development	97 DHR 0921	Phipps	09/10/97	
Cindy G. Geho v. Human Resources, Division of Child Development	97 DHR 0966	Phipps	08/29/97	
<i>Division of Facility Services</i>				
Ava McKinney v. DHR, Division of Facility Services	96 DHR 2061	Chess	07/08/97	
Mercy Egbuleonu v. DHR, Facility Svcs, Health Care Personnel Reg. Sec.	97 DHR 0172	Becton	07/16/97	
Mercy Egbuleonu v. Human Resources, Division of Facility Services	97 DHR 0450	Gray	09/02/97	
Kizzie Cooper v. DHR, Facility Svcs, Health Care Personnel Registry Sec.	97 DHR 0459	Phipps	06/09/97	
Maggie J. Barnhill v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0465	Gray	07/30/97	
Emma Faison v. DHR, Division of Facility Services	97 DHR 0471	Gray	07/15/97	
Eugene Donald Caldwell v. DHR, Division of Facility Services	97 DHR 0480	Gray	10/10/97	
Patricia Addison v. DHR, Facility Svcs, Health Care Personnel Reg. Sec.	97 DHR 0521	Mann	07/25/97	
Selena Louise Holley v. DHR, Facility Svcs, Health Care Persl. Reg. Sec.	97 DHR 0524	Phipps	08/28/97	
Shirley Ebron v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0528	Gray	10/02/97	
Claudia K. Thomerson v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0551	Chess	07/15/97	
Janice Ann McClinton v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0558	Creech	10/17/97	
Michelle R. Griffin v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0559	Gray	07/30/97	
Deborah L. McBurnie v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0608	Chess	09/02/97	
Kelly M. Poole v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0629	Chess	09/02/97	
Debbie Williams v. DHR, Fac. Svcs., Health Care Pers. Reg. Sec.	97 DHR 0630	Gray	10/01/97	
Therese Victoria Wilson v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 0632	Phipps	08/25/97	
Notisha Utley v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 0646	Phipps	09/26/97	
Helen T. Shokoti v. Human Resources, Division of Facility Services	97 DHR 0653	Chess	08/20/97	
Jeri L. Anderson v. Human Resources, Division of Facility Services	97 DHR 0659	Gray	08/19/97	
Susie A. Milsap v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0667	Phipps	08/25/97	
Glenda Christine Taylor v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0681	Gray	08/29/97	
Maple Heights Rest Home, Inc. v. DHR, Division of Facility Services	97 DHR 0717	Reilly	10/16/97	
Lisa Bullard v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0721	Chess	10/09/97	
Angela D. Johnson v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0723	Chess	08/06/97	
Cressie D. Mears v. DHR, Division of Facility Services	97 DHR 0793	Chess	08/21/97	
Marie Emma Wimbush v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0797	Phipps	08/25/97	
Himmeler Desvarieux v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 0818	Gray	10/24/97	
Tamara Green v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 0824	Becton	09/29/97	
Toni Washington v. DHR, Division of Facility Services	97 DHR 0847	Phipps	12/10/97	
Debra Burleson v. DHR, Division of Facility Services	97 DHR 0904	Phipps	12/11/97	
Jean Rossman v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0908	Smith	09/02/97	
Michelle McMahan v. DHR, Division of Facility Services	97 DHR 0915*28	Mann	11/13/97	
Brenda Faye Harris v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0938	Morrison	10/03/97	
Michelle McMahan v. DHR, Division of Facility Services	97 DHR 0960*28	Mann	11/13/97	
Lorena Barbour v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 0999	Phipps	09/11/97	
Angela Mae Whited v. DHR, Division of Facility Services	97 DHR 1029	Becton	12/10/97	
Vitina Cockrane v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 1066	Chess	10/15/97	
Mary Susan McLean v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 1091	Morrison	10/21/97	
Doris J. Daniels v. DHR, Fac. Svcs, Health Care Pers. Reg. Sec.	97 DHR 1126	Gray	10/27/97	
Robin Leigh Robinson v. DHR, Facility Svcs, Health Care Pers. Reg. Sec.	97 DHR 1169	Phipps	10/31/97	
<i>Certificate of Need Section</i>				
Carolina Imaging, Inc/Fayetteville v. DHR, Facility Svcs, Cert/Need Sec. and Cumberland Cty Hospital System, Inc., d/b/a Cape Fear Valley Med. Ctr.	96 DHR 1570	Phipps	06/24/97	12:02 NCR 95
<i>Group Licensure Section</i>				
Jeffreys Family Care #2 v. DHR, Facility Svcs Group Licensure Section	97 DHR 0259	Mann	06/17/97	
<i>Division of Medical Assistance</i>				
Dillardys Renee Stover v. DHR, Division of Medical Assistance	97 DHR 0560	Mann	09/16/97	
Bettye Parson/Tambra Parson v. DHR, Div. of Medical Assistance	97 DHR 0656	Becton	08/12/97	
Robert D. & Ronda M. Staton v. DHR, Div. of Medical Assistance	97 DHR 0660	Smith	09/05/97	
<i>Division of Social Services</i>				
<i>Child Support Enforcement Section</i>				
Dale P. Sprinkle v. Guilford Child Support Agency, Human Resources	96 CRA 1171	Gray	08/13/97	
Steven Van Linker v. Department of Human Resources	96 CRA 1250*2	Becton	07/11/97	
Michael R. Bryant v. Department of Human Resources	96 CRA 1252	Phipps	08/11/97	
David Lee Chamblee Jr. v. Department of Human Resources	96 CRA 1281	Morrison	06/16/97	
John W. Scott v. Department of Human Resources	96 CRA 1287	Becton	10/09/97	
Michael T. Swann v. Department of Human Resources	96 CRA 1326	Chess	06/04/97	
Ted Wayne Lamb v. Department of Human Resources	96 CRA 1359	Gray	07/10/97	
Jeffrey Grainger v. Department of Human Resources	96 CRA 1376	Reilly	08/14/97	
Tollie Woods v. Department of Human Resources	96 CRA 1348*8	Morrison	08/04/97	
Fred Edward Stafford v. Department of Human Resources	96 CRA 1407*18	Reilly	08/21/97	
Joseph R. Grooms Jr v. Department of Human Resources	96 CRA 1434	Phipps	11/18/97	



# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
David N. Jarrett v. Department of Human Resources	96 CRA 1438	Morrison	07/10/97	
Warren S. Olson v. Department of Human Resources	96 CRA 1440	Phipps	09/09/97	
Stanley A. Watson v. Department of Human Resources	96 CRA 1448* <sup>19</sup>	Reilly	08/21/97	
Michael A. Isom v. Department of Human Resources	96 CRA 1450	Becton	07/11/97	
Rafael L. Garcia v. Department of Human Resources	96 CRA 1451	Becton	09/11/97	
Justin M. Woazeah, Sr. v. Department of Human Resources	96 CRA 1452* <sup>9</sup>	Chess	07/22/97	
Johnny R. Holden v. Department of Human Resources	96 CRA 1463	Mann	10/16/97	
Calvin F. Mizelle v. Department of Human Resources	96 CRA 1476	Chess	07/07/97	
Tommy Lee Clark v. Department of Human Resources	96 CRA 1477	Phipps	08/13/97	
Ander L. Garfield v. Department of Human Resources	96 CRA 1479* <sup>3</sup>	Morrison	07/15/97	
Clarence O. Rains v. Department of Human Resources	96 CRA 1482	Reilly	08/21/97	
Jeremy Baker v. Department of Human Resources	96 CRA 1491* <sup>20</sup>	Smith	09/05/97	
William T. Harris v. Department of Human Resources	96 CRA 1492	Mann	11/18/97	
Hal C. Morgan, Jr. v. Department of Human Resources	96 CRA 1500	Smith	09/05/97	
Paul S. Cloninger v. Department of Human Resources	96 CRA 1502	Becton	09/11/97	
Edward Stuteville v. Department of Human Resources	96 CRA 1507* <sup>13</sup>	Mann	08/13/97	
Tony Peterson, Jr. v. Department of Human Resources	96 CRA 1513	Gray	10/02/97	
Lee G. Sanders Jr. v. Department of Human Resources	96 CRA 1515	Reilly	09/11/97	
David Fraizer v. Department of Human Resources	96 CRA 1519* <sup>10</sup>	Chess	07/18/97	
David Fraizer v. Department of Human Resources	96 CRA 1520* <sup>10</sup>	Chess	07/18/97	
David Hobson v. Department of Human Resources	96 CRA 1522* <sup>11</sup>	Phipps	07/24/97	
Christopher A. Abney v. Department of Human Resources	96 CRA 1551	Reilly	12/08/97	
John T. Spidell v. Department of Human Resources	96 CRA 1567	Smith	09/05/97	
Robert M. Starling, Sr. v. Department of Human Resources	96 CRA 1598* <sup>25</sup>	Chess	11/03/97	
Craig Venson v. Department of Human Resources	96 CRA 1647	Morrison	12/03/97	
David Scott Jordan v. Department of Human Resources	96 CRA 1673	Reilly	07/18/97	
Lee R. Jones v. Department of Human Resources	96 CRA 1720* <sup>4</sup>	Phipps	07/10/97	
Cecil Hall v. Department of Human Resources	96 CRA 1749* <sup>5</sup>	Mann	07/10/97	
Neil G. McGilberry v. Department of Human Resources	96 CRA 1767* <sup>6</sup>	Becton	07/15/97	
Gregory S. Wolbert v. Department of Human Resources	96 CRA 1782	Mann	11/18/97	
William E. Daley Jr. v. Wake County Child Support Enforcement	96 CRA 1789	Reilly	09/25/97	
Dennis Larson v. Department of Human Resources	96 CRA 1793	Chess	06/17/97	
Eric L. Harrington v. Department of Human Resources	96 CRA 1794	Mann	07/19/97	
Paul F. Gangemi, Sr. v. Department of Human Resources	96 CRA 1809	Gray	08/13/97	
Scott M. Rodriguez v. Department of Human Resources	96 CRA 1818* <sup>1</sup>	Gray	06/25/97	
James Withers v. Department of Human Resources	96 CRA 1820	Reilly	07/24/97	
Evalina R. Oxendine v. Department of Human Resources	96 CRA 1825	Gray	09/10/97	
Phillip R. Banner v. Department of Human Resources	96 CRA 1826* <sup>21</sup>	Gray	09/24/97	
Brian K. Norfleet v. Craven County Child Support Office	96 CRA 1846	Phipps	10/02/97	
Richard H. Reist v. Department of Human Resources	96 CRA 1859	Reilly	10/21/97	
Patrick Orlando Crump v. Department of Human Resources	96 CRA 1866* <sup>14</sup>	Gray	08/18/97	
Ronald L. Hadley v. Department of Human Resources	96 CRA 1892	Reilly	07/18/97	
Garland M. Jessup v. Guilford County Child Support Enforcement	96 CRA 1898	Becton	07/11/97	
Anthony LeMar III v. Department of Human Resources	96 CRA 1905	Smith	09/05/97	
Michael A. Norman v. Department of Human Resources	96 CRA 1915	Gray	09/24/97	
Walter Hawk v. Department of Human Resources	96 CRA 1943	Phipps	08/13/97	
Kevin L. Combs v. Department of Human Resources	96 CRA 1948	Reilly	12/08/97	
Johnny Lewis Fields v. Department of Human Resources	96 CRA 2085* <sup>22</sup>	Smith	10/02/97	
Roger G. Foster v. Department of Human Resources	97 CRA 0043	Phipps	06/19/97	
Charlie T. Smith v. Department of Human Resources	97 CRA 0280	Reilly	06/16/97	
Joseph Davis v. Department of Human Resources	97 CRA 0436* <sup>15</sup>	Phipps	08/11/97	
Joseph Michael Eubanks v. Department of Human Resources	97 CRA 0477	Reilly	07/18/97	
Vonzell Barker v. Department of Human Resources	97 CRA 0620	Becton	08/12/97	
Charles F. King v. Department of Human Resources	97 CRA 0720	Reilly	07/30/97	
A.C. Nash v. Department of Human Resources	97 CRA 0788	Gray	09/10/97	
Curtis Bristol Self v. Department of Human Resources	97 CRA 0974	Mann	11/19/97	
Ronald Alton Neal v. Department of Human Resources	97 CRA 1020	Becton	10/23/97	
Danny Ray Carr v. Department of Human Resources	97 CRA 1160	Reilly	12/08/97	
Kenneth A. Ingle v. Department of Human Resources	97 CRA 1714	Chess	09/25/97	
Norman L. Gatewood v. Department of Human Resources	96 CSE 0484	Chess	09/23/97	
Larie Bolton v. Department of Human Resources	96 CSE 1220	Reilly	08/21/97	
Monty G. Cox v. Randolph County Child Support Enforcement Agency	96 CSE 1235* <sup>16</sup>	Becton	08/12/97	
Steven Van Linker v. Department of Human Resources	96 CSE 1249* <sup>2</sup>	Becton	07/11/97	
Barry Tukes Sr. v. C.S.E.	96 CSE 1277	Mann	07/01/97	
Monty G. Cox v. Randolph County Child Support Enforcement Agency	96 CSE 1278* <sup>16</sup>	Becton	08/12/97	
Harriet Tolson v. Department of Human Resources	96 CSE 1280	Reilly	08/21/97	
John W. Scott v. Department of Human Resources	96 CSE 1286	Becton	10/09/97	
Edgar C. Lewis, Jr. v. Department of Human Resources	96 CSE 1299	Mann	08/20/97	
Willie L. Berry v. Department of Human Resources	96 CSE 1319	Gray	06/25/97	
Tony Orlando Steele v. Department of Human Resources	96 CSE 1337	Mann	06/30/97	

Consolidated Cases.

# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Carl Locklear v. Department of Human Resources	96 CSE 1338	Mann	07/07/97	
Tollie Woods v. Department of Human Resources	96 CSE 1340*8	Morrison	08/04/97	
James Earl McLellan v. Department of Human Resources	96 CSE 1358	Mann	10/16/97	
Charles L. Raynor v. Department of Human Resources	96 CSE 1382	Becton	07/11/97	
Robert Walker v. Intercept Tax Refunds	96 CSE 1384	Morrison	07/24/97	
Chris M. Wilson v. Department of Human Resources	96 CSE 1403	Morrison	09/25/97	
Fred Edward Stafford v. Department of Human Resources	96 CSE 1406*18	Reilly	08/21/97	
Richard K. Blisard v. Department of Human Resources	96 CSE 1446	Mann	10/22/97	
Stanley A. Watson v. Department of Human Resources	96 CSE 1449*19	Reilly	08/21/97	
Justin M. Woazeah, Sr. v. Department of Human Resources	96 CSE 1453*9	Chess	07/22/97	
William A. Underhill v. Department of Human Resources	96 CSE 1455	Mann	07/18/97	
Almiron J. Deis v. Department of Human Resources	96 CSE 1456	Gray	06/25/97	
Jeremy Baker v. Department of Human Resources	96 CSE 1460*20	Smith	09/05/97	
Alfred Clinton Springs v. Department of Human Resources	96 CSE 1473	Reilly	08/21/97	
Ander L. Garfield v. Department of Human Resources	96 CSE 1480*3	Morrison	07/15/97	
Ulysses Harris v. Nash County Child Support Office and Human Resources	96 CSE 1488	Becton	10/14/97	
Edward Stuteville v. Department of Human Resources	96 CSE 1508*13	Mann	08/13/97	
Gerald A. Jones v. Department of Human Resources	96 CSE 1512	Becton	09/11/97	
David Hobson v. Department of Human Resources	96 CSE 1521*11	Phipps	07/24/97	
Gregory D. Simpson v. Department of Human Resources	96 CSE 1527	Reilly	06/25/97	
Carl E. Coffey v. Department of Human Resources	96 CSE 1528	Reilly	09/24/97	
Donald Ray Archie v. Department of Human Resources	96 CSE 1558	Becton	07/11/97	
John T. Spidell v. Department of Human Resources	96 CSE 1566	Smith	09/05/97	
John W. Liverman v. Department of Human Resources	96 CSE 1568	Becton	07/11/97	
John H. Hale, Jr. v. Department of Human Resources	96 CSE 1573	Mann	10/22/97	
Vincent L. Martin v. Department of Human Resources	96 CSE 1574	Gray	08/04/97	
Harlie Leonard Hardison v. Department of Human Resources	96 CSE 1578	Becton	08/25/97	
Alton Washington v. DHR and Robeson County Child Support Enf. Agcy.	96 CSE 1597	Becton	10/13/97	
Robert M. Starling, Sr. v. Department of Human Resources	96 CSE 1605*25	Chess	11/03/97	
David Fraizer v. Department of Human Resources	96 CSE 1610*10	Chess	07/18/97	
Golet Holloway, Jr. v. Department of Human Resources	96 CSE 1611	Becton	07/11/97	
Jeffrey Pierce v. Department of Human Resources	96 CSE 1613	Mann	06/30/97	
Patrick Orlando Crump v. Department of Human Resources	96 CSE 1614*14	Gray	08/18/97	
Crystal Lynn Manring-Robertson v. Forsyth County CSE, DSS & DHR	96 CSE 1619	Becton	10/13/97	
William C. Rivera v. Department of Human Resources	96 CSE 1622	Mann	06/18/97	
David L. Smith v. DHR, DSS, CSE and Sampson County CSE	96 CSE 1639	Becton	10/13/97	
Lenora McCracken v. Department of Human Resources	96 CSE 1644	Mann	06/30/97	
Donald Lee Rodgers Sr. v. Rowan County CSE, DHR, DSS, CSE	96 CSE 1667	Becton	10/13/97	
Derrick Sturdivant v. Department of Human Resources	96 CSE 1672	Chess	10/09/97	
Clyde Williams v. DHR, DSS, CSE, and Pitt County CSE	96 CSE 1688	Becton	10/13/97	
Lee R. Jones v. Department of Human Resources	96 CSE 1719*4	Phipps	07/10/97	
Cecil Hall v. Department of Human Resources	96 CSE 1750*5	Mann	07/10/97	
Gregory Melton v. Department of Human Resources	96 CSE 1764	Morrison	09/17/97	
Neil G. McGilberry v. Department of Human Resources	96 CSE 1766*6	Becton	07/15/97	
Devin J. Bello v. Department of Human Resources	96 CSE 1774	Phipps	07/16/97	
Phillip R. Banner v. Department of Human Resources	96 CSE 1802*21	Gray	09/24/97	
Scott M. Rodriguez v. Department of Human Resources	96 CSE 1817*1	Gray	06/25/97	
James Withers v. Department of Human Resources	96 CSE 1821	Reilly	08/21/97	
David M. Greene v. Buncombe County CSE and DHR, DSS, CSE	96 CSE 1844	Becton	10/06/97	
Jarmarie Arnold v. Department of Human Resources	96 CSE 1853	Becton	10/14/97	
Sean Heitz v. Department of Human Resources	96 CSE 1909	Chess	07/22/97	
Nathan S. Lockhart Sr. v. Department of Human Resources	96 CSE 1910	Phipps	07/16/97	
Scott James Petrill v. Department of Human Resources	96 CSE 1914	Morrison	07/30/97	
Daniel E. Carpenter v. Department of Human Resources	96 CSE 1917*12	Phipps	07/25/97	
Daniel D. Morse v. Department of Human Resources	96 CSE 1942	Chess	08/19/97	
Daryl E. Shankle v. Child Support Enforcement Agency	96 CSE 1977	Becton	07/11/97	
Jeffrey William Strama v. Department of Human Resources	96 CSE 2043	Becton	07/11/97	
Joseph Fernandez v. Department of Human Resources	96 CSE 2066	Chess	08/21/97	
Johnny Lewis Fields v. Department of Human Resources	96 CSE 2084*22	Smith	10/02/97	
Alfred Covington v. DHR, DSS, CSE and Burke County CSE	96 CSE 2086	Becton	10/06/97	
Tommy L. Hines Sr. v. Forsyth County Child Support Enforcement	97 CSE 0015	Reilly	07/18/97	
Kelvin Cherry v. DHR, DSS, CSE, Durham Cty CSE and Wake Cty CSE	97 CSE 0027	Becton	10/13/97	
Irvan Jemal Fontenot v. Department of Human Resources	97 CSE 0223	Becton	07/11/97	
Pearlie Blakney v. Department of Human Resources	97 CSE 0254	Phipps	07/24/97	
Leroy Grooms v. Department of Human Resources	97 CSE 0258*7	Becton	07/18/97	
Sarah Chambers v. Department of Human Resources	97 CSE 0278	Morrison	06/16/97	
Leroy Grooms v. Department of Human Resources	97 CSE 0297*7	Becton	07/18/97	
Pedro Baltazar Jacobo v. Department of Human Resources	97 CSE 0339	Mann	10/22/97	
Theodore McCleese v. Department of Human Resources	97 CSE 0353	Morrison	08/05/97	
Gertru Jefferson Ward v. Department of Human Resources	97 CSE 0381	Chess	08/22/97	
James Allen Harris v. Department of Human Resources	97 CSE 0401	Mann	10/16/97	
John C. Henderson v. Department of Human Resources	97 CSE 0408	Smith	09/05/97	
William A. Rogers v. Department of Human Resources	97 CSE 0410	Gray	06/25/97	
Mark R. Kearney v. Department of Human Resources	97 CSE 0417	Reilly	08/07/97	



<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Michael J. Powell v. Department of Human Resources	97 CSE 0418	Becton	08/12/97	
Joseph Davis v. Department of Human Resources	97 CSE 0435*15	Phipps	08/11/97	
James G. Davis v. Department of Human Resources	97 CSE 0448	Gray	07/28/97	
Randy Gavurnik v. Department of Human Resources	97 CSE 0454	Morrison	08/04/97	
Curtis Leon Mock v. Department of Human Resources	97 CSE 0490	Mann	06/17/97	
Daniel E. Carpenter v. Department of Human Resources	97 CSE 0501*12	Phipps	07/25/97	
Juan L. Allen v. Department of Human Resources	97 CSE 0550	Smith	09/05/97	
Donald Mac Tipton v. Department of Human Resources	97 CSE 0564	Gray	09/15/97	
Guy R. Auger v. Brunswick County Child Support Enforcement	97 CSE 0600	Morrison	07/18/97	
Andrew J. Hough v. Department of Human Resources	97 CSE 0615	Reilly	08/21/97	
Michael V. Dockery v. Department of Human Resources	97 CSE 0642	Mann	10/03/97	
William Irving Commodore v. Department of Human Resources	97 CSE 0671	Mann	10/03/97	
David F. Norman v. Department of Human Resources	97 CSE 0672	Gray	07/28/97	
Richmond P. Lambert III v. Department of Human Resources	97 CSE 0712	Morrison	10/06/97	
Carvin Ray Burris v. Department of Human Resources	97 CSE 0751	Becton	09/11/97	
Mar F. Jones v. Department of Human Resources	97 CSE 0777	Phipps	08/28/97	
Sharon S. Chappell v. Department of Human Resources	97 CSE 0789	Morrison	12/04/97	
Denis J. Quinn v. Department of Human Resources	97 CSE 0794	Reilly	09/24/97	
Franklin DeAngelo Staten v. Department of Human Resources	97 CSE 0822	Morrison	11/06/97	
Steve E. Young v. Department of Human Resources	97 CSE 0876	Mann	12/04/97	
James Alan Letchworth v. Department of Human Resources	97 CSE 0919	Reilly	12/08/97	
Nathaniel D. Carter v. Department of Human Resources	97 CSE 0931	Smith	09/25/97	
Dennis W. Clowers v. Department of Human Resources	97 CSE 0944	Becton	09/11/97	
Tracy A. Merrill v. Department of Human Resources	97 CSE 0947	Phipps	11/18/97	
Randy Shaw v. Department of Human Resources	97 CSE 0981	Gray	12/11/97	
Daniel J. McDowell v. Department of Human Resources	97 CSE 0984	Morrison	09/10/97	
Enrico Phineas Acher v. Department of Human Resources	97 CSE 0990	Reilly	11/05/97	
Roger Waldren v. Department of Human Resources	97 CSE 1042	Chess	10/13/97	
Randy Allen Vore v. Department of Human Resources	97 CSE 1071	Mann	10/07/97	
Ramona G. Garrett v. Department of Human Resources	97 CSE 1108	Morrison	12/04/97	
Alan M. Greenberg v. Department of Human Resources	97 CSE 1311	Smith	12/08/97	
Walter McNeil v. Department of Human Resources	97 CSE 1324	Becton	09/11/97	
David Hobson v. Department of Human Resources	97 CSE 1747*11	Phipps	07/24/97	
Jerry Whitley v. Mecklenburg County Child Support Enforcement	97 CSE 2037	Reilly	08/21/97	
Linda Wade-Hargrove v. Department of Human Resources	97 DCS 0365	Becton	07/11/97	
Regina C. Sullivan v. Department of Human Resources	97 DCS 0482	Becton	07/18/97	
Teri Lynne Lanier v. Department of Human Resources	97 DCS 0738	Smith	09/05/97	
Katrina T. Johnson v. Department of Human Resources	97 DCS 0856	Becton	09/24/97	
Clarisa Carter Watson v. Department of Human Resources	97 DCS 0909	Gray	10/02/97	
Paulette Duggins Rodgers v. Department of Human Resources	97 DCS 1238	Smith	12/08/97	
<b>INSURANCE</b>				
Joseph J. Peacock v. Department of Insurance	96 INS 0433	Becton	07/25/97	12:04 NCR 327
<b>JUSTICE</b>				
Barbara Carter Irons v. DHR, Division of Facility Services	97 DOJ 0669	Phipps	08/27/97	12:06 NCR 501
Paul Harvey Taylor v. Department of Justice, Company Police Program	97 DOJ 0916	Reilly	10/03/97	
Christopher Michael Lynn v. Company Police Program	97 DOJ 1120	Chess	10/22/97	
Imran Ramnarine v. Department of Justice, Company Police Program	97 DOJ 2071	Becton	06/11/97	
<b>Alarm Systems Licensing Board</b>				
Kim Brian Phelps v. Alarm Systems Licensing Board	96 DOJ 1785	Gray	08/08/97	
Daniel Joseph Dunne, III v. Alarm Systems Licensing Board	97 DOJ 0868	Phipps	09/12/97	
<b>Education and Training Standards Division</b>				
Charles Thomas Ohnmacht, Jr. v. Criml. Justice Ed./Training Stds. Comm.	96 DOJ 0353	Phipps	06/13/97	
Jon Randolph O'Dell v. Criml. Justice Ed./Training Stds. Comm.	96 DOJ 1466	Phipps	09/16/97	
James Haywood Mathews, Jr. v. Criml. Justice Ed./Training Stds. Comm.	96 DOJ 1957	Reilly	07/31/97	
Christopher Lee v. Criminal Justice Ed. & Training Standards Comm.	97 DOJ 0076	Morrison	06/19/97	
Steven Wayne Olsen v. Criminal Justice Ed. & Training Standards Comm.	97 DOJ 0077	Phipps	08/21/97	
Garfield Duncan Whitaker v. Criminal Justice Ed. & Training Stds. Comm.	97 DOJ 0121	Phipps	11/04/97	
Joseph Lonnie Wesson v. Criminal Justice Ed. & Training Standards Comm.	97 DOJ 0136	Reilly	08/26/97	
Frank Arlander Hearne v. Criml. Justice Ed. & Training Stds. Comm.	97 DOJ 0137	Reilly	06/10/97	
Audrey McDonald Rodgers v. Sheriffs' Ed. & Training Stds. Comm.	97 DOJ 0308	Reilly	07/31/97	
Gerald S. Wingate v. Sheriffs' Ed. & Training Stds. Comm.	97 DOJ 0428	Gray	10/09/97	
William Malcolm Mourino v. Sheriffs' Ed. & Training Stds. Comm.	97 DOJ 0430	Phipps	09/16/97	
Derrick W. Bowers v. Sheriffs' Education & Training Standards Comm.	97 DOJ 0661	Smith	08/29/97	
Joseph Ray Davis v. Sheriffs' Ed. & Training Stds. Comm.	97 DOJ 0747	Gray	10/02/97	
William Wayne McDowell v. Sheriffs' Education & Training Stds. Comm.	97 DOJ 0817	Morrison	08/22/97	
<b>Private Protective Services Board</b>				
Private Protective Services Board v. Phillip L. Hanson	96 DOJ 0795	Smith	06/05/97	
Ronald Anthony Bobeck v. Private Protective Services Board	97 DOJ 0476	Morrison	06/20/97	
Joseph D. White v. Private Protective Services Board	97 DOJ 0724	Gray	10/06/97	

# CONTESTED CASE DECISIONS

AGENCY	CASE NUMBER	ALJ	DATE OF DECISION	PUBLISHED DECISION REGISTER CITATION
Harry A. House v. Private Protective Services Board	97 DOJ 0727	Phipps	09/11/97	
Earl Thomas Wilson v. Private Protective Services Board	97 DOJ 0996	Gray	10/06/97	
Patti Jones v. Private Protective Services Board	97 DOJ 1195	Reilly	11/03/97	
John Stokes, Jr. v. Private Protective Services Board	97 DOJ 1196	Reilly	11/03/97	
<b>PUBLIC INSTRUCTION</b>				
Nicholas Eirschele, by his parents, Charles & Kathy Eirschele v. Craven County Board of Education	96 EDC 0655	Mann	09/02/97	
Jay and Elisabeth Miller v. Henderson County Public Schools	96 EDC 0766*29	Phipps	12/11/97	12:13 NCR 1201
Karen L. Holgersen v. Department of Public Instruction	96 EDC 0808	Smith	05/27/97	
Meridith Kirkpatrick, by her parent, Susan Kirkpatrick and Meridith Kirkpatrick, Individually v. Lenoir County Board of Education	96 EDC 0979	Overby	06/02/97	
Brian Allen Hoffman v. Department of Public Instruction	96 EDC 1013	Gray	10/24/97	
Alexander & Linda Brody & their son, James Brody v. Dare County Public Schools	96 EDC 1095	Creech	08/25/97	12:07 NCR 581
Jay and Elisabeth Miller v. Henderson County Public Schools	96 EDC 1708*29	Phipps	12/11/97	12:13 NCR 1201
Brenda Joyce Brooks Lovely v. State Board of Education	97 EDC 0089	Morrison	08/01/97	
John G. Schaenman v. State Board of Education	97 EDC 0095	Morrison	10/07/97	
Norman D. Crotts v. State Board of Education	97 EDC 0117	Reilly	09/23/97	
Paul W. Bonham v. State Board of Education, Dept. of Public Instruction	97 EDC 0343	Smith	10/28/97	
Fred W. Crawford II v. Charlotte/Mecklenburg Board of Education	97 EDC 0345	Smith	10/21/97	
Walter R. Bennett v. State Board of Education	97 EDC 0657	Smith	09/29/97	
Julius O. Webb v. Hertford County Board of Education	97 EDC 0736	Gray	09/09/97	
H. Margaret Willets v. Department of Public Instruction	97 EDC 0978	Phipps	10/29/97	
Karen Clark Ceccato v. Department of Public Instruction	97 EDC 0989	Smith	09/16/97	
Carl Smith Herman v. State Board of Education	97 EDC 1050	Becton	10/27/97	
<b>STATE PERSONNEL</b>				
<i>Brunswick Community College</i>				
Dr. Donald W. Skinner v. Brunswick Community College	97 OSP 0310	Phipps	06/12/97	
<i>Correction</i>				
Rodney Jones, Paula Hawkins, James McKoy v. Dept. of Correction	96 OSP 1051*17	Phipps	08/20/97	
Rodney Jones, Paula Hawkins, James McKoy v. Dept. of Correction	96 OSP 1119*17	Phipps	08/20/97	
Rodney Jones, Paula Hawkins, James McKoy v. Dept. of Correction	96 OSP 1120*17	Phipps	08/20/97	
Larry Wayne Pruitt, Jr. v. Department of Correction	96 OSP 1133	Gray	08/11/97	
William Hershel Bradley v. Franklin Freeman, Supt. Mark Hughes, Grant Spicer, Asst. Supt. Wade Hatley, et al, Department of Correction	96 OSP 1604	Phipps	06/19/97	
Dennis Harrell v. Department of Correction	96 OSP 2039	Chess	06/18/97	
Ray Evans Joyner v. Correction, Div. of Adult Probation/Parole	97 OSP 0100	Becton	09/18/97	
Morton Floyd v. New Hanover Department of Correction	97 OSP 0152	Gray	06/13/97	
Fannie P. Greene v. Adult Probation, State of NC	97 OSP 0261	Gray	11/20/97	
William G. Jordan v. Department of Correction	97 OSP 0469	Morrison	10/31/97	12:11 NCR 987
William A. Rich v. Dennis Rowland (Asst. Supt.) Wake Corr. Ctr. DOC	97 OSP 0542	Gray	09/02/97	
Torie M. Osborne v. Department of Correction	97 OSP 0601	Smith	10/27/97	
Dennis M. Butcher v. Department of Correction	97 OSP 0745	Reilly	12/10/97	
Lonnie F. McCaskill, III v. Department of Correction	97 OSP 0761	Gray	10/02/97	
William E. McCaskill v. Department of Correction	97 OSP 0770	Becton	09/26/97	
Andrew Pinto v. Department of Correction	97 OSP 0873	Becton	10/31/97	
Ronald M. Johnson v. Emp. Rel. Comm., DOC (Morrison Youth Inst.)	97 OSP 0940	Gray	10/02/97	
Reginald W. Lewis v. Piedmont Corr. Institute, Mr. T. Pinion, Cpt. K. Fry, Sgt. Dancy, SCT, B. Crawford	97 OSP 1276	Smith	12/02/97	
<i>Crime Control and Public Safety</i>				
Timothy M. Lassiter v. Crime Control & Public Safety, St. Hwy Patrol	97 OSP 0423	Phipps	10/29/97	
Carroll E. Ward v. State Highway Patrol	97 OSP 0750	Mann	09/16/97	
<i>Employment Security Commission</i>				
Broxie J. Nelson v. Employment Security Commission	96 OSP 0378	Becton	07/10/97	
Mary H. Ranson v. Employment Security Commission	97 OSP 0387	Mann	07/24/97	
<i>Environment, Health, and Natural Resources</i>				
Dowell Gray v. Department of Environment and Natural Resources and Onslow County Department of Health	97 OSP 0374*27	Gray	12/01/97	12:13 NCR 1222
James Fred Swain v. Environment, Health, and Natural Resources	96 OSP 0440	Gray	10/02/97	12:09 NCR 851
James S. Kantor v. Environment, Health, and Natural Resources	96 OSP 0633	Smith	09/30/97	12:09 NCR 854
<i>Human Resources</i>				
Betty J. Souther v. New River Area MH/DD/SA Program	94 OSP 0327	Becton	10/20/97	
Willie D. Parks v. Cherry Hospital, Department of Human Resources	96 OSP 0617	Phipps	09/10/97	
Robert Tilson Morley v. Department of Human Resources	96 OSP 0969	Gray	08/21/97	
Glen Sutton v. Cumberland County Department of Social Services	96 OSP 1296	Gray	07/17/97	



# CONTESTED CASE DECISIONS

AGENCY	CASE NUMBER	ALJ	DATE OF DECISION	PUBLISHED DECISION REGISTER CITATION
Brenda C. Burgess v. Dept of Human Resources (Broughton Hospital)	96 OSP 1485	Phipps	10/13/97	
Felicia Ann Baker v. Lenoir County DSS, Jack B. Jones	96 OSP 1664	Becton	12/05/97	
Sharron S. Moten v. Lenoir County DSS, Jack B. Jones	96 OSP 1665	Becton	12/05/97	12:13 NCR 1215
Pamela Massey v. Department of Human Resources	96 OSP 1927	Becton	08/28/97	12:06 NCR 497
Clifton Dean Hill v. Department of Human Resources	97 OSP 0007	Phipps	06/20/97	12:02 NCR 107
Bennie Allen Suttle v. Department of Human Resources	97 OSP 0069	Reilly	09/30/97	
Calvin E. Kaiser v. Southeastern Mental Health Center	97 OSP 0073	Gray	08/08/97	
Sandra Riley v. Onslow County Department of Social Services	97 OSP 0217	Reilly	10/14/97	
Vicky Angel Morgan v. Buncombe County Department of Social Services	97 OSP 0283	Becton	10/02/97	
Rick A. Sanders v. Department of Health and Human Services	97 OSP 0307	Reilly	10/16/97	
Troy Gaines v. Durham County Mental Health Department	97 OSP 0347	Mann	08/05/97	
Edward Percell Eason v. Department of Human Resources	97 OSP 0363	Gray	08/15/97	
Dale Dees v. Trend Community Mental Health Services	97 OSP 0402	Mann	11/24/97	12:12 NCR 1087
Lisha Dawn Byrd v. Human Resources (Western Carolina Center)	97 OSP 0491	Morrison	08/28/97	
Richard G. Steeves v. Scotland County Board of Health	97 OSP 0622* <sup>23</sup>	Phipps	10/21/97	
Antonio A. Archibeque v. Barbara D. Whitley, Dir, Stanly County DSS	97 OSP 0663	Smith	09/02/97	
DHR, Deaf & Hard of Hearing CNCSD, Evonne Broadnax v. DHR, Deaf & Hard of Hearing CNCSD	97 OSP 0756	Becton	09/03/97	
Richard G. Steeves v. Scotland County Board of Health & Scotland County	97 OSP 0760* <sup>23</sup>	Phipps	10/21/97	
Julia R. Baker v. Union County Department of Social Services	97 OSP 0783	Gray	10/13/97	
<b>Public Instruction</b>				
Frances Phillips Melott v. Department of Public Instruction	95 OSP 0907	Trawick	06/09/97	
Dowell Gray v. Department of Environment and Natural Resources and Onslow County Department of Health	97 OSP 0374* <sup>27</sup>	Gray	12/01/97	12:13 NCR 1222
<b>Transportation</b>				
Tommie R. Jones, Samuel W. Winstead, Timothy C. Sturges, Michael J. Boone, and Ronnie Batchelor v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section	96 OSP 0781* <sup>26</sup>	Phipps	11/13/97	12:11 NCR 979
Tommie R. Jones, Samuel W. Winstead, Timothy C. Sturges, Michael J. Boone, and Ronnie Batchelor v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section	96 OSP 0782* <sup>26</sup>	Phipps	11/13/97	12:11 NCR 979
Tommie R. Jones, Samuel W. Winstead, Timothy C. Sturges, Michael J. Boone, and Ronnie Batchelor v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section	96 OSP 0783* <sup>26</sup>	Phipps	11/13/97	12:11 NCR 979
Georgia B. Warren v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section	96 OSP 0784* <sup>26</sup>	Phipps	11/13/97	12:11 NCR 979
Tommie R. Jones, Samuel W. Winstead, Timothy C. Sturges, Michael J. Boone, and Ronnie Batchelor v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section	96 OSP 0785* <sup>26</sup>	Phipps	11/13/97	12:11 NCR 979
Tommie R. Jones, Samuel W. Winstead, Timothy C. Sturges, Michael J. Boone, and Ronnie Batchelor v. Dept. of Transportation, Div. of Motor Vehicles, Enforcement Section	96 OSP 0786* <sup>26</sup>	Phipps	11/13/97	12:11 NCR 979
Wendell L. Webb v. Department of Transportation, Ferry Division	96 OSP 1710* <sup>24</sup>	Phipps	10/31/97	
Wendell L. Webb v. Department of Transportation, Ferry Division	97 OSP 0198* <sup>24</sup>	Phipps	10/31/97	
Frank A. Tice, III v. Department of Transportation	97 OSP 0380	Mann	09/05/97	
Roy J. Abbott v. Department of Transportation	97 OSP 0697	Morrison	12/05/97	
<b>University of North Carolina</b>				
Boyd S. Taylor v. NC Central University	94 OSP 0363	Chess	09/12/97	
Diane Riggsbee-Raynor v. UNC at Chapel Hill	96 OSP 0326	Chess	06/04/97	12:01 NCR 39
Helen McIntyre v. UNC-TV University of North Carolina	96 OSP 0822	Gray	09/26/97	
Elaine P. Browne v. Winston-Salem State University	96 OSP 1007	Reilly	09/24/97	
Carol Glosson v. University of NC Hospitals at Chapel Hill	96 OSP 1015	Becton	10/08/97	
Theresa Rogers v. University of NC Hospitals at Chapel Hill	96 OSP 1065	Morrison	10/23/97	
Ann O. Meares v. NC State University	96 OSP 1870	Chess	09/22/97	
Darrell J. Hampton v. NC Central University	97 OSP 0155	Mann	08/11/97	
Clinton A. Browne v. NC A&T State University	97 OSP 0199	Phipps	09/18/97	
Kenneth L. Jarman v. East Carolina University	97 OSP 0249	Gray	09/26/97	
William A. Covington v. NC A & T State University	97 OSP 0686	Becton	08/29/97	
Beth W. Vinson v. Western Carolina University	97 OSP 0762	Phipps	10/10/97	
Viola Simmons v. UNC-Wilmington	97 OSP 0859	Gray	11/18/97	
Helen McIntyre v. UNC-TV University of North Carolina	97 OSP 0991	Gray	09/26/97	
Helen McIntyre v. UNC-TV University of North Carolina	97 OSP 1148	Gray	10/16/97	
E. Julius Carter v. UNC-Greensboro	97 OSP 1202	Phipps	11/05/97	
<b>SECRETARY OF STATE</b>				
Greenway Capital Corp. & Stacey Lee Davis v. Securities Div. Sec'y/State	94 SOS 0097	Gray	10/28/97	
Teresa M. Coltrain v. Secretary of State	97 SOS 0499	Reilly	10/22/97	12:10 NCR 914
<b>STATE TREASURER</b>				
Shelby H. Underwood, et.al. v. Trustees Teachers/St. Emp Ret. Sys.	96 DST 0390	Reilly	08/05/97	

# CONTESTED CASE DECISIONS

---

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Richard Albert Jose v. State Treasurer Retirement Systems Div.	97 DST 0281	Reilly	10/02/97	
<b>TRANSPORTATION</b>				
Audrey W. Harris v. Transportation, Manson/Wheat Contr., & Wake Elec.	97 DOT 0566	Gray	07/28/96	
<b>UNIVERSITY OF NORTH CAROLINA</b>				
Clinton S. Rogers v. UNC-Chapel Hill	97 UNC 1062	Becton	10/31/97	



STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
96 EDC 0766, 1708

JAY AND ELISABETH MILLER,	)	
Petitioners,	)	
	)	
	)	
v.	)	FINAL DECISION
	)	
HENDERSON COUNTY PUBLIC SCHOOLS,	)	
Respondent.	)	
	)	

This matter was heard before the Honorable Meg Scott Phipps, Administrative Law Judge, on March 17, 18, 19, 20, 21, 24, 25, 26, 27 and April 3, 4, 5, 7, 8, 9, 10, 14, 15, 16 in Hendersonville, North Carolina.

**APPEARANCES**

For Petitioners:	Paul Erickson Law Firm of Paul L. Erickson, P.A. Building One Suite Three 1998 Hendersonville Road Asheville, NC 28803
	Shelli J. Lewis Attorney at Law 1101 California Avenue Suite 100 Corona, CA 91719
	Andrea C. Knight Attorney at Law Governor's Advocacy Council for Persons With Disabilities Broughton Hospital P.O. Box 87 Morganton, NC 28655
For Respondent:	Ann L. Majestic Ruth T. Dowling THARRINGTON SMITH 209 Fayetteville Street Mall P.O. Box 1151 Raleigh, North Carolina 27602

**WITNESSES**

For Petitioners:	Elisabeth Miller Dr. Jan Blacher Colleen Wyatt Caroline Dilworth Dr. Jacqueline Wynn Kate Scharstein Dr. Thomas Boyle Karen Perella
------------------	--

Jay Miller

For Respondent: Judy Cook  
Laurie McDanel  
Candy Priest  
Faye Arledge  
Dr. Victoria Shea  
Dr. B.J. Freeman  
Sloan Burgess  
Dr. Lee Marcus

**ISSUE**

1. Whether respondent offered Catherine Miller a free appropriate education during the 1996-97 school year which was reasonably calculated to allow her to make educational progress.

**REFERENCE ABBREVIATIONS**

T	=	Transcript of Hearing
I-IV	=	Volumes of Transcript
p(p)	=	Page(s)
Resp	=	Respondent
Pet	=	Petitioners
Exh	=	Exhibit

**FINDINGS OF FACT**

1. Petitioners Jay and Elisabeth Miller are the parents of Catherine Miller a seven-year-old with autism who is entitled to services as a special needs student in respondent's schools. Respondent, Craven County Board of Education, is a local educational receiving monies pursuant to the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. 1400 *et seq.*
2. Upon a motion by respondent, this court, by decision of Chief Judge Julian Mann, granted summary judgment for respondent on all of Petitioners' procedural and substantive claims prior to the development of the 1996-97 IEP and denied Petitioners' claim for additional reimbursement for the independent evaluation. The only claim remaining for adjudication in this contested case is Petitioners' claim regarding the 1996-97 IEP. Petitioners had also filed a claim in July 1996 for full reimbursement of an independent evaluation, above and beyond the \$1200.00 that had been paid by respondent.
3. Petitioners filed a petition for a contested case hearing in the Office of Administrative Hearings on November 1, 1996, alleging that the educational program offered by respondent to Catherine for the 1996-97 school year was inappropriate. Petitioners sought reimbursement by the school system of their chosen educational program, the Lovaas method, from November 1993 to the present.
4. Catherine was diagnosed with autism at approximately age two. During the 1992-93 school year, Catherine attended a Montessori preschool in New Hampshire three days a week for three hours a day. She was accompanied to the class by an assistant who was not trained in autism. (T.IVp.86). Catherine did not display any aggressive behaviors in class. (T.IVp.99).
5. Mr. William White, a psychologist with experience in autism who was hired by the Millers, consulted monthly with the staff at the Montessori school to discuss Catherine's autism and assist in her educational programming. (T.IIp.16).
6. The Millers moved to Hendersonville, North Carolina in June 1993 in order to take advantage of services from the Treatment and Education of Autistic and Related Communication Handicapped Children ( TEACCH ) program. (T.III p.13). The Millers learned of the TEACCH program by attending conferences on autism and researching available programs. (T.IIp.20-21). They moved based on their understanding that TEACCH is a nationally known program for autistic students and their families. (T.VIp.68).
7. The TEACCH program, begun with support of the state legislature in 1972, is a comprehensive system that provides treatment, education and support for autistic children, adults and their families. TEACCH provides evaluations and consultation



to school systems throughout North Carolina, the U.S. and the World. (T.XIX, pp. 19-40).

8. The TEACCH philosophy focuses on using meaningful routines and visual clarity to teach autistic individuals to function independently. Through the use of structure and clarity, the autistic person is taught to understand concepts, work skills and expectations. The skills that are learned at the pre-school level are built upon as the individual with autism grows older, leading to greater independence and adaptability in the classroom, home setting, group home, vocational or supported employment settings. The TEACCH approach focuses on the student's strengths and on what children with autism personally find motivating or interesting and utilizes these in a creative manner to teach new skills. (Resp.Exh. 73).

9. In July 1993 Catherine was evaluated by Sloan Burgess at the TEACCH center in Asheville, North Carolina. (Resp. Exh. 46): Sloan Burgess testified to her extensive experience working with individuals with autism. She has been employed by TEACCH since 1991 as a special education specialist. In that role she conducts diagnostic evaluations, provides consultation to school systems, provides parent and professional training and organizes and conducts support groups for families. (T.XVIII, p. 6).

10. Ms. Burgess testified that during the July 1993 testing Catherine showed areas of substantial deficit in social relatedness. (T.XVIII, p. 14). She displayed no functional language except for the word "no" but she babbled throughout the evaluation. (T.XVIII, p. 13).

11. In August 1993, the Millers along with Sloan Burgess met with Henderson County school personnel to develop an IEP for Catherine. (Resp.Exh.2). The Millers, Ms. Burgess and school personnel agreed that Catherine should be served in the TEACCH preschool classroom which was just being developed at the Helping Hand Center. Catherine's IEP called for her to be in a full day program specially designed for students with autism. (Resp. Exh. 2). This was the first time Catherine had been placed in a class specially designed for autistic students. The IEP also called for two half-hour sessions of speech therapy weekly. Resp.Exh.2).

12. William White also advocated placement of Catherine in the Helping Hand TEACCH class. In a consultation report provided to school personnel in August 1993, Mr. White stated "it is very important to note that Catherine needs plenty of time to learn about her educational environment. At first staff should follow her lead and capitalize on the few teachable moments she gives you; then increase your expectation level as she becomes more comfortable." (Resp.Exh.43). The report also noted that Mr. White "felt quite strongly" that "Catherine can develop verbal communication." (T.IV, p.103)(Resp.Exh.43). He advocated the use of picture schedule boards, choice boards, verbal modeling and the use of sign language. (T.IV, p.102). All of these suggestions were incorporated into Catherine's IEP. (Resp.Exh.2).

13. Faye Arlege, the teacher in the Helping Hand classroom, and Sloan Burgess, who provided consultation to the classroom, testified that Catherine made good progress during the short time period she was enrolled in the class. (T.XI, p.17). They indicated that Catherine learned how to work on a specific task by sitting at a table, attending to the task and manipulating the materials. (T.XI, p.19).

14. Although Catherine's IEP called for a full-day program, Mrs. Miller only brought Catherine for half day for most of the time she was enrolled. (T.XI, p.15).

15. Ms. Arledge testified that a typical class day involved group time and individualized instruction for each student. (T.XI, p.13-14). She had a program of reverse mainstreaming (T.XI, p.69) and two of her students also were mainstreamed for short periods of time each day. Ms. Arledge and Ms. Burgess testified that in their opinion mainstreaming was not appropriate for Catherine at the beginning of the school year but it would have been an option later in the year if she gained enough skills to make it appropriate. (T.XI, p.21-22).

16. Faye Arlege and Sloan Burgess testified that Catherine did not have significant behavioral problems while in the Helping Hand classroom. (T.XI, p.22). The speech-language IEP drafted for Catherine from 1/94-1/95 states in present level of performance that Catherine "does not display aggressive behaviors. Responds well to structure and routine." (Resp.Exh.3).

17. Mrs. Miller testified that she learned of the Lovaas program in October 1993 by reading a book by Catherine Maurice in which Ms. Maurice recounts the "recovery" of her two children from autism. After reading the book, in mid-October 1993, Mrs. Miller contacted UCLA and arranged for the Ann Maxwell from the Chicago Program to conduct a Lovaas training workshop. (T.IV, p. 128) (T.IV, p.128). The workshop was scheduled for December 1993.

18. The Lovaas program is described in the program literature as a treatment approach that specializes in helping pre-school children who are autistic and/or mildly to moderately retarded. (R.Exh. 184). The program uses behavioral techniques derived from the research of Dr. Ivar Lovaas of the UCLA Psychology Department conducted in the 1970's. (P. Exh.7, p.81). The Lovaas research claimed that 47% of the 19 subjects in his study achieved normal educational and intellectual functioning by 7 years of age. (Id.). The program emphasizes discrete-trial teaching, involving the use of repeated verbal prompts to elicit specific verbal or behavioral responses. Positive reinforcers such as candy, tickles and verbal praise are used to reward correct responses; contingent aversive NO's spoken in a loud voice are used as negative reinforcers. (R.Exhs.184; 73). Other negative consequences are delivered for unacceptable behavior.

19. Dr. Lovaas has established a for-profit center to provide Lovaas workshops, designed to help families set up treatment programs of their own. (R.Exh. 184, p.4). Through the workshops, parents and staff members (recruited by the parents) are trained in the Lovaas method. Staff members are referred to as therapists. They do not require any special credentials or previous experience to be qualified to be therapists. The Lovaas Clinic recommends dependable college students as good candidates. In addition to training the staff, the Lovaas program provides a UCLA consultant who visits the home site quarterly to monitor and advise regarding the program. The consultants may be graduate students or recent college graduates who have worked in the Clinic. (R.Exh. 184).

20. On November 23, 1993, the Millers removed Catherine from the Helping Hand classroom. In a letter of that date to Candy Priest, supervisor for Exceptional Children's program for the Henderson County Schools, Mr. Miller indicated his two reasons for removing Catherine were the published results of studies that the behavioral (Lovaas) approach is highly successful and the Millers' belief that the Montessori classroom was the best placement for Catherine. He did not express any discontent with the TEACCH program. (Resp.Exh. 72).

21. Dr. Lee Marcus, the Clinical Director of the Chapel Hill TEACCH Center, testified that three months of education in the TEACCH classroom was not a sufficient amount of time to judge the success of Catherine's program in light of her age and her lack of prior enrollment in a structured classroom for students with autism. (T.XIX, p. 191-192).

22. Although Catherine was no longer receiving special education services from the respondent's schools, respondent agreed to continue to provide Catherine speech language services even though not required to according to the Department of Public Instruction. (T.XI, p.132). In January 1994, an IEP meeting was held to develop a new speech IEP for Catherine and her speech service time was increased to two hours a week. (T.XI, p.133).

23. On December 21, 1993, the Millers began implementing the Lovaas program with Catherine for 20 hours a week. (T.IV, p.153). Mrs. Miller testified that she knew the Lovaas program was working for Catherine because she went from being nonverbal to using words within the first months of the program. She testified that Catherine was unable "to imitate a single thing" or to repeat any words "on command" prior to starting Lovaas. (T.VI, p.31). However, the speech records of Karen Perella show that Catherine was able to both imitate motions and to say certain words in October and November 1993. (Resp. Exh. 174). Ms. Perella testified that Catherine's language was emerging at that time prior to her beginning the Lovaas program. (T.XV, p. 217). Sloan Burgess testified that Catherine's lack of spontaneous language was not an area of concern for her since Catherine had prerequisite skills which suggested her language and communication would develop over time. (T.XVIII, p. 22-23). Dr. Marcus also testified that Catherine showed early indicators that she was likely to develop speech, given her non-verbal IQ score, echolalia and good early services. (T.XIX, p. 115-118).

24. In August 1994, the Millers began working with the UCLA Lovaas program. (T.IV, p.164). Catherine's therapy was increased to 40 hours a week and her amount of time in school decreased. Mr. Miller met with Candy Priest and requested a copy of Catherine's student records. At that time, Ms. Priest informed Mr. Miller that the school system could provide special education services to Catherine at her private school. (T.XI, p.144). Mr. Miller declined the offer indicating that he and his wife did not want the private school to know that Catherine had autism. (T.XI, p.144).

25. In December 1994, Mr. Miller contacted Candy Priest to request that the school system begin paying for the Lovaas program. (T.XI, p.144-145). Ms. Priest indicated that it would be necessary for the Millers and school personnel to meet to discuss Catherine's educational needs and to determine an appropriate educational placement for her. (T.XI, p. 144-145). In January and February 1995 the Millers and school personnel held a series of meetings to develop an IEP for Catherine. (T.XI, p.145-146).

26. While in the process of developing the IEP, Judy Cook, the Director of Exceptional Children's Programs, and Sharon Burlingame, a special education teacher, visited the Millers' home to observe the use of Lovaas therapy with Catherine. (T.VI,



p.145) (Resp.Exh.171). Judy Cook testified that Catherine appeared very tired during the therapy and hit herself in the face several times out of apparent frustration and weariness. (T.IX, p.80-82).

27. On February 15, 1995, a final IEP meeting was held. At that time, the school-based committee considered four possible programs for Catherine: the Helping Hand Classroom, Sharon Burlingame's classroom, the TEACCH classroom at Bruce Drysdale school and the Lovaas program. (T.VI, p.196-97). The committee recommended that Catherine be placed in a full-day program for autistic students at Bruce Drysdale school with some mainstreaming in a regular kindergarten classroom. (T. VI, p.197). The Millers continued to request that the school system pay for the Lovaas program. Judy Cook indicated in the meeting that it was her belief that the Lovaas program was too restrictive for Catherine and that the program offered by the school system was more appropriate. (T.VI, p.203) (T.VIII, p.84). The Millers pointed to the Lovaas study and indicated that unless the school system could provide comparable data showing 47% of the students becoming indistinguishable from regular education students then they felt the Lovaas program was the best option. (Pet. Exh. 56).

28. The next day, Judy Cook sent the Millers a letter again detailing the rationale behind the school-based committee's decision. (Resp.Exh.78). Mrs. Cook enclosed a Parent's Rights Handbook and explained in the letter that the Millers could pursue a due process hearing in light of their disagreement with the school system's offer of services. (Resp. Exh. 78) (T.VI, p.203-204).

29. Although the Millers initially indicated in the spring of 1995 that they would like to pursue mediation with the school system over the placement decision, in May 1995 the Millers wrote to Judy Cook and stated that they had obtained representation by the Governor's Advocacy Council and that they were not available for mediation. (Resp.Exh.84). The Millers never pursued mediation after that point.

30. At the end of June 1995, the Millers requested that the school system pay for an independent educational evaluation of Catherine. (T.IX, p.8). Because the most recent evaluation of Catherine was at that point over a year and a half old, Judy Cook requested that the school system be allowed to test Catherine first and that the Millers could obtain an independent evaluation if they disagreed with the results of the school system's evaluation. (T.IX, p.8-9).

31. An evaluation of Catherine was conducted by school personnel in August and September 1995. (T.VIII, p.219-220). In October 1995 the Millers and school personnel met to review the results of the evaluation. (T.IX, p.9). Mrs. Miller requested that one portion of the testing be readministered, and it was redone although the results did not markedly change. (T.IX, p.10).

32. Because Catherine's February 1995 IEP was to expire in January 1996, school personnel invited the Millers to meet in November 1995 to begin developing an IEP for the 1996-97 year. (T.IX, p.11). A school-based committee meeting was held in November and at that time school personnel presented to the Millers a draft IEP to begin the discussions. (T.IX, p. 10). The Millers stated that Catherine had already mastered many of the proposed goals and objectives. (T.IX, p. 12). Some time after the meeting, the Millers provided school personnel with a copy of the draft IEP that had been reviewed by Michael Guiou, their UCLA Lovaas consultant, and on which Mr. Guiou indicated many areas that Catherine had "mastered." (T.IX, p.11) (Resp.Exh.9).

33. In December 1995 the Millers renewed their request for an independent educational evaluation stating that the evaluation conducted by school personnel was insufficient. (T.IX, p.12). Judy Cook replied that the Millers could pursue an independent evaluation and they would be reimbursed up to \$1200 (the school system's maximum amount for independent evaluations). (Resp.Exh.119).

34. The Millers and school personnel jointly agreed to postpone the development of Catherine's full IEP for the 1996-97 year until the independent evaluation was completed. (Resp.Exh. 7, 115). Catherine's speech therapy IEP was reviewed in January 1996 and services continued to be provided by respondent. (Resp. Exh. 4).

35. In January 1996, long before the independent evaluation was complete, Mrs. Miller wrote to Michael Guiou and stated that Catherine "will be attending a small private school next year with eight or nine children" and that the teacher of the class would be working with Catherine over the summer. (Resp. Exh. 189).

36. In March 1996, Dr. Jan Handleman, an educator and professor in New Jersey, conducted an assessment of Catherine. (Resp.Exh.57). His assessment consisted of a review of Catherine's file and a videotape provided by the Millers, and an observation of Catherine working with her Lovaas therapist. (T.V, pp.41-42). Dr. Handleman conducted no formal testing of

Catherine. The evaluation was provided to school personnel in early April 1996. (T.VIII, p.222).

37. Dr. Handleman's report provided no information on Catherine's present level of educational performance, a necessary element for the development of an IEP. (T.VIII, pp.223-225)(T.IX, pp.12-13). Because the parents and their Lovaas consultant, Mr. Guiou, had both indicated that Catherine had mastered many of the draft goals and objectives on the proposed IEP, Judy Cook testified that she was concerned that Dr. Handleman's report was not sufficient to assist in IEP development. (T.VIII, p.224). As a result, Judy Cook, sought the assistance of Dr. Victoria Shea, an expert in autism, to informally assess Catherine in order to provide information for IEP development. (T.VIII, p.225).

38. The Millers agreed to Dr. Shea's involvement. Dr. Shea reviewed all of the records available on Catherine and observed Catherine in her home program and at her private school on May 20, 1996. (T.XVIII, p. 254). Dr. Shea also observed in Ms. McDanel's and Ms. Arledge's classrooms. Dr. Shea noted that Catherine was very compliant during the observation period but that she became quite confused when she was not given prompts. Catherine did not initiate any contact with her peers during the observation period at school. (Resp.Exh.58).

39. Dr. Shea completed her observation report on May 30, 1996, and recommended that IEP goals be written in several specific areas for Catherine. (Resp.Exh.58). In particular, Dr. Shea indicated that Catherine needed work in developing independence and functional language. It appeared to Dr. Shea that Catherine had memorized language but was unable to use language functionally in many cases. (T.XVIII, pp. 199-200). She also recommended development of self-help skills and academics. (T.XVIII, pp. 220)(Resp. Exh.58).

40. Dr. Shea's report noted and she testified that although Mr. Guiou and the Millers indicated that Catherine had mastered numerous skills on the proposed IEP, Catherine was not able to perform those skills when Dr. Shea observed her. (Resp.Exh.58). In light of the conflicting information regarding Catherine's ability levels, Dr. Shea advised that Catherine should be given more assessments to gauge her present level of functioning. (Resp.Exh.58).

41. The evidence showed that the skills that Mr. Guiou and Mrs. Miller claimed Catherine had "mastered" in February of 1996, were not mastered in the school environment as documented by Catherine's teachers at the preschool. (Resp.Exh.9);(Resp. Exh. 194). The teachers, responding to a questionnaire from Mrs. Miller, noted that many of the goals which had been proposed for Catherine's IEP in November 1995 were either not attained or emerging by May 1996. (Resp. Exh. 194). Dr. Shea testified that Mr. Guiou's report of Catherine's mastery was not reliable. The evidence also showed that the skills claimed as "mastered" by Mrs. Miller at the time of the hearing, were not "mastered" in the school environment or across all settings but rather only mastered, according to her testimony, in the one-on-one therapy environment. (T.Vp.76-77). Judy Cook testified that these inconsistencies caused the school system to question the evaluation information being provided by the Millers and it became important for school personnel to do additional observations or informal assessments of Catherine. (T.IX, pp.20).

42. On May 29, 1996, Laurie McDanel and Janna Forst visited the Millers' home in order to observe Catherine in her Lovaas program. (T.V, p.73)(Resp.Exh.59). The purpose of the visit was to gather more information on Catherine's present level of performance for the IEP development. Ms. McDanel testified that when she and Ms. Forst entered Catherine's therapy room, Catherine did not look up or acknowledge their presence. (T.X, p.169). She noted that the therapy appeared to elicit information from Catherine's rote memory, rather than eliciting spontaneous communication. (T.X, p.185). As a professional educator, Ms. McDanel believed the therapy to be too intense in light of the limited amount that Catherine was able to do during the time period. (T.X, p.185).

43. In order to follow up on the visit, Ms. McDanel met again with Mrs. Miller prior to the IEP meeting to again discuss Catherine's present level of performance and her needs. (T.X, p.186). This information was used in developing the IEP. (T.V, pp.73-74).

44. An IEP meeting was scheduled for June 5, 1996, and following Dr. Shea's recommendation, Judy Cook requested that a teacher administer the Brigance test with Catherine prior to the meeting so that the IEP committee would have more information on Catherine's current level of academic functioning. (T.IX, pp.20-22). The Millers would not agree to the administration of the Brigance by school personnel and instead stated that they would have it done privately and requested that the IEP meeting be rescheduled. (T.V, pp.43-45).

45. In late July 1996, the Millers took Catherine to be evaluated by Dr. Thomas Boyle, a private psychologist in New Jersey who had worked with Dr. Lovaas. (T.V, p.48). Dr. Boyle conducted intelligence and achievement testing with Catherine. (Resp. Exh. 60). Dr. Boyle admitted in his report and in his testimony that he deviated from standard



administration of the tests in several areas in order to try to elicit responses from Catherine. (Resp.Exh. 60). He also acknowledged that these deviations from the norms could have resulted in inflating Catherine's scores on the testing. (T.XV, pp. 72-73). At the parents' request Dr. Boyle did not report Catherine's IQ score in his evaluation report. (T.XV, pp.51). Her IQ placed her in the mildly mentally handicapped range. (T.XV, p.113). Her achievement scores indicated that she was functioning at the beginning kindergarten level in math and reading. (T.XV, pp.50). Dr. Boyle testified that Catherine needed lots of prompting during the testing and that sometimes he had to reword questions to elicit responses from her. (T.XV, p. 75-76).

46. Dr. Boyle's report recommended continuation of the Lovaas program with Catherine including 15-20 hours of one-on-one discrete trial teaching. (Resp. Exh. 60). Dr. Boyle admitted in his testimony that it was not proper to make a placement recommendation for a student based solely on testing results, nonetheless, he based his recommendations for placement in the Lovaas program solely on his evaluation results. (T.XV, p. 70) Dr. Shea testified that there was nothing in Dr. Boyle's testing results which would lead to the conclusion that Catherine needed discrete trial teaching or 15-20 hours of one-on-one. (T.XVIII, p. 232).

47. The Millers also hired Dr. Jan Blacher, an education professor from California, to visit the classrooms for autistic students in Henderson County and to observe Catherine in her home program. (T.V, p.67). Dr. Blacher testified that her area of expertise is not autism. (T.VIII, pp. 36-37). In her correspondence with the parents and prior to visiting the school system or having any contact with Catherine, Dr. Blacher stated that she would do everything she could to assist them in getting funding for their home program. (Pet. Volume 1, Exh. 2. BS 8817-8818). Dr. Blacher visited the classrooms in August 1996; however, none of the opinions or information gathered in Dr. Blacher's visit were shared with school personnel during the IEP development process in August and September 1996. (T.V, p.71).

48. Dr. Boyle's report was provided to school personnel in early August. (T.IX, p.27). Ms. Cook testified that in her 15 years of experience reviewing evaluations she had never received a report where the evaluator had conducted an IQ test but failed to provide the score. (T.IX, p.28). Dr. Shea also noted that it was very uncommon for an evaluator to conduct an IQ test and then not report the scores. (T.XVIII, p. 234).

49. An IEP meeting was held on August 14, 1996, and the Millers attended with their attorneys. (T.IX, p.32);(Resp.Exh.68). At that time the committee began developing goals and objectives for the IEP based on the evaluation reports, the observations, and the Millers input regarding Catherine's progress in her home program. (T.X, p.188)(T.IX, pp.42-43). The present level of performance in many areas of the IEP was developed based solely on parent report because no other information about Catherine's skill levels was available at that time. (T.X, p.225).

50. At this same time, Mrs. Miller's monthly documentation in the home program noted that "Catherine has forgotten a lot of information. Much of what she learned was never generalized completely." (Resp. Exh. 197). Mrs. Miller testified that she realized Catherine had not generalized skills after receiving Dr. Boyle's report. (T.V, p.101).

51. After the August 14 meeting the Millers requested that another meeting be held in mid-September so that their Lovaas consultant, Michael Guiou, could attend to participate in the IEP development. (Resp.Exh.69) (T.Xp.189). A meeting was held on September 13, 1996, which the Millers attended along with Mr. Guiou. (T.IX, pp.49-51).

52. Despite the fact that Catherine was having significant behavioral problems at home and in school at that time, the Millers and Mr. Guiou did not share that information with school personnel. (T.V, p. 231)(T.IX, pp.51-52). Mrs. Miller also indicated that she could not recall if she had shared information on Catherine's aggressive behaviors with Dr. Boyle and Dr. Handleman when they evaluated Catherine. Dr. Boyle testified that he had no information about Catherine's behavioral status at the time of his evaluation. (T.XV, p. 68). However, the Millers later criticized school personnel for not having created a behavioral management plan for Catherine. (Resp. Exh. 157).

53. On September 23, 1996, a final IEP meeting was held and the Millers attended along with their attorneys. (Resp.Exh.70); (T.IX, p.53). At that time the parents and school personnel all agreed that the goals and objectives on the IEP were appropriate. (T.X, p.190). The committee then discussed possible placements for Catherine. There was extensive discussion of her need for one-on-one instruction and her need for development of social and communication skills. The committee proposed that Catherine spend half of the school day in a regular kindergarten class with a one-on-one assistant; one hour a day working independently with monitoring in Laurie McDanel's classroom for autistic students, and one and a half hours a day receiving one-on-one instruction in academic areas in a separate room with Laurie McDanel. (T.X, pp.191, 199). The IEP also called for three hours a week of speech services (two hours of direct services and one hour of consultation between

the speech therapist and Catherine's teachers). (T.IX, pp.57).

54. The kindergarten time would be used to work on Catherine's social skills and communication skills because in the classroom she would have opportunity for peer modeling and interaction. (T.X, p.200). The one-on-one instruction could include some discrete trial teaching but would not be limited to that one method of instruction. (T.X, pp.199-200). Ms. McDanel described in detail how she would teach each of the objectives in Catherine's IEP. (Resp.Exh.172-B). In guided practice, Catherine would work in her specific work area in the classroom doing work that had been taught in the one-on-one setting. (T.X, pp.230).

55. Laurie McDanel's classroom has two teaching assistants both of whom have been trained to work with autistic students. (T.X, p.7). One of the teaching assistants has an autistic child. (T.X, p.7). There are seven students who spend some time each week in Ms. McDanel's class; four of the students are not in the classroom full-time as they are mainstreamed for parts of the school day. (T.X, p.19). Ms. McDanel testified that had Catherine joined the class, another teaching assistant would have been hired for the classroom. (T.X, pp.28, 115). She noted that she would have proposed that Catherine attend the kindergarten class for the morning and come to the autistic class in the afternoon. (T.X, p.117).

56. A primary goal in Ms. McDanel's classroom is to teach the students to work independently. Each student works independently for part of the day. Data is kept by the teacher and teaching assistants as to how well the student is completing his or her individual work and progress is noted on the student's IEP. (T.X, pp.51-52). A daily anecdotal log is kept of the each mainstreamed student's progress in the regular classroom. (T.X, p.54).

57. Ms. McDanel described the progress of many autistic students in her classroom, particularly in developing independence and communication skills. (T.X, p.153). To teach functional language, Ms. McDanel attempts to have the students communicate about areas of interest by setting up play activities in the classroom and by allowing the student to take the lead in choosing activities to communicate about. (T.X, pp.155-156).

58. Based on her observation of Catherine in therapy, her review of Catherine's records and her review of videotapes of Catherine at Covenant Academy and in her home therapy, Ms. McDanel testified that Catherine was not functioning as independently as had been reported by her parents or as independently as other autistic students in Ms. McDanel's classroom. (T.X, pp.192-193). Specifically, Ms. McDanel noted she was concerned that Catherine was unable to do work in a small group without constant prompting from her assistant. (T.X, p.193). Ms. McDanel also stated that Catherine did not display the communication skills that many of the students in her classroom have. (T.X, p.218). This was true despite the fact that Dr. Wynn testified that 80 percent of the Lovaas program is "language" and developing communication skills. (T.XIII, p.110).

59. Sloan Burgess described her role as a consultant to Ms. McDanel's classroom. (T.XVIII, pp. 7-8). Ms. Burgess assists Ms. McDanel in educational planning for the students. (T.XVIII, p. 17). Ms. Burgess testified that she had seen great progress in the students in Ms. McDanel's class, particularly in the area of language development. (T.XVIII, pp. 19, 49-50). Having reviewed a videotape of Catherine in November 1996 at school, Ms. Burgess indicated that she was concerned about Catherine's dependence on her assistant and her lack of spontaneous language and initiation of play with peers. (T.XVIII, pp. 55-56). Ms. Burgess said she would have expected much more progress in those areas had Catherine been in a TEACCH classroom for two and a half years instead of in the Lovaas program. (T.XVIII, p. 56).

60. Dr. Lee Marcus, the Clinic Director of TEACCH in Chapel Hill, testified about the TEACCH program. (Resp.Exh. 224). In his 23 years working at TEACCH, Dr. Marcus has worked with thousands of autistic individuals. TEACCH's primary mission is to work in North Carolina, but Dr. Marcus indicated that TEACCH training and programs are set up in every continent except Antarctica and in many states across the U.S. (T.XIX, pp. 36-39).

61. Dr. Marcus described the underlying philosophy of the TEACCH classroom in fostering independence and communication skills in the students. He explained that unlike Lovaas, TEACCH is not a teaching technique but rather an umbrella structure for the classroom that allows students to become independent and to use language functionally while working on their individualized educational goals and objectives. (T.XIX, pp. 144-147). He noted that TEACCH and Lovaas have different philosophies about autism. (T.XIX, p. 139). TEACCH believes that autism is a unique disorder explained by cognitive characteristics and that individuals with autism should be provided a structure and taught strategies to make the world more understandable to them. (T.XIX, p. 50). The Lovaas approach, on the other hand, believes that autism is a made up of a group of behavioral deficiencies which can be repaired so that an individual is "recovered" or becomes "indistinguishable" once taught a series of standard programs and drills. (T.XIX, pp. 140-141). Dr. Marcus testified that he has never seen an individual who has "recovered" from autism and that he believes it is not a realistic goal for parents. In fact, he stated that such



a goal creates expectations which are too high and does not allow for the parents to accept the reality of having a child with autism. (T.XIX, pp. 161-174).

62. Although Dr. Blacher testified that the focus of the TEACCH program was to prepare students for sheltered workshops, (T.VII, p. 299) both Dr. Marcus and Sloan Burgess stated that in their experience with the TEACCH program they have witnessed myriad outcomes of students ranging from obtaining graduate degrees and having families to working in a sheltered workshop. TEACCH's goal is to assist autistic individuals in becoming as independent and functional as possible. (T.XIX, pp. 25-28).

63. Dr. Shea testified that in her opinion the placement proposed for Catherine by the Henderson County Schools was appropriate and would benefit Catherine more than a continuation of the Lovaas program. (T.XVIII, p. 238). Dr. Shea opined that Catherine's program needed to emphasize functional language and the development of independence, two areas of significant weakness which were not being adequately addressed through the Lovaas program. (T.XVIII, pp. 218-219). The time in the proposed placement for guided practice and provision for mainstreaming with an assistant to monitor her progress, would encourage independence. She noted that the TEACCH approach to teaching communication which is incorporated into Ms. McDanel's classroom, could benefit Catherine by lessening the focus on verbal communication and supplementing language with visual cues. (T.XVIII, p. 248). Dr. Shea stated that Dr. Boyle's testing and her observations indicated that Catherine is a visual learner and the Lovaas focus on oral language appeared overwhelming to Catherine at times. (T.XVIII, pp. 245-246).

64. Mr. and Mrs. Miller disagreed with the proposed placement for the 1996-1997 school year and stated that they wanted the school system to pay for their home Lovaas program. Both Mr. and Mrs. Miller testified that the only program they would have accepted for Catherine was the Lovaas program. (T.VI, pp.110).

65. Although Dr. Blacher testified that the placement proposed by the school system was too restrictive, it was actually less restrictive under North Carolina standards than Catherine's home program because it provided for more time per week for Catherine to be educated with regular education peers and in the regular school environment. (Resp.Exh.10)(T.IX, p.72).

66. School personnel considered the Millers' request that Catherine be continued in the Lovaas program but believed that the school system's proposed program was more appropriate. Judy Cook testified that she believed the Lovaas program was not appropriate for Catherine for the 1996-97 school year. (T.IX, p.73). She stated that the program was too intensive in that it required that the child undergo therapy for 40 hours a week (or more in Catherine's case). (T.IX, pp.73-74). She believed that the constant one-on-one caused Catherine to become too dependent on adults and that Catherine's social and communication skills were not being effectively developed. (T.VI, p.132, 144; TIX, p.74).

67. Laurie McDanel testified that she believed the proposed program would be better for Catherine for the 1996-97 school year than the Lovaas program. (T.X, p.233). Specifically, she noted that it would allow Catherine placement in a true kindergarten class to develop her social and communication skills which are her areas of greatest need. (T.X, p.233). Also the proposed IEP would allow for Catherine to become more independent by spending time each day without consistent prompting or one-on-one assistance. (T.X, p.234).

68. Rather than enrolling Catherine in the respondent's schools for the 1996-97 school year, the Millers continued to implement the Lovaas program. Mr. Miller testified that the total expected cost of the home program for the 1996-97 school year would be between \$45,000-\$50,000. (T.XVII, pp. 19-21). Judy Cook testified that the average amount spent on autistic students by the county is \$11,000 a year (T.IX, p.180) and that offering the Lovaas program to any autistic student in the county whose parents requested it would have a staggering financial impact on the school system. (T.IX, p.92). Ms. Cook additionally noted that in light of her significant concerns about the Lovaas therapy, even if she had unlimited funds she would not recommend Lovaas therapy for students. (T.IX, p.94).

69. Mrs. Miller testified about her administration of Catherine's Lovaas program prior to the 1996-97 school year. She stated that she had hired 20 different therapists to work with Catherine between December 1993 and December 1996. Many of the therapists worked for less than six months with Catherine. (T.IV, pp.154-175). Most of the therapists had no background in education and no experience working with children with autism. (T.IV, p.184).

70. Caroline Dilworth was hired by the Millers in June 1995 after just completing college with a degree in psychology. (T.XII, p.7). She had no previous experience working with autistic students or the Lovaas program. During the 1995-96 school year she served as Catherine's one-on-one assistant in her private school classroom. Dr. Jacqueline Wynn, the assistant director of the Lovaas Institute, testified that the Lovaas program recommends that an assistant have at least nine months of

experience in the program before accompanying a child into a classroom and the bare minimum would be six months of experience. (T.XIII, pp.78, 218). Caroline had just two months of experience when she went with Catherine to school. (T.XIV, p.172).

71. Beginning in September 1996 Caroline Dilworth took over the position of administrator of Catherine's program. She and the Millers testified she worked full-time, at approximately forty hours a week, for the Millers. Ms. Dilworth testified that Catherine's program consists of over 47 hours weekly including home therapy, school, peer play and speech therapy. (T.XIV, p.174). There are three other therapists who work with Catherine. (T.XIV, p.189). Dr. Wynn testified that the Lovaas program recommends only between 35-40 hours a week of therapy. (T.XIII, p.249). The information materials of the Lovaas Institute provided to the Millers describe the workshops like the Millers that are distant from UCLA and coordinated by a consultant as being only 30 hours per week. (RExh.184, p.4).

72. Mrs. Miller testified that program changes were made by Michael Guiou who conducts two day workshops with the therapists every three months. (T.IV, p.188). Mr. Guiou at the time he began working with Catherine had recently graduated from college. He works in Los Angeles and is available by phone to discuss Catherine's program. Dr. Marcus indicated concern with this consultation model in which program changes are made by an individual who is so far removed from the student. (T.XIX, p. 156).

73. Catherine attends a Christian academy for four and a half hours a day and is accompanied by Caroline Dilworth. Ms. Dilworth also provides therapy at home and during peer play. (T.XIV, pp.191-192). Ms. Dilworth acknowledged that although the Lovaas program advises that one therapist not spend more than 15 hours with a child each week, she spends approximately 27 hours a week with Catherine. (T.XIV, pp.192-194). The Lovaas program literature indicates that too much time with one therapist can lead to dependence by the child on the individual therapist. (Resp.Exh.174).

74. At the beginning of the 1996-97 school year there were six students in Catherine's class at Covenant Academy. Until February 1997 the class was taught by Tina Salter who had little teaching experience and no experience working with students with autism. Ms. Dilworth testified that Ms. Salter did not do a good job using classroom materials and structuring the school day. (T.XIV, pp.178-179). Ms. Salter was terminated from her employment at Covenant Academy in late fall and replaced by Kate Scharstein, a parent of an autistic student, was a college graduate but who had no training or experience as a teacher. (T.XIV, p. 145).

75. By the time of the hearing in March there were eight full time students and two part time students in the class. Catherine had been in a class with approximately 15 students during the past two school years. (T.VI, p.17). Dr. Wynn stated that the Lovaas program's goal was to gradually introduce a student into social and group settings as therapy progressed. (T.XIII, p.217). She stated that a class size of 14-15 students, like Catherine's class during the 1994-96 school years and similar to the regular kindergarten class proposed in the Henderson County schools, was the right size class. (T.XIII, p.218). She indicated that if the class was much smaller, like Catherine's class at Covenant Academy during the 1996-97 school year, problems might occur. (T.XIII, p.218). Dr. Wynn also stated that where an autistic student is functioning socially and in language skills at the kindergarten level (even if the student is older than kindergarten age), the appropriate placement for working on those skills would be a kindergarten class. (T.XIII, pp.221-222). She acknowledged that The Me Book, written by Dr. Lovaas, states that the age of the classroom grouping is not as important as the functioning level of the peers in the class. (T.XIII, p.222).

76. Ms. Dilworth stated and her records reflected that she frequently removed Catherine from the Covenant classroom either for bad behavior or when Catherine was distracted and not paying sufficient attention to her classwork. (T.XIV, p.294).

77. While in Catherine's classroom, Ms. Dilworth also provided assistance to other students. This included assisting the students with religious instruction. (T.XIV, p.294).

78. Dr. Wynn described the Lovaas program as being composed of a hierarchy of skills. (T.XIII, p.97). She stated that documentation of mastery was vital to the program because it illustrates when the student is ready for the next skill to be taught. (T.XIII, p.97). Mrs. Miller described thousands of pages of logs kept on Catherine's program. However, she also acknowledged and the documents revealed that many skills once thought "mastered" by Catherine had to be retaught. (T.V, p.101) (Resp. Exh. 197). (T.XVII, p. 217). Kate Scharstein, a witness for the Millers and the parent of an autistic student who also was using the Lovaas program, stated that in her experience with the program she never had to reintroduce a skill to her son as once a skill was "mastered" it no longer had to be worked on.



79. There was no testimony that Catherine needed the Lovaas method in order to make progress. In fact, Kate Scharstein, her teacher and Karen Perella, her speech therapist, testified that they did not exclusively use the Lovaas method when working with Catherine. Ms. Dilworth testified that beginning in February 1997, Lynn Gilpin began working in the Covenant classroom one day a week to teach reading to the students. Ms. Gilpin had no Lovaas training. She worked with Catherine one-on-one on reading and did not use the discrete trial method. (T.XIV, pp.157-158).

80. The testimony and evidence indicated that Catherine developed aggressive behaviors including biting, kicking and head butting while in the Lovaas program. Mrs. Miller testified these behaviors developed after two years of Lovaas therapy. The monthly reports prepared by Caroline Dilworth for Michael Guiou show that aggressive behaviors were of significant concern in the fall of 1996 and as late as January 1997 both at home and in school. (T.VI, pp.100-106). (Resp.Exh.198).

81. Mrs. Miller and Caroline Dilworth testified that Michael Guiou recommended a variety of behavioral techniques to use with Catherine and none of the techniques were successful. (T.IV, pp.242-243). Ultimately, Mrs. Miller decided to start spanking Catherine for her aggressive behaviors. (T.VI, pp. 10-11). Dr. Shea testified that her review of Catherine's behavioral records led her to the conclusion that the behavioral techniques used with Catherine did not address the probable root causes of the behavior but rather simply punished Catherine for the behaviors. (T. XVIII, p. 186). Dr. Shea noted that negative behaviors are typically seen with autistic students when they are frustrated by an inability to understand language or social nuances. (T.XVIII, p. 181). No effort was made to modify Catherine's environment to reduce these frustrations; rather, Catherine was punished for her behavior.

82. Karen Perella, Catherine's speech therapist, testified that she did not see any aggressive behaviors in therapy where she did not use a strict Lovaas approach and she was not aware that aggressive behaviors were a problem. (T.XV, p. 242). She acknowledged that if Catherine were exhibiting aggressive behaviors it would cause her significant concern. (T.XV, p. 243).

83. Laurie McDanel, Faye Arledge and Sloan Burgess testified that in their experience working with autistic students in the TEACCH classrooms, it was very rare for a student's behavior to get worse with time. In fact, they each testified that students' behaviors typically became better in the classroom as they learned to communicate and learned the classroom routine. (T.X, p. 194; T.XVIII, p. 64). Dr. Wynn testified that aggressive behaviors are typically seen at the beginning of a child's program and decrease over time. (T.XIII, p.245). She stated that it would be unusual to see a child's aggressive behaviors increase over time. (T.XIII, p.246).

84. There was no testimony regarding how long the Lovaas therapy would need to be continued with Catherine. Dr. Wynn testified students stay in the program six years or longer and that there is no typical time frame. (T.XIII, pp.131-135, 217). When asked about the length of Catherine's program, Mrs. Miller stated that Michael Guiou would have to answer that question. (T.IV, p.197). When pressed, Mrs. Miller noted that Catherine was close to the end of the formal programs and that "the next few years" would be fine-tuning her skills in the program. (T.IV, p.197). Later in cross-examination she stated there was a lot of fine-tuning to be done and she did not know whether Catherine was near the end of her programs. (T.VI, p.110). Michael Guiou was never called to testify by petitioners.

85. In February the Millers took Catherine to be reevaluated by Dr. Boyle. (Resp. Exh. 62). The testing showed that Catherine's academics were still on beginning kindergarten level (as they had been during his testing eight months earlier). (T.X, p.225-226)(Resp.Exh.61). Although Catherine could decode words at the beginning second grade level she was completely unable to perform on the comprehension tests. (T.X, p.226). The IQ testing again showed Catherine to be functioning in the mild mentally handicapped range. (Resp.Exh.61).

86. Dr. Boyle also conducted some testing of Catherine's expressive and receptive language. (Resp. Exh. 61). Karen Perella testified that when comparing her results of testing Catherine in 1995 with Dr. Boyle's 1997 results, Catherine had not made much progress particularly in her receptive language. T.XV, p. 239).

87. The Lovaas study cited by petitioners which found 47% of the nineteen subjects "indistinguishable" after three years of Lovaas therapy, relied on two criteria for determining whether a student was "indistinguishable": an IQ score in the normal range and the child's placement in a regular education class without assistance. (Pet. Exh.7, 11, p.5); (T.XIII, p.186). Eight other students who were not in the best outcome group showed improvement in verbal skills and in reduction of behaviors. (T.XIII, p.190). Dr. Wynn testified that an IQ score after three years in the program could be used as a good predictor of the child's school performance. (T.XIII, pp.238, 239).

88. Based on Catherine's IQ score and class placement she is not in the Lovaas "best outcome" group and she also has not

shown improvement in reduction of negative behaviors during her three and a half years in the program. (Resp.Exh.61, Pet.Exh.7, Lovaas Studies, p. 81). In fact her negative behaviors increased over her 3 years in the Lovaas program. Dr. Marcus testified that his review of Catherine's records did not reveal evidence of significant progress during the three year period she had been in the Lovaas program. (T.XIX, p. 183).

89. Dr. B.J. Freeman, a professor of Medical Science at the University of California at Los Angeles and an expert in autism, testified that she reviewed Catherine's records, watched videotapes of Catherine, and observed in the two TEACCH classrooms in the Henderson County schools. (T.XVI, pp. 116-122).

90. Dr. Freeman was involved in diagnosing almost all of the students in the original Lovaas study, has trained in discrete trial methodology, is familiar with the literature on the Lovaas methodology, and has worked with students who have been in the Lovaas program. (T.XVI, pp. 56-62). She testified that the Lovaas methodology remains very experimental and that it is not a good method for teaching students functional language and that its focus on instruction for 40 hours a week or more is too intense for young students. (T.XVI, p. 78).

91. Dr. Freeman stated that she believed the Lovaas program was not appropriate for Catherine for the 1996-97 school year. She believed that it was time for Catherine to try new techniques. She recognized, and observed in Laurie McDanel's classroom, that one-on-one discrete trial teaching was utilized with reinforcements (T.XVI, pp. 267-268). She testified that although it was clear Catherine developed some skills early in the program, her immediate needs reflected in her evaluations and in the goals agreed to in the IEP in the areas of communication, independence and socialization required a change in program. She stated that it was clear the Lovaas program was not properly addressing these areas of weakness which are the areas of core deficit in autism. (T.XVI, p. 209). Specifically, she pointed to the results of Dr. Boyle's testing which showed significant receptive language difficulties. (Resp.Exh.61)(T.XVI, pp. 110-114).

92. Dr. Freeman testified that the TEACCH program is considered a model program and has been adopted all over the world. (T.XVI, p. 91). Her experience in observing in TEACCH classrooms is that the TEACCH model provides a structure which allows students to become independent and to develop functional language through a natural language environment. (T.XVI, pp. 84-85). She testified that she observed Ms. McDanel's classroom and observed autistic students being mainstreamed into regular kindergarten and first grade classes. (T.XVI, p. 143). She believed that the regular kindergarten class and Ms. McDanel's class were both appropriate for Catherine. (T.XVI, p. 153-155). Dr. Freeman indicated that she would like to see the amount of one-on-one assistance for Catherine reduced as quickly as possible so that Catherine can learn to work independently in more normalized settings. (T.XVI, p. 155).

93. Dr. Marcus and Ms. McDanel testified about the importance of having a teacher with a degree in teaching and specific knowledge of autistic students working with Catherine because the individual needs to know the continuum of educational steps needed to teach a particular skill. (T.XIX, pp. 153-155) (McDanel, TX, p.114). Dr. Wynn testified that despite the fact that students are now staying in the Lovaas program beyond pre-school, her staff does not have training or course work on the standard curriculum for elementary school grades in terms of teaching reading, math and writing in a sequenced method. (T.XIII, pp.256-257).

94. Judy Cook testified that the Millers in IEP meetings requested that she "guarantee" that Catherine would not regress with a change of programs. (T.VIII, p.114). Ms. Cook testified that she did not believe Catherine would regress in the proposed program but that she could not make a "guarantee" to the parents. (T.VIII, pp.115-116). Although Dr. Blacher testified that the research showed that students regress with a program change, none of the experts on autism agreed with her. Dr. Freeman testified that she knew of no research which showed such regression. (T.XVI, p. 162). Dr. Shea testified that the IEP itself was structured to facilitate Catherine's transition from the Lovaas program to the school system environment. (T.XVIII, p. 241-246). As a result, she did not believe Catherine would regress if enrolled in the Henderson County schools. She noted that Catherine might forget material that she had memorized in Lovaas therapy which had no functional value, but that regression should not be expected to occur. (T.XVIII, p. 244). Dr. Marcus testified that he would not expect a child to regress simply by moving from one type of program to another. (T.XII, pp. 181-182). He stated that he would expect Catherine to do well within the TEACCH structure since her testing indicated that she is a visual learner. (T.XIX, pp. 182-183).

95. Petitioner presented evidence supporting the premise that Catherine is, as all Lovaas trained children are, to be weaned from the Lovaas program as she progresses and achieves independence in group settings. Catherine's proposed IEP includes the assistance of a one-on-one aide or shadow provided by the public school system. Catherine's assistant needs to be trained in the Lovaas method to assist Catherine in her transition to the public school system.



Based upon the foregoing Findings of Facts, the undersigned makes the following:

**CONCLUSIONS OF LAW**

1. The IDEA, 20 U.S.C. § 1400 *et seq.*, is the federal statute governing education of students with disabilities. The federal regulations promulgated under the IDEA are codified at 34 C.F.R. Parts 300 and 301.
2. The controlling state law for students with disabilities is N.C.Gen.Stat. Section 115C Article 9 and the corresponding state regulations including the State Procedures Governing Programs and Services for Students With Special Needs Sections 1501-1541 (1993).
3. Catherine is a student with a disability for purposes of the IDEA and corresponding State law.
4. Respondent is required under federal and state law to make available special education and related services to Catherine and to offer her a free appropriate public education as that term is defined under the IDEA, and State Procedures.
5. At its core, the dispute between the parties is a debate over a choice of educational methodology for the teaching of autistic children. The two methods at issue are the Lovaas method and the TEACCH method.
6. It is the province of the school district and local educators, and not that of the courts, to choose sound educational methods when implementing the provisions of IDEA. *Bd. of Education v. Rowley*, 458 U.S. 176 (1982); *Hartmann v. Loudon*, 118 F.3d 996 (4th Cir. 1997); *Barnett v. Fairfax County Sch. Bd.*, 927 F.2d 146 (4th Cir. 1991).
7. In the absence of procedural or substantive violations of law, courts will not order school authorities to implement a particular educational method when the school has chosen an appropriate educational method.
8. Respondent has complied with all procedural safeguards required by IDEA.
9. Respondent has implemented the TEACCH model and it is an appropriate program for the education of autistic students.
10. A free appropriate public education, as required by IDEA is one that is reasonably calculated to allow the child to make reasonable progress.
11. Under North Carolina law, respondent is required to provide petitioner a sound basic education commensurate with that given other students. *Leandro v. State of North Carolina*, No. 179PA96, 1997 N.C. LEXIS 486 (N.C. July 24, 1997); *Harrell v. Wilson County*, 58 N.C. 260 (1982); G.S. §115C *et. seq.* The state standard for an appropriate education is higher than required by federal law. The State is to ensure that every child receives a fair and full opportunity to reach his full potential. G.S. '115C-106. However, this does not mean that a school system must provide utopian educational programs for children with special needs anymore than they are required to provide utopian educational programs for nonhandicapped students. *Harrell, supra*. Respondent's educational program offered to Catherine the opportunity to receive a sound basic education commensurate with that given to other autistic students.
12. Respondent's educational program offered to Catherine during the 1996-97 school year, with one exception, was reasonably calculated to allow Catherine to make educational progress and to provide Catherine with a free appropriate public education in compliance with the IDEA and state law. In order for Cathrine to maximize the opportunity provided to her in the public school system, respondent's educational program for the 1996-97 school year should include a provision that the one-on-one assistant provided by the school system be trained in the Lovaas method to assist Catherine in her transition to public school.
13. The Lovaas program has been of value to Catherine during her preschool years. However, this was a choice made by Catherine's parents just as any parent makes a choice regarding private schooling. The Lovaas program implemented during the 1996-97 school year is not provided in the least restrictive environment and is no longer appropriate to meet Catherine's needs.
14. When choosing an educational method, the school district may consider as a factor the feasibility of

implementing a particular method. *Barnett v. Fairfax County Sch. Bd.*, 927 F.2d 146 (1991). Implementation of the Lovaas method is not feasible and is unduly burdensome on the school system.

15. Petitioners are not entitled to reimbursement for the 1996-97 school year because the educational program offered by respondent is appropriate as defined by IDEA. *Burlington School Comm. v. Massachusetts Department of Education*, 471 U.S. 359 (1985).

16. Petitioners are not entitled to compensatory education for the 1993-1996 school years because they claim that petitioner received an appropriate education during that time period.

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following

**FINAL DECISION**

1. Catherine Miller's proposed IEP for the 1996-1997 school year was appropriate; however, in order for the IEP to provide the maximum educational benefit to her, the one-on-one aide should be trained in the Lovaas method (discrete trial method) in order to assist Catherine in the transition to the public school system and the TEACCH program.
2. This cause is retained for further orders as may be just and proper.

**NOTICE**

In order to appeal this Decision, the person seeking review must file a written notice of appeal with the North Carolina Superintendent of Public Instruction. The written notice of appeal must be filed within thirty (30) days after the person is served with a copy of this Decision. G.S. '115C-116(h) and (i).

This the 11<sup>th</sup> day of December, 1997.

---

Meg Scott Phipps  
Administrative Law Judge



STATE OF NORTH CAROLINA

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
96 OSP 1665

COUNTY OF LENOIR

SHARRON S. MOTEN,  
Petitioner,

v.

LENOIR COUNTY DSS  
JACK B. JONES,  
Respondent.

RECOMMENDED DECISION

This matter was heard before the undersigned administrative law judge in New Bern, North Carolina, on June 17 and 18, 1997.

**APPEARANCES**

For Petitioner: Demyra R. McDonald, Attorney at Law, Kinston, North Carolina.

For Respondent: GRIFFIN & GRIFFIN, Attorneys at Law, Kinston, North Carolina; Thomas B. Griffin appearing.

**ISSUES**

1. Did the Petitioner voluntarily resign without notice from her job on September 12, 1996?
2. Was the Petitioner terminated without just cause?
3. Was the Petitioner's termination done in retaliation for her filing of previous internal grievance and filing a Petition for a Contested Case Hearing in the Office of Administrative Hearings, file number 96 OSP 1100?

**STATUTES AND RULES INVOLVED**

N.C. Gen. Stat. §126-35  
25 NCAC 1D .0518  
29 U.S.C. §2612(a)(1)(D)  
29 CFR §825

**EXHIBITS**

The following exhibits offered by the Petitioner were received in evidence:

- P1. February 21, 1994 FMLA WH-380 med. cert. for father
- P2. February 28, 1995 FMLA WH-380 med. cert. for father
- P3. April 24, 1995 FMLA WH-381 Eer response for father
- P4. April 24, 1996 FMLA Request
- P5. April 30, 1996 J. Jones response
- P6. May 1, 1996 S.M.'s response
- P7. May 13, 1996 from J. Jones approval of FMLA
- P10. July 10, 1996 from D.R. McDonald to J. Jones
- P11. July 23, 1996 from D.R. McDonald to J. Jones
- P12. August 21, 1996 from D.R. McDonald to T. Griffin
- P13. September 5, 1996 from J. Jones to S. Moten
- P14. September 9, 1996 from D.R. McDonald to T. Griffin
- P15. September 12, 1996
- P16-24. FMLA relevant policy provisions

- P25. Leave without Pay - Lenoir County Personnel Policy
- P26. Voluntary Resignation - N.C.A.C. section 1D.0518
- P27. Investigatory Suspension - N.C.A.C. Title 25, p 118.1, Supplement 95, Number 9 September, 1995
- P28. Remedies for Procedural Violations - N.C.A.C. Sec. 1B.0432
- P29. May 15, 1996 phone conversation J. Jones dated and signed
- P30. August 23, 1996 phone conversation S. Moten
- P31. August 23, 1996 phone conversation J. Jones
- P32. Child Fatality Task Force - purpose statement
- P33. March 29, 1996 - review of child fatality - disp. action threatened
- P34. July 22, 1996 - CFTF not coming
- P35. April 3, 1996 memo from Delores Bunch
- P36. Jefferson Pilot Dis. Form
- P37. Kinston Daily Free Press - April 26, 1996
- P38. Kinston Daily Free Press - April 28, 1996
- P39. N.C.G.S. Sec. 126-37

The following exhibits offered by the Respondent were received in evidence:

- R1. Daily Time Record for Sharron Moten for August, 1996
- R2. Daily Time Record for Sharron Moten for September, 1996
- R5. Letter dated September 5, 1996 to Ms. Sharron Moten from Jack B. Jones
- R6. Letter dated September 12, 1996 to Ms. Sharron Moten from Jack B. Jones
- R25. Letter dated April 26, 1996 to Delores Bunch from Sharron Moten
- R40. Draft Letter dated August 29, 1996 to Ms. Sharron Moten from Jack B. Jones
- R42. Jefferson Pilot Disability Insurance claim form for Sharron Moten

Based upon the official documents in the file, sworn testimony of the witnesses, and other competent and admissible evidence, the undersigned makes the following:

**FINDINGS OF FACT**

1. The Petitioner last worked for the Respondent on August 26, 1996, as a Social Worker III.
2. At the time that her employment with the Respondent was terminated, the Petitioner had been employed with the Respondent approximately nine years.
3. The Petitioner was notified in March 1996 that she had a fatality in her caseload and was told that her caseload was being investigated by the Child Fatality Task Force in Raleigh.
4. The Petitioner had filed for Family Medical Leave in February 1994 and February 1995 to accompany her father to his doctor's appointments at various times. Both leave requests were approved by the Respondent.
5. The Petitioner had made various complaints of being harassed by the Respondent's director, Mr. Jack Jones, to her supervisor and to Mr. Jones.
6. In a letter to her immediate supervisor, Ms. Deloris Bunch, dated April 24, 1996, the Petitioner requested leave without pay for a period of thirty days. The reasons for the request included the Petitioner's emotional and mental anguish resulting from her father's terminal illness and Mr. Jones' alleged continued harassment of and retaliation against the Petitioner.
7. Mr. Jones denied the Petitioner's request by letter dated April 30, 1996. The letter indicated that the Petitioner's leave request, as written, was not one which would normally be granted under either the leave without pay policy or the family medical leave policy. Mr. Jones requested certification from the Petitioner's medical care provider.
8. The Petitioner provided the necessary certification. Leave without pay was granted from April 25, 1996 through May 31, 1996, under the Respondent's family medical leave policy. The certification form indicated that the Petitioner suffered from anxiety due to family situation, situational anxiety/depression, reactive hypertension, and abnormal



bleeding.

9. Mr. Jones specifically stated in his response granting the Petitioner's FMLA Request that the Petitioner could be required by the Respondent to provide medical recertification during the FMLA period, which is twelve (12) weeks, but only if requested by the Respondent.
10. The Petitioner and a co-worker, Ms. Felicia A. Baker, approached the Department of Social Services Board of Directors ( Board ) through its chairperson, Ms. Marsha Higgins, and asked for an opportunity to meet with the Board to present their grievances.
11. The Petitioner had complained of racial harassment and unfair treatment by the Respondent's director, Jack B. Jones.
12. The Petitioner complained that these grievances were not dealt with in a fair and impartial manner because the director himself was the party to whom these grievances had to be appealed.
13. The Board was asked by the Petitioner and Ms. Felicia A. Baker for permission to bring these personnel grievances before the Board.
14. The Board voted in April 1996 not to hear or otherwise get involved in any personnel matters except the hiring, firing and possible evaluation of the Director of the Department of Social Services.
15. The Board refused to hear the Petitioner's grievances.
16. The Petitioner made numerous other attempts to appeal her grievances to various bodies, including going before the Lenoir County Board of Commissioners on July 1, 1996, and requesting that the County's Advisory Personnel Board be put into place pursuant to the Lenoir County Personnel Policy so that her grievances and the grievances of other county employees could be heard.
17. The Lenoir County Board of Commissioners denied the Petitioner's request.
18. The Petitioner's attorney sent a letter dated July 10, 1996 to the Respondent informing it of the emotional stress that the Respondent's actions caused the Petitioner and requested that the Petitioner be placed on investigative status until such time as the ongoing "investigation" of her was completed.
19. The Respondent was also made aware of the Petitioner's illness due to her becoming ill while at work and while in the presence of Mr. Jones.
20. In a letter prepared by her attorney, the Petitioner requested leave without pay again on August 21, 1996. The letter informed the Respondent that the Petitioner's illness was due in some way to the stress created by the work environment and further stated that medical certification would be provided if the Respondent requested.
21. Mr. Jones called the Petitioner at home on August 23, 1996 (although he had been informed in writing by the Petitioner's attorney that contact with him caused the Petitioner emotional harm), informing her that her leave request was not sufficient but telling her only to make sure she followed the rules and giving her no additional information. Mr. Jones did not request medical certification even though the Petitioner had informed him that such certification could be provided if requested.
22. Despite the Department of Social Services Board of Directors' April 1996 decision not to hear personnel matters, Mr. Jones went to the Board and requested the Board's assistance in dealing with the absences of the Petitioner and Ms. Felicia A. Baker.
23. The Board discussed the matter at length and recommended that the Voluntary Resignation Without Notice Policy appeared to be the most appropriate manner of dealing with the situation.
24. Mr. Jones did not inform the Board that the Petitioner was contending that the ongoing investigation of her was creating a stressful situation that was affecting her mental and physical health.

25. Mr. Jones was personally aware of the Petitioner's close relationship with her father and her problems coping with her father's illness and care. The Petitioner's father's illness was common knowledge at the agency.
26. Mr. Jones did not inform the Board that the Petitioner's father was terminally ill and she was having problems coping with his illness and care.
27. There was no discussion of the Petitioner's eligibility for FMLA at the time the Board made its recommendation to Mr. Jones.
28. The Petitioner had given notice to the Respondent on numerous occasions prior to September 5, 1996, that she was ill and that she could not return to the work environment because the work environment was the cause of her illness or that the work environment aggravated her medical condition.
29. The Petitioner was mailed a letter from the Respondent dated September 5, 1996, informing her that she was to report to work at 8:30 a.m. on September 9, 1996, or her failure to return to work would be classified as a Voluntary Resignation Without Notice and her employment with the Lenoir County Department of Social Services ( DSS ) would be terminated.
30. The Petitioner's father became ill again during the weekend prior to Monday, September 9, 1996.
31. The Petitioner took her father to his physician on Monday, September 9, 1996, at approximately 8:00 a.m. and left the doctor's office to go to DSS, arriving at DSS at approximately 8:40 a.m.
32. The Petitioner was experiencing stress related to her father's illness and her own excessive vaginal bleeding on the morning of September 9, 1996.
33. The Petitioner informed Ms. Bunch that she was too ill to work and was en route to a doctor's appointment.
34. Ms. Bunch informed the Petitioner that she could not authorize leave for her and that the Petitioner would need to speak directly with Mr. Jones.
35. The Petitioner declined to speak with Mr. Jones and left the DSS office.
36. When the Petitioner left DSS, she returned to the doctor's office to be with her father.
37. The Petitioner's father was admitted to the hospital on September 9, 1996, by his physician and remained hospitalized until September 12, 1996. The Petitioner was advised that her father probably had only a couple of weeks to live when his doctor released him from the hospital.
38. The Petitioner's father died on September 27, 1996.
39. The Petitioner's attorney sent another letter on September 9, 1996, again requesting that the Respondent place the Petitioner upon leave without pay for numerous reasons, including that the Petitioner was suffering from emotional and physical illness and informing the Respondent that medical certification could be provided upon request.
40. The Petitioner had a balance of FMLA on September 9, 1996.
41. The Petitioner received a letter dated September 12, 1996 informing her that her failure to return to work on September 9, 1996 had been designated a voluntary resignation without notice and that she had no right to appeal such action. She was further informed that her employment with the Department of Social Services was terminated due to her failure to return to work as prescribed in the September 5, 1996 letter.
42. The Petitioner brought this action through filing a petition with the Office of Administrative Hearings for a contested case more than thirty (30) days after she received the letter of termination.
43. The termination was entitled by the Respondent, a Voluntary Resignation Without Notice which has no right of appeal.



44. The Respondent at no time gave any additional or alternative written notice of appeal rights to the Petitioner.
45. The Petitioner ultimately had a hysterectomy in November 1996 to correct the complications she was experiencing regarding excessive bleeding.

Based on the foregoing Findings of Fact, the undersigned Administrative Law Judge makes the following:

**CONCLUSIONS OF LAW**

1. Pursuant to Chapters 126 and 150B of the North Carolina General Statutes, the Office of Administrative Hearings has personal and subject matter jurisdiction to hear the Petitioner's appeal and to issue a Recommended Decision to the State Personnel Commission.
2. The State Personnel Commission has authority to render an advisory opinion to the Respondent which will render the Final Decision in this matter.
3. The Respondent contends that the Petitioner's employment was terminated due to her voluntary resignation without notice.
4. The provisions of the North Carolina Administrative Code governing voluntary resignation without notice provide as follows:

An employee voluntarily terminates employment with the state by failing to come to work without giving written or verbal notice to the employing agency. Such a failure shall be deemed to be a voluntary resignation from employment without notice when the employee is absent without approved leave for a period of at least three consecutive, scheduled work days. Separation pursuant to this Rule should not occur until the employing agency has undertaken reasonable efforts to locate the employee and determine when or if the employee is intending to return to work. This provision also applies when the employee is absent for at least three consecutive, scheduled work days and does not report in to the appropriate supervisory personnel on a regular basis satisfactory to the employing agency. Such a separation is voluntary separation from state employment and creates no right of grievance or appeal pursuant to the State Personnel Act (G.S. Chapter 126).

25 NCAC 1D .0518. (Emphasis added).

5. There are two primary elements to a voluntary resignation without notice: (a) failure to provide notice and (b) failure to report to work. In the Petitioner's case, she reported to work, but did not stay. She attempted to provide notice by informing her immediate supervisor of her illness and, later, by having her attorney write to the Respondent. Thus the Petitioner's particular circumstances fail to meet the criteria that are necessary for designating her absence from work as voluntary resignation without notice.
6. The Respondent did not have just cause for designating the Petitioner's absence from work a voluntary resignation without notice.
7. Absenteeism from the workplace can result in disruption of the work flow and is, therefore, a legitimate employer concern. Chronic absenteeism or extended periods of absence, can in appropriate circumstances, result in the termination of the employment relationship due to either just cause, unavailability for work, or voluntary resignation without notice. When medical issues are involved in the employee's reason(s) for being absent, the Family and Medical Leave Act ( FMLA ) may come into play.
8. The Petitioner has the burden of proving her eligibility for leave under the FMLA. To prove her eligibility for FMLA leave, the Petitioner must give notice of the need for leave and establish that she has a qualifying reason for the leave.
9. The Petitioner seeks to establish her entitlement to leave under the federal Family and Medical Leave Act pursuant to the provisions pertaining to leave for a serious health condition that makes the employee unable to perform the functions of the position of such employee and leave to care for an immediate family member with a serious health

condition. 29 U.S.C. §2612(a)(1)(D), 29 C.F.R. §825.112.

10. When giving notice of the need for leave, an employee is not required to expressly assert FMLA rights or even mention the FMLA to meet her obligation to provide notice under the Act. 29 C.F.R. §825.303.
11. As early as July 10, 1996, the Respondent was aware that the Petitioner was requesting leave due to stress that was affecting her mental and physical health. The fact that the stress that was affecting the Petitioner's mental and physical health was due to job related incidents does not automatically make the health condition a non-qualifying reason for FMLA leave.
12. The Petitioner provided such notice of her illnesses as was practicable based on all the facts and circumstances of her situation, both in terms of the timing of the notice and its content. *Manual V. Westlake Polymers Corporation*, 66 F.3d 758, 763 (5th Cir. 1995).
13. Once Respondent was aware that the Petitioner was requesting leave due to an emotional and physical illness, it was the Respondent's duty to make whatever inquiries were necessary in order to determine whether Petitioner's absences should be designated as FMLA. 29 CFR §825.208.
14. The Respondent's failure to request medical certification when the Petitioner had informed it that such certification was available if the Respondent required it in order to determine the validity of the Petitioner's leave request was a violation of the FMLA.
15. The Respondent failed to make whatever further inquiry it needed to determine whether Petitioner's absence should have been designated as FMLA leave. As a result, the Petitioner was dismissed for absences which might have been covered by the FMLA.
16. It is the employer's responsibility to designate leave, paid or unpaid, as FMLA leave and to give employees notice of this designation. Thus, in circumstances where an employer wishes to designate leave, but has insufficient information about the leave to do so, the employer is under an affirmative obligation to inquire further as to whether the leave is for an FMLA-qualifying purpose.
17. The Respondent cannot terminate the Petitioner's employment until it makes a determination of whether or not her leave request qualifies for FMLA. In this instance, the Respondent should have requested medical certification. The Respondent did not make such an inquiry in this case.
18. There is insufficient evidence in the record to establish that the Respondent terminated the Petitioner in retaliation for her having filed previous grievances or filing a Petition for a Contested Case Hearing in the Office of Administrative Hearings, file number 96 OSP 1100.

### **RECOMMENDED DECISION**

It is recommended that the agency adopt the Findings of Fact and Conclusions of Law set forth above and that the agency reinstate the Petitioner with full benefits and award back pay and appropriate attorney fees.

### **ORDER**

The Respondent will make the Final Decision in this contested case. It is hereby ordered that the agency serve a copy of the Final Decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statutes section 150B-36(b).

### **NOTICE**

Before the Respondent makes the FINAL DECISION, it is required by North Carolina General Statutes section 150B-36(a) to give each party an opportunity to file exceptions to this RECOMMENDED DECISION, and to present written arguments to those in the agency who will make the final decision.

The agency is required by North Carolina General Statutes section 150B-36(b) to serve a copy of the FINAL



DECISION on all parties and to furnish a copy to the Parties' attorney of record.

This the 5<sup>th</sup> day of December, 1997.

---

Brenda B. Becton  
Administrative Law Judge

STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
97 EHR 0195  
97 OSP 0374

DOWELL GRAY,  
Petitioner,

v.

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT  
AND NATURAL RESOURCES,

and

ONslow COUNTY  
DEPARTMENT OF HEALTH,  
Respondent.

RECOMMENDED DECISION

The above entitled consolidated contested cases were heard before Beecher R. Gray, administrative law judge, on August 26, 1997 in Kenansville, North Carolina. A post-hearing motion to dismiss on the basis of an untimely petition was filed by Respondent Environment and Natural Resources on October 15, 1997. Petitioner filed a response on October 21, 1997, which included the filing of an original petition.

**APPEARANCES**

Petitioner: Jeffrey S. Miller, Esq.

Respondent Environment and Natural Resources: Elizabeth J. Weese, Assistant Attorney General

Respondent Onslow County Department of Health: Cynthia L. Turco, Esq.

**ISSUES**

1. Whether the revocation of Petitioner's delegated authority to enforce certain State statutes and rules of the Commission for Health Services by Respondent Environment and Natural Resources is proper.
2. Whether Respondent Onslow County Department of Health had just cause to dismiss Petitioner from its employment.

**EXHIBITS ADMITTED**

The following exhibits were admitted into evidence during this contested case hearing:  
Exhibits 1-12 for Respondents and exhibits 2-15, 17, 25, and 26 for Petitioner.

**THE POST-HEARING MOTION TO DISMISS**

Respondent ENR's motion to dismiss, filed on October 15, 1997, is based on the fact that both Petitioner's original and copy files in the Office of Administrative Hearings contained, as of October 15, 1997, only fax copies of a petition for contested case hearing, an original never having been filed as required within five (5) business days by the rules of the Office of Administrative Hearings. N.C. Admin. Code tit. 26, r. 03.0101(4) (January 1994). On October 21, 1997, Petitioner filed a response to the motion to dismiss. Petitioner included with his response a copy of Respondent's exhibit number four (4) as admitted in this contested case hearing. Respondent's exhibit four is the January 10, 1997 letter from Director Linda Sewall of the Division of Environmental Health to Petitioner notifying him that his delegation of authority is being revoked. Director Sewall's notice of appeal rights in the January 10, 1997 letter states that Petitioner may appeal her decision by filing a contested case petition with the Office of Administrative Hearings at P. O. Drawer 17447 Raleigh, N.C. (emphasis added). The actual address of the Office of Administrative Hearings is P. O. Drawer 27447 Raleigh, N.C. At the time Petitioner filed his response, he also filed an original contested case petition.

The time limitation in a contested case such as this one is controlled by the provisions of G.S. 150B-23(f), which



provides, in pertinent part:

[t]he time limitation . . . shall commence when notice is given of the agency decision to all persons aggrieved . . . . The notice shall be in writing, and shall set forth the agency action, and shall inform the persons of the right, the procedure, and the time limit to file a contested case petition.

Now, Therefore, having considered Respondent's Motion To Dismiss, Petitioner's response, and the applicable law, I find that Director Sewall's notice of appeal rights to Petitioner in her January 10, 1997 letter to him was defective in that it failed to accurately provide the correct address of the Office of Administrative Hearings and therefore failed to provide notice of the procedure required. Based upon the foregoing, the motion to dismiss should be, and the same hereby is, DENIED.

### FINDINGS OF FACT

1. The parties received notice of hearing by certified mail more than fifteen (15) days prior to the hearing and each stipulated on the record that notice was proper.

2. Petitioner was employed as an Environmental Health Specialist with the Onslow County Department of Health (OCDH) from September 19, 1983 until he was involuntarily discharged on February 10, 1997.

3. Petitioner was required to hold a delegation of authority from the North Carolina Department of Environment and Natural Resources to enforce laws and rules of the Commission for Health Services as a condition of his employment with OCDH. His position description provided, in pertinent part:

#### KNOWLEDGE, SKILLS & ABILITIES AND TRAINING & EXPERIENCE REQUIREMENTS:

...

#### B. 2. Additional Training/Experience:

...

2. Certification (Authorization) in Sewage/Water section and/or Food/Lodging/Institutions

...

#### C. License or Certification Required by Statute or Regulation:

...

In addition, employee must hold a valid authorization card from NC Dept. of Environment, Health, and Natural Resources, Division of Environmental Health.

4. Statutory authority for delegation of authority from the Secretary of the Department of Environment and Natural Resources to employees of county health departments is contained in Article one of the Public Health Chapter, 130A. It provides:

...

(b) When requested by the Secretary, a local health department shall enforce the rules of the Commission under the supervision of the Department. The local health department shall utilize local staff authorized by the Department to enforce the specific rules. N.C. Gen. Stat. Section 130A-4 (b) (November 1995).

5. The Commission for Health Services has promulgated rules regarding delegation of authority to enforce the Commission's sanitation rules. N.C. Admin. Code tit. 15A, r. 18A.2300 (October 1994). Section .2300 provides, in pertinent part:

#### .2301 SCOPE OF DELEGATED AUTHORITY

There shall be three areas of authorization to enforce Commission for Health Services' sanitation rules:

- (1) authority to enforce food, lodging, and institutional sanitation, migrant housing, and public swimming pool rules,
- (2) authority to enforce sewage, migrant housing, and public swimming pool rules, and
- (3) authority to enforce both (1) and (2) of this Rule.

.2303 DELEGATION OF AUTHORITY

(a) Upon a request from the local health department and upon a determination that the individual meets the requirements of rule .2302 of this Section, the district sanitarian shall identify the responsibilities which have been assigned to the individual, determine the appropriate type of authorization, and work individually with the person for at least three days. During this period of evaluation, the district sanitarian will examine the individual's:

- (1) knowledge of appropriate technical material, rules, and laws;
- (2) ability to apply technical material, rules, and laws appropriately,
- and
- (3) ability to work effectively with the public.

(b) Upon a determination that the criteria in Paragraph (a) have been met and that none of the reasons for denial listed in Rule .2305 of this Section exist, the Environmental Health Services Section Chief shall issue delegation of authority to enforce a specific area of the rules.

.2305 DENIAL: PROBATION: SUSPENSION: AND REVOCATION

(a) The Environmental Health Services Section Chief may deny, suspend, or revoke the delegation of authority for any of the following:

- ...
- (6) incompetency, dishonesty, or unprofessionalism in performing delegated duties;
- ...
- (8) failure to properly interpret and enforce laws, rules, and policies;
- ...

(b) Prior to suspension or revocation of delegation of authority, the Environmental Health Services Section Chief may place the individual on probation for a period not to exceed two years. If the individual does not show satisfactory improvement in the areas given as reasons for probation within the stated time period, the Environmental Services Section Chief shall suspend or revoke the delegation of authority.

.2307 APPEALS PROCEDURE

Appeals concerning the interpretation and enforcement of the rules in this Section shall be made in accordance with G.S. 150B.

6. Official notice was taken of North Carolina General Statutes Chapter 130A and of the North Carolina Administrative Code, Title 15A, Chapter 18A.

7. Chapter 150B defines the term license as:

means any certificate, permit or other evidence, by whatever name called, of a right or privilege to engage in any activity, except licenses issued under Chapter 20 and Subchapter I of Chapter 105 of the General Statutes and occupational licenses. N.C. Gen Stat. Section 150B-2(3) (Cum. Supp. 1996).

8. North Carolina General Statutes Section 150B-3, entitled special provisions on licensing, provides, in pertinent part:

...

(b) Before the commencement of proceedings for the suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of any license other than an occupational license, the agency shall give notice to the licensee, pursuant to the provisions of G.S. 150B-23. Before the commencement of such proceedings involving an occupational license, the agency shall give notice pursuant to the provisions of G.S. 150B-38. In either case, the licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license or occupational license. N.C. Gen. Stat. Section 150B-3(b) (Cum. Supp. 1996).



9. North Carolina General Statutes Section 150B-23 requires an agency to file a contested case petition in order to commence a contested case and, where the dispute concerns a license, the agency must serve a copy of the petition on the license holder. N.C. Gen. Stat. Section 150B-23 (a) (Cum. Supp. 1996).

10. Approximately two years after his employment by the Onslow County Department of Health in 1983, Petitioner was issued a delegation of authority by the head of the Sanitation Branch of the Environmental Health Section of the North Carolina Department of Human Resources. The (then) District Sanitarian, Charles Jackson, wrote to Richard J. Koonce, Environmental Health Supervisor for OCDH, on October 1, 1985 that:

[I]t is with some reservation that I am recommending authorization for Dowell Gray. . . . My last two days indicated that Dowell can perform the specific duties that you will require of him. However, there is still some question about his ability to make decisions that require judgment.

11. From October 1985 through September, 1996, Petitioner's job performance evaluations were all at the level of meets expectations or exceeds expectations or the equivalent.

12. In March, 1996, Petitioner requested that the OCHD allow him to attend a soils training course. That request was denied by Health Director Danny Jacob, who testified at the contested case hearing that lack of funds was the reason for the denial. In Health Director Jacob's memo to Petitioner's supervisor, Cameron Lanier, dated March 13, 1996, he said the following:

I have considered your memo of March 8, 1996 concerning Dowell Gray's request for to (sic) attend training for full authorization. Because of time constraints and additional questions I have about Dowell's training needs I am unable to support your request at this time. I do need to discuss Dowell's current work load with you and perhaps with better planning we can send him to the next training session when it is offered.

13. John Williams is the Department of Environment and Natural Resources Regional Soils Specialist for the Wilmington Region, which encompasses Onslow County. John Williams has responsibility for training and evaluating local health department staff regarding delegations of authority for on-site wastewater disposal. He recommends issuance, suspension, or revocation of delegations of authority.

14. In May, 1996, communication ensued between John Williams and the OCHD regarding the revocation of an improvement permit for on-site sewage disposal issued by Petitioner. The OCHD requested that John Williams work with Petitioner and evaluate his performance.

15. In a memo to Barbara Boswell of the Onslow County Personnel office, dated May 20, 1996, Health Director Jacob made the following observations regarding Petitioner's status and performance:

We have received information from the Division of Environmental Health, Onsite-Waste Water Section (see attachments) that reminds us Dowell Gray has questionable skills for making decisions as a Environmental Health Specialist. In fact, he has only limited authority granted by the state to work in the waste water program. Unfortunately, after a specific site complaint was reviewed by our staff and the state, we have more concerns. It's possible that even issuing improvements permits may be beyond the scope of Mr. Gray's training and experience. You may recall that I have already discussed similar concerns about Mr. Gray's abilities with you in the past.

At this time, the latest complaint we are investigating is consistent with Mr. Gray's history of poor independent decision-making. The technical deficiencies of the problem are being resolved and the complainant has the option to appeal the decision of the Health Department to the Office of Administrative Hearings.

Based upon this latest problem with Mr. Gray's work, we now have the documentation necessary to request an official evaluation and determination of the basic skills he needs to retain his authorization. A representative of the Division of environmental Health will be in Onslow County on June 10, 1996 to work with Mr. Gray and validate his continued authorization. I need to remind you of the consequences of this process, however. Mr. Gray's authorization is granted by the state and should he lose it, he is useless to the Health Department's On-Site Waste-Water Program.

16. During May, 1996, John Williams did a field evaluation of Petitioner's work on a lot on Topsail Beach. Soils Specialist Williams found the lot unsuitable because of wetness and lack of space. Petitioner previously had inspected the same lot and had issued an improvement permit for the installation of a sewage disposal system which subsequently was revoked by the Onslow County Department of Health.

17. After the May, 1996 visit, John Williams was requested to return to Onslow County for further evaluation of Petitioner's work. John Williams spent June 10, 11, and 13, 1996 in Onslow County evaluating Petitioner's work. Soil Specialist Williams found that Petitioner performed adequately during this three day evaluation. At the end of this three day period, John Williams recommended that Petitioner be placed on probation regarding his delegation of authority to allow time for strengthening of his ability to work alone in the field. John Williams stated to Petitioner and his superiors that Petitioner was going to be placed on probation for six (6) months so he could get additional training. Soils Specialist Williams did not return to OCDH to provide additional training to Petitioner during the probationary period because of the occurrence of hurricanes Bertha and Fran. The OCDH did not provide or arrange any additional training for Petitioner during the probationary period. Petitioner did not obtain any additional training on his own initiative.

18. John Williams next visited Onslow County to evaluate Petitioner's work at the end of the six months probationary period on December 12, 1996. He and Petitioner visited three (3) field sites to compare his evaluation of the sites with the evaluation performed by Petitioner. On two (2) of the three (3) lots evaluated, John Williams disagreed with all or part of Petitioner's evaluations. Petitioner also was given a written vertical separation test designed and administered by John Williams. This written test previously had been given to fifteen (15) environmental health specialists by John Williams. The highest number of questions incorrectly answered previously was four (4), with an average number being between two (2) and four (4). Petitioner incorrectly answered nine (9) questions on this test.

19. At the conclusion of the work day on December 12, 1996, John Williams stated to Petitioner and his superiors at the OCDH that he was going to recommend that Petitioner's delegation of authority be revoked.

20. Linda Sewall is the Director of the Division of Environmental Health in the Department of Environment and Natural Resources. She holds a letter of delegation of authority from (former) Secretary Jonathan Howes authorizing her to implement and enforce the rules regarding delegations of authority under Chapter 130A of the General Statutes of North Carolina.

21. Director Sewall wrote a letter to Onslow County Health Director Danny Jacob on December 31, 1996 in which she stated the following:

[p]ursuant to 15A NCAC 18A .2305 (a)(b), .2305 (a)(8), and .2305(b), it has been determined that Mr. Dowell Gray's Delegation of Authority for On-Site Wastewater Treatment and Disposal should be revoked.

[t]he revocation of Mr. Gray's delegation of authority will be effective 30 days from the date of this letter. . .

[e]ffective immediately, please do not allow Mr. Gray to sign any permits for on- site wastewater treatment systems. (emphasis added).

This letter was received by Health Director Jacob on January 6, 1997.

22. Although Director Sewall's letter instructed Health Director Jacob to cause an immediate cessation of Petitioner's issuance of permits for on-site wastewater systems, she did not invoke the provisions of G.S. 150B-3 ( c ) or incorporate a finding demonstrating a public health, safety, or welfare condition requiring emergency action to justify summary suspension of Petitioner's delegation of authority. G.S. 150B-3 ( c ) provides:

[I]f the agency finds that the public health, safety, or welfare requires emergency action and incorporates this finding in its order, summary suspension of a license or occupational license may be ordered effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.



[n]othing in this subsection shall be construed as amending or repealing any special statutes, in effect prior to February 1, 1976, which provide for the summary suspension of a license.

N.C. Gen. Stat. Section 150B-3 ( c ) (Cum. Supp. 1996).

23. On January 10, 1996, Director Sewall wrote a letter to Petitioner in which she stated the following:

[p]ursuant to . . . it has been determined that your Delegation of Authority for On-Site Wastewater Treatment and Disposal Systems should be revoked.

. . .

[t]he revocation of your delegation of authority will be effective 30 days from the date of this letter. . . .

[e]ffective immediately, you should not sign any permits for on-site wastewater treatment systems.

24. Danny Jacob became Health Director for the OCDH in 1990. Petitioner was on the staff at that time. Upon receiving the December 31, 1996 letter from Division of Environmental Health Director Linda Sewall, Health Director Jacob scheduled a predissmissal conference with Petitioner, Director of OCDH Environmental Health Services, Cameron Lanier, and himself, which was conducted on January 13, 1997. At this predissmissal conference, Petitioner told Health Director Jacob that he would appeal the revocation of his delegation of authority by Director Linda Sewall.

25. On January 15, 1997, Health Director Jacob wrote a letter to Petitioner informing Petitioner that he was being discharged from employment, effective on February 10, 1997 at the close of the work day, for failure to maintain his delegation of authority for on-site wastewater treatment and disposal systems. As authority, Health Director Jacob cited special provisions on credentials in the rules of the State Personnel Commission which provide:

(a) By statute, some duties assigned to positions may be performed only by persons who are duly licensed, registered or certified as required by the relevant law.

(b) Employees in such classifications are responsible for maintaining current, valid credentials as required by law. Failure to maintain the required credentials is a basis for immediate dismissal without prior warning. An employee who is dismissed shall be given a written statement of the reason for the action and his appeal rights.

N. C. Admin. Code tit. 25, r. .2307 (July 1993).

### CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, I make the following conclusions of law.

1. The parties properly are before the Office of Administrative Hearings.

2. The delegation of authority for on-site wastewater treatment and disposal systems held by Petitioner for approximately eleven (11) years constitutes a license within the meaning of G.S. 150B-2(3). As a license, this delegation of authority is subject to the special provisions on licensing in G.S. 150B-3 which require the agency to give notice to the license holder in accordance with G.S. 150B-23 before the commencement of proceedings to revoke or suspend the delegation of authority.

3. Construing the Commission for Health Services' rules on delegation of authority together with G.S. Chapter 130A and G.S. Sections 150B-2,-3, and -23, harmonizing these statutes and rules to the greatest extent possible, while giving effect to each provision, it is hereby found, as a matter of law, that Respondent Department of Environment and Natural Resources committed error when it did not notify Petitioner of its intent to revoke his delegation of authority prior to commencing proceedings to do so and when it did not commence a contested case in the Office of Administrative Hearings in order to fulfill the statutory mandate to allow Petitioner an opportunity to demonstrate his compliance with all lawful requirements for retention of his delegation of authority.

4. Petitioner is a career State employee for purposes of this hearing under G.S. 126-1.1 and 126-5, since he is, and has been for more than the preceding 24 months, in a permanent position appointment in a local health department and subject to the

State Personnel Act. As a career State employee, Petitioner enjoys the expectation of continued employment and only may be dismissed for just cause as provided in G.S. 126-35.

5. Respondent Onslow County Department of Health presented no evidence of just cause either in the form of written warnings for unsatisfactory job performance or unacceptable personal conduct.

6. Respondent Onslow County Department of Health acted erroneously, as a matter of law, when it relied upon the erroneous action of Respondent Environment and Natural Resources attempting to summarily revoke the delegation of authority held by Petitioner.

**RECOMMENDED DECISION**

Based upon the foregoing findings of fact and conclusions of law, it is hereby recommended that Petitioner's delegation of authority be acknowledged as being in full force and effect until such time as Respondent Environment and Natural Resources engages in the proper procedure to revoke or suspend his delegation upon sufficient evidence for such revocation or suspension under the Commission for Health Services' rules. It is recommended that Petitioner be reinstated to the position he held on February 10, 1997, or to a comparable position; that he receive all benefits to which he would have become entitled but for his dismissal on February 10, 1996; and that he receive reasonable attorney's fees and costs associated with this consolidated contested case hearing. It is further recommended that Respondent Environment and Natural Resources pay an equal share of the reasonable attorney's fees in this consolidated matter.

**ORDER**

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

**NOTICE**

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in 97 EHR 0195 is the North Carolina Office Department of Environment and Natural Resources. The agency that will make the final decision in 97 OSP 0374 is the North Carolina Office of State Personnel.

This the 24th day of November, 1997.

---

Beecher R. Gray  
Administrative Law Judge



*The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.*

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

**TITLE      DEPARTMENT                                      LICENSING BOARDS                                      CHAPTER**

1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
*21	Occupational Licensing Boards	Mortuary Science	34
22	Administrative Procedures	Nursing	36
23	Community Colleges	Nursing Home Administrators	37
24	Independent Agencies	Occupational Therapists	38
25	State Personnel	Opticians	40
26	Administrative Hearings	Optometry	42
27	NC State Bar	Osteopathic Examination & Reg. (Repealed)	44
		Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Psychology Board	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

**Note:** Title 21 contains the chapters of the various occupational licensing boards.





# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

This index provides information related to notices, rules and other documents published in the Register. It includes information about rules for which Notice of Rule-Making Proceedings or Notice of Text have been published, rules submitted to the Rules Review Commission and rules codified since the last session of the General Assembly. For assistance contact the Rules Division at 919/733-2678.

Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. \* = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

## ADMINISTRATION

### State Building Commission

1 NCAC 30G .0101		11:04 NCR 194	11:19 NCR 1414	*	Approve	03/20/97			11:26 NCR 2004	
1 NCAC 30G .0102		11:04 NCR 194	11:19 NCR 1414	*	Object	03/20/97				
1 NCAC 30G .0103		11:04 NCR 194	11:19 NCR 1414	*	Approve	05/15/97	*		11:30 NCR 2314	
1 NCAC 30G .0104		11:04 NCR 194	11:19 NCR 1414	*	Approve	03/20/97	*		11:26 NCR 2004	
1 NCAC 30G .0105		11:04 NCR 194	11:19 NCR 1414	S/L	Object	03/20/97	*			
					Approve	05/15/97			11:30 NCR 2314	
					Approve	03/20/97			11:26 NCR 2004	

## ADMINISTRATIVE HEARINGS

### Civil Rights Division

26 NCAC 04 .0101		12:12 NCR 1071								
26 NCAC 04 .0201		12:12 NCR 1071								
26 NCAC 04 .0202		12:12 NCR 1071								
26 NCAC 04 .0203		12:12 NCR 1071								
26 NCAC 04 .0204		12:12 NCR 1071								

### Hearings Division

26 NCAC 03 .0122	12:08 NCR 621		12:13 NCR 1172	S						
------------------	---------------	--	----------------	---	--	--	--	--	--	--

### Rules Division

26 NCAC 02C	11:19 NCR 1413									
-------------	----------------	--	--	--	--	--	--	--	--	--

## AGRICULTURE

2 NCAC 48A .0206	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96	*			
					Approve	01/16/97			11:22 NCR 1717	
2 NCAC 48A .0211	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96	*			
					Approve	01/16/97			11:22 NCR 1717	
2 NCAC 48A .0214	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96	*			
					Approve	01/16/97			11:22 NCR 1717	
2 NCAC 52A .0104	11:27 NCR 2053		12:03 NCR 169	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
2 NCAC 52A .0105	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0106	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0107	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0108	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0109	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52B .0212	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52B .0303	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52C .0701	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52D .0101	11:27 NCR 2053		12:03 NCR 169	*						
<b>Marketing Authority</b>										
2 NCAC 43F .0103	11:14 NCR 1107		11:22 NCR 1706	*	Object	05/15/97				
2 NCAC 43H .0101	11:14 NCR 1107		11:22 NCR 1706	*	Approve	06/19/97	*		12:03 NCR 213	
2 NCAC 43H .0107	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43L .0202	11:14 NCR 1107		11:22 NCR 1706	*	Object	05/15/97	*		12:03 NCR 213	
2 NCAC 43L .0401	11:14 NCR 1107		11:22 NCR 1706	*	Approve	06/19/97			11:30 NCR 2314	
2 NCAC 43L .0402	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43L .0403	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43L .0405	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97	*		11:30 NCR 2314	
<b>Plant Conservation Board</b>										
2 NCAC 48F .0301	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97			11:26 NCR 2004	
2 NCAC 48F .0302	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97			11:26 NCR 2004	
2 NCAC 48F .0304	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97	*		11:26 NCR 2004	
2 NCAC 48F .0305	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97	*		11:26 NCR 2004	
2 NCAC 48F .0306	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97	*		11:26 NCR 2004	
<b>Structural Pest Control</b>										
2 NCAC 34 .0102	12:09 NCR 743									
2 NCAC 34 .0302	12:09 NCR 743									
2 NCAC 34 .0303	12:09 NCR 743									
2 NCAC 34 .0306	12:09 NCR 743									

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
2 NCAC 34. 0308	12:09 NCR 743									
2 NCAC 34. 0309	12:09 NCR 743									
2 NCAC 34. 0312	12:09 NCR 743									
2 NCAC 34. 0313	12:09 NCR 743									
2 NCAC 34. 0323	12:09 NCR 743									
2 NCAC 34. 0325	12:09 NCR 743									
2 NCAC 34. 0328	12:09 NCR 743									
2 NCAC 34. 0401	12:09 NCR 743									
2 NCAC 34. 0402	12:09 NCR 743									
2 NCAC 34. 0403	12:09 NCR 743									
2 NCAC 34. 0404	12:09 NCR 743									
2 NCAC 34. 0406	12:09 NCR 743									
2 NCAC 34. 0501	12:09 NCR 743									
2 NCAC 34. 0502	12:09 NCR 743									
2 NCAC 34. 0503		11:21 NCR 1651	12:06 NCR 455	*						
2 NCAC 34. 0503	12:09 NCR 743									
2 NCAC 34. 0504	12:09 NCR 743									
2 NCAC 34. 0505	12:09 NCR 743									
2 NCAC 34. 0506	12:09 NCR 743									
2 NCAC 34. 0507	12:09 NCR 743									
2 NCAC 34. 0508	12:09 NCR 743									
2 NCAC 34. 0601	12:09 NCR 743									
2 NCAC 34. 0602		11:21 NCR 1651	12:06 NCR 455	*						
2 NCAC 34. 0602	12:09 NCR 743									
2 NCAC 34. 0604		11:21 NCR 1651	12:06 NCR 455	*						
2 NCAC 34. 0604	12:09 NCR 743									
2 NCAC 34. 0605		11:21 NCR 1651	12:06 NCR 455	*						
2 NCAC 34. 0605	12:09 NCR 743									
2 NCAC 34. 0701	12:09 NCR 743									
2 NCAC 34. 0702	12:09 NCR 743									



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
2 NCAC 34 .0703	12:09 NCR 743									
2 NCAC 34 .0803	12:09 NCR 743									
2 NCAC 34 .0902	12:09 NCR 743									
2 NCAC 34 .0904	12:09 NCR 743									
2 NCAC 34 .1101	12:09 NCR 743									
<b>ARCHITECTURE, BOARD OF</b>										
21 NCAC 02 .0208	12:04 NCR 244									
21 NCAC 02 .0210	12:04 NCR 244									
21 NCAC 02 .0213	12:04 NCR 244			*						
21 NCAC 02 .0901	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0902	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0903	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0904	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0905	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0906	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0907	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0908	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0909	12:04 NCR 244		12:09 NCR 795	S/L/SE						
21 NCAC 02 .0910	12:04 NCR 244		12:09 NCR 795	S/L/SE						
<b>AUCTIONEERS LICENSING BOARD</b>										
21 NCAC 04B .0202	11:18 NCR 1368		11:28 NCR 2129	*	Approve	11/20/97	*			
<b>CERTIFIED PUBLIC ACCOUNTANT EXAMINERS</b>										
21 NCAC 08A .0301	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08A .0309	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08F .0103	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08F .0105	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08F .0302	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08F .0304	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08F .0401	12:08 NCR 619		12:13 NCR 1138	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 08F .0410	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08G .0404	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08G .0406	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08H .0001	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08I .0004	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08I .0005	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08J .0001	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08J .0005	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08J .0006	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08J .0008	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08J .0010	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08K .0301	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08M .0101	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08M .0102	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08M .0201	12:08 NCR 619		12:13 NCR 1138	*						
21 NCAC 08M .0204	12:08 NCR 619		12:13 NCR 1138	*						
<b>COMMERCE</b>										
4 NCAC 01E	11:09 NCR 569									
4 NCAC 01F	11:09 NCR 569									
4 NCAC 01H	11:09 NCR 569									
4 NCAC 01I	11:09 NCR 569									
4 NCAC 01J	11:09 NCR 569									
4 NCAC 01K	11:09 NCR 569									
<b>Community Assistance</b>										
4 NCAC 01K .0501	11:09 NCR 569									
4 NCAC 01K .0502	11:09 NCR 569									
4 NCAC 01K .0503	11:09 NCR 569									
4 NCAC 01K .0504	11:09 NCR 569									
4 NCAC 01K .0505	11:09 NCR 569									
4 NCAC 01K .0506	11:09 NCR 569									

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
4 NCAC 19L 0401	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 0403	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 0404	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 0407	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97				
4 NCAC 19L 0501	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 0502	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 0505	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 0706	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 0707	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 0708	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 0802	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97				
4 NCAC 19L 0805	11-09 NCR 569									
4 NCAC 19L 0901	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 0906	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 0907	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97				
4 NCAC 19L 0911	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 1002	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 1004	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 1009	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 1011	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 1301	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 1302	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 1303	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 1701	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 1702	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 1703	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L 1801	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 1802	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 1803	11-09 NCR 569		11-14 NCR 1113	*	Approve	11/20/97	*			
4 NCAC 19L 1804	11-09 NCR 569		11-14 NCR 1113	*	Object	11/20/97				



# **CUMULATIVE INDEX** (Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
4 NCAC 19L.1805	11:09 NCR 569		11:14 NCR 1113	*	Object	11/20/97				
4 NCAC 19L.1900	11:09 NCR 569									
<b>Credit Union Division</b>										
4 NCAC 06C.0205	10:18 NCR 2398		11:29 NCR 2182	*	Approve	08/21/97			12:07 NCR 561	
4 NCAC 06C.0407	10:18 NCR 2398		11:29 NCR 2182	*	Object	08/21/97				
					Approve	09/18/97	*		12:10 NCR 878	
4 NCAC 06C.0409	10:18 NCR 2398		11:29 NCR 2182	*	Approve	08/21/97			12:07 NCR 561	
<b>State Ports Authority</b>										
4 NCAC 13A.0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0102	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0105	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0202	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0203	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0204	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0001	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0002	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0003	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0004	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0005	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13C.0001	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13D.0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0102	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0103	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0201	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0202	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0301	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0302	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0401	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0402	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
4 NCAC 13E .0403	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0404	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0405	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0501	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0502	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0601	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0602	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0603	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0701	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0702	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0801	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0803	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0901	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E .0902	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13F .0301	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13F .0302	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
<b>COMMUNITY COLLEGES</b>										
23 NCAC 01A .0001	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0108	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0202	11:18 NCR 1369		12:09 NCR 802	*						
23 NCAC 02C .0207	11:18 NCR 1369		12:09 NCR 802	*						
23 NCAC 02C .0305	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0604	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02C .0701	11:18 NCR 1369		12:09 NCR 802	*						
23 NCAC 02D .0103	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0201	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0202	11:17 NCR 1336									
23 NCAC 02D .0202	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0203	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0301	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						

# **CUMULATIVE INDEX** (Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
23 NCAC 02D .0323	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0324	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02D .0327	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0101	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0102	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0201	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0203	10:24 NCR 3058		11:09 NCR 585	*	Object Approve	01/16/97 02/20/97	*		11:24 NCR 1832	
23 NCAC 02E .0203	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0204	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0205	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0501	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
23 NCAC 02E .0604	11:18 NCR 1369	11:25 NCR 1919	12:09 NCR 802	*						
<b>COSMETIC ART EXAMINERS</b>										
21 NCAC 14A .0101	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14B .0605	12:06 NCR 925		12:11 NCR 925	*						
21 NCAC 14G .0103	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14G .0107	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14G .0113	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14H .0105	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14H .0113	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14H .0118	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14H .0119	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14I .0104	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14I .0105	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14I .0107	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14I .0109	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14I .0401	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0102	12:06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0103	12:06 NCR 453		12:11 NCR 925	*						



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 14J .0104	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0105	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0202	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0204	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0205	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0206	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0303	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0306	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0307	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0401	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0402	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0403	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0404	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14J .0501	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14K .0101	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14K .0103	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14L .0101	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14L .0105	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14L .0108	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14L .0214	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0102	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0103	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0104	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0105	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0107	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0108	12.06 NCR 453		12:11 NCR 925	*						
21 NCAC 14N .0113	12.06 NCR 453		12:11 NCR 925	*						

## CRIME CONTROL & PUBLIC SAFETY

Governor's Crime Commission

14A NCAC 07 .0313 11:24 NCR 1818

12:01 NCR 6

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

## CULTURAL RESOURCES

### North Carolina Historical Commission

7 NCAC 04R .0909	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0910	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0911	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0912	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0913	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0914	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						
7 NCAC 04R .0915	12:06 NCR 444	12:13 NCR 1174	12:13 NCR 1174	S						

### USS North Carolina Battleship Commission

7 NCAC 05 .0203

11:19 NCR 1436

Temp Expired

## DENTAL EXAMINERS

21 NCAC 16B .0303	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97			12:10 NCR 878	
21 NCAC 16I .0001	11:20 NCR 1538		11:25 NCR 1915	*	Object	09/18/97	*		12:11 NCR 947	
21 NCAC 16I .0002	11:20 NCR 1538		11:25 NCR 1915	*	Approve Extended review	10/16/97 09/18/97	*			
21 NCAC 16I .0003	11:20 NCR 1538		11:25 NCR 1915	*	Approve	11/20/97	*		12:10 NCR 878	
21 NCAC 16I .0004	11:20 NCR 1538									
21 NCAC 16I .0005	11:20 NCR 1538									
21 NCAC 16I .0006	11:20 NCR 1538									
21 NCAC 16M .0001	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97			12:10 NCR 878	
21 NCAC 16M .0003	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97			12:10 NCR 878	
21 NCAC 16R .0001	11:20 NCR 1538		11:25 NCR 1915	*	Object	09/18/97	*		12:11 NCR 947	
21 NCAC 16R .0002	11:20 NCR 1538		11:25 NCR 1915	*	Approve Extended review	10/16/97 09/18/97	*			
21 NCAC 16R .0003	11:20 NCR 1538		11:25 NCR 1915	*	Approve	11/20/97	*			
21 NCAC 16R .0004	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97				
21 NCAC 16R .0005	11:20 NCR 1538		11:25 NCR 1915	*	Approve	09/18/97				
21 NCAC 16V .0101	10:16 NCR 2043		11:20 NCR 1556	*						Notice Subject Matter
21 NCAC 16V .0102	10:16 NCR 2043		11:20 NCR 1556	*						Notice Subject Matter

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

## ENVIRONMENT AND NATURAL RESOURCES

Notice of Intent to Redevelop a Brownfields Property

15A Public Notice - Division of Water Quality

15A Administrative Order on Consent - Division of Waste Management

15A NCAC 01J .0401 12:08 NCR 614 12:09 NCR 833

15A NCAC 01J .0402 12:08 NCR 614 12:09 NCR 833

15A NCAC 01K 10:19 NCR 2506

15A NCAC 01M .0101

Temp Expired

15A NCAC 01M .0102

Temp Expired

15A NCAC 01M .0201

Temp Expired

15A NCAC 01M .0202

Temp Expired

15A NCAC 01M .0301

Temp Expired

15A NCAC 01M .0302

Temp Expired

15A NCAC 01M .0303

Temp Expired

15A NCAC 01M .0304

Temp Expired

15A NCAC 01M .0305

Temp Expired

15A NCAC 01M .0306

Temp Expired

15A NCAC 01N 12:08 NCR 614

15A NCAC 12B .0901 12:03 NCR 209

15A NCAC 19G .0102 12:02 NCR 52 12:03 NCR 209

## Coastal Resources Commission

15A NCAC 07 11:04 NCR 183

15A NCAC 07H .0106 11:19 NCR 1408

15A NCAC 07H .0201 11:22 NCR 1704

15A NCAC 07H .0202 11:22 NCR 1704

15A NCAC 07H .0203 11:22 NCR 1704

15A NCAC 07H .0204 11:22 NCR 1704

15A NCAC 07H .0205 11:22 NCR 1704

15A NCAC 07H .0206 11:22 NCR 1704

15A NCAC 07H .0207 11:22 NCR 1704

11:27 NCR 2058

11:27 NCR 2058

11:27 NCR 2058

agency withdrew

11:27 NCR 2058

11:27 NCR 2058

11:27 NCR 2058

agency withdrew

12:10 NCR 864

12:03 NCR 112

12:03 NCR 158



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 0711 .0208	11:22 NCR 1704		11:27 NCR 2058	*	Object	08/21/97				
15A NCAC 0711 .0208	11:04 NCR 183		11:11 NCR 907	*	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 0711 .0208	11:19 NCR 1408		11:27 NCR 2058	*						
15A NCAC 0711 .0210	12:02 NCR 52									
15A NCAC 0711 .0304	11:15 NCR 1200	11:15 NCR 1226 Temp Expired	11:27 NCR 2069	S	Approve	10/16/97	*		12:11 NCR 947	
		12:08 NCR 726								
15A NCAC 0711 .0305	11:15 NCR 1200	11:15 NCR 1226 Temp Expired	11:27 NCR 2069	S	Approve	10/16/97			12:11 NCR 947	
		12:08 NCR 726								
15A NCAC 0711 .0306	11:04 NCR 183		11:11 NCR 907	*	Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 0711 .0309	11:08 NCR 442		11:12 NCR 981	*						
15A NCAC 0711 .0310	12:11 NCR 919									
15A NCAC 0711 .1104	11:04 NCR 183		11:11 NCR 907	*	Object	11/20/97				
15A NCAC 0711 .1202	11:04 NCR 183		11:11 NCR 907	*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 0711 .1204	11:04 NCR 183		11:11 NCR 907	*	Object	08/21/97	*		12:10 NCR 878	
15A NCAC 0711 .1205	11:04 NCR 183		11:11 NCR 907	*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 0711 .1304	11:04 NCR 183		11:11 NCR 907	*	Object	11/20/97				
15A NCAC 0711 .1404	11:04 NCR 183		11:11 NCR 907	*	Object	11/20/97				
15A NCAC 0711 .1504	11:04 NCR 183		11:11 NCR 907	*	Object	11/20/97				
15A NCAC 0711 .1600	11:15 NCR 1200									
15A NCAC 0711 .1601	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 0711 .1604	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 0711 .1605	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 0711 .1704	11:04 NCR 183		11:11 NCR 907	*	Object	11/20/97				
15A NCAC 0711 .1804	11:04 NCR 183		11:11 NCR 907	*	Object	11/20/97				
15A NCAC 0711 .1904	11:04 NCR 183		11:11 NCR 907	*	Object	11/20/97				
15A NCAC 0711 .2004	11:04 NCR 183		11:11 NCR 907	*	Object	11/20/97				
15A NCAC 0711 .2104	11:04 NCR 183		11:11 NCR 907	*	Object	11/20/97				
15A NCAC 07K .0203	11:04 NCR 183		11:11 NCR 907	*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 07M .0301	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97	*			

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 07M .0302	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0303	10:16B NCR 1921		11:11 NCR 907	*	<b>Object</b>	11/20/97				
15A NCAC 07M .0304	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0305	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0306	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97	*			
15A NCAC 07M .0307	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0308	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97				
15A NCAC 07M .0309	10:16B NCR 1921		11:11 NCR 907	*	Approve	11/20/97	*			
15A NCAC 07M .0401	10:18 NCR 2317		11:11 NCR 931	*	Approve	01/16/97	*			
15A NCAC 07M .0402	10:18 NCR 2317		11:11 NCR 931	*	Approve	01/16/97	*			
15A NCAC 07M .0403	10:18 NCR 2317		11:11 NCR 931	*	<b>Object</b>	01/16/97	*		11-24 NCR 1832	
15A NCAC 07M .1201	11:19 NCR 1408		11:27 NCR 2058	*	Approve	02/20/97				
15A NCAC 07M .1202	11:19 NCR 1408		11:27 NCR 2058	*						
<b>Environmental Management Commission</b>										
<b>NPDES Permits</b>										
15A NCAC 02	10:24 NCR 3045									12:13 NCR 1093
15A NCAC 02	11:04 NCR 183									
15A NCAC 02	11:19 NCR 1408									
15A NCAC 02B .0101	11:24 NCR 1818		11:30 NCR 2303	*						
15A NCAC 02B .0202	11:24 NCR 1818		11:30 NCR 2303	*						
15A NCAC 02B .0202	11:02 NCR 75		12:06 NCR 462	S/L/SE						
15A NCAC 02B .0223	11:02 NCR 75									
15A NCAC 02B .0223	11:03 NCR 109									
15A NCAC 02B .0224	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0227	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0230	11:24 NCR 1818		11:30 NCR 2303	*						
15A NCAC 02B .0231	11:02 NCR 75		11:10 NCR 824	L/SE						
			11:14 NCR 1136							
15A NCAC 02B .0232	11:02 NCR 75		11:10 NCR 824	L						
			11:14 NCR 1136							

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02B .0233	11:02 NCR 75	12:02 NCR 77	12:06 NCR 462	S/L/SE						
			11:10 NCR 824	L						
			11:14 NCR 1136	L						
			12:06 NCR 462	S/L/SE						
15A NCAC 02B .0234	11:02 NCR 75		11:10 NCR 824	*						
			11:14 NCR 1136							
15A NCAC 02B .0235	11:02 NCR 75		12:06 NCR 462	S/L/SE						
			11:10 NCR 824	*						
			11:14 NCR 1136							
15A NCAC 02B .0236	11:02 NCR 75		12:06 NCR 462	S/L/SE						
			11:10 NCR 824	L						
			11:14 NCR 1136							
15A NCAC 02B .0238	11:02 NCR 75		12:06 NCR 462	S/L/SE						
15A NCAC 02B .0239	11:02 NCR 75		12:06 NCR 462	S/L/SE						
15A NCAC 02B .0240	11:02 NCR 75		12:06 NCR 462	S/L/SE						
15A NCAC 02B .0303	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0304	11:24 NCR 1818		12:01 NCR 6	*						
15A NCAC 02B .0304	11:26 NCR 1976		12:01 NCR 6	S						
	11:26 NCR 1984									
15A NCAC 02B .0305	11:20 NCR 1534		12:05 NCR 414	*						
15A NCAC 02B .0306	11:26 NCR 1976		12:01 NCR 6	*						Extend Com. Period 12:13 NCR 1095
	11:26 NCR 1984									
15A NCAC 02B .0307	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0308	11:26 NCR 1984									
	11:20 NCR 1534		11:28 NCR 2121	*						
15A NCAC 02B .0308	11:26 NCR 1976		12:01 NCR 6	*						Extend Com. Period 12:13 NCR 1095
	11:26 NCR 1984									
15A NCAC 02B .0308	12:12 NCR 993									
15A NCAC 02B .0309	11:26 NCR 1976		12:01 NCR 6	*						
	11:26 NCR 1984									
15A NCAC 02B .0311	11:26 NCR 1976		12:01 NCR 6	*						
	11:26 NCR 1984									
15A NCAC 02B .0311	12:10 NCR 865									
15A NCAC 02B .0313	11:24 NCR 1818		12:05 NCR 416	*						
15A NCAC 02B .0313	11:26 NCR 1976		12:01 NCR 6	*						Extend Com. Period



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRR Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02B .0313	11-26 NCR 1984									
15A NCAC 02B .0315	12-10 NCR 865									
15A NCAC 02B .0316	11-24 NCR 1818		12:07 NCR 515	L						
15A NCAC 02B .0316	11-20 NCR 1534									
15A NCAC 02B .0316	11-26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0317	11-26 NCR 1984									
15A NCAC 02D .0101	11-26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02D .0101	11-26 NCR 1984									
15A NCAC 02D .0101	11-15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0101	12:02 NCR 52									
15A NCAC 02D .0104	11-15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0105	11-15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0108	11-15 NCR 1200									
15A NCAC 02D .0202	11-15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0302	11-15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0307	11-15 NCR 1200									
15A NCAC 02D .0501	11-15 NCR 1200									
15A NCAC 02D .0501	11-04 NCR 183									
15A NCAC 02D .0506	10-18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0507	10-18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0508	10-18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0509	10-18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0510	10-18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0511	10-18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0513	10-18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0514	10-18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0515	10-18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0518	11-19 NCR 1408									
15A NCAC 02D .0521	11-15 NCR 1200									
15A NCAC 02D .0521	11-04 NCR 183		12:10 NCR 867	*						

12-13 NCR 1095

Extend Com. Period  
12-13 NCR 1095

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02D .0524	11:15 NCR 1200									
15A NCAC 02D .0525	11:15 NCR 1200			*						
15A NCAC 02D .0531	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0535	10:18 NCR 2317		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .0540	10:18 NCR 2318		12:10 NCR 867	*						
15A NCAC 02D .0601	10:18 NCR 2318									
15A NCAC 02D .0602	10:18 NCR 2318									
15A NCAC 02D .0604	10:18 NCR 2318									
15A NCAC 02D .0605	10:18 NCR 2318									
15A NCAC 02D .0606	10:18 NCR 2318									
15A NCAC 02D .0607	10:18 NCR 2318									
15A NCAC 02D .0608	10:18 NCR 2318									
15A NCAC 02D .0610	11:15 NCR 1200									
15A NCAC 02D .0611	11:15 NCR 1200									
15A NCAC 02D .0612	11:15 NCR 1200									
15A NCAC 02D .0613	11:15 NCR 1200									
15A NCAC 02D .0614	11:15 NCR 1200									
15A NCAC 02D .0615	11:15 NCR 1200									
15A NCAC 02D .0806	11:26 NCR 1976									
15A NCAC 02D .0902	11:19 NCR 1408									
15A NCAC 02D .0903	11:15 NCR 1200									
15A NCAC 02D .0909	11:19 NCR 1408									
15A NCAC 02D .0912	11:15 NCR 1200									
15A NCAC 02D .0914	11:15 NCR 1200		12:10 NCR 867	*						
15A NCAC 02D .0917	11:19 NCR 1408									
15A NCAC 02D .0918	11:19 NCR 1408									
15A NCAC 02D .0919	11:19 NCR 1408									
15A NCAC 02D .0920	11:19 NCR 1408									
15A NCAC 02D .0921	11:19 NCR 1408									

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02D .0922	11:19 NCR 1408									
15A NCAC 02D .0923	11:19 NCR 1408									
15A NCAC 02D .0924	11:19 NCR 1408									
15A NCAC 02D .0927	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .0927	10:24 NCR 3045		12:10 NCR 867	*						
15A NCAC 02D .0934	11:19 NCR 1408									
15A NCAC 02D .0938	12:02 NCR 52		12:10 NCR 867	*						
15A NCAC 02D .0948	11:19 NCR 1408									
15A NCAC 02D .0949	11:19 NCR 1408									
15A NCAC 02D .0950	11:19 NCR 1408									
15A NCAC 02D .0951	11:19 NCR 1408									
15A NCAC 02D .0953	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0953	11:26 NCR 1976		12:10 NCR 867	*						
15A NCAC 02D .0954	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1005	11:15 NCR 1200									
15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1102	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1103	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1104	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02D .1104	12:02 NCR 52	12:02 NCR 77								
15A NCAC 02D .1105	11:15 NCR 1200		12:08 NCR 650	SE						
15A NCAC 02D .1106	11:08 NCR 442									
15A NCAC 02D .1106	11:26 NCR 1976									
15A NCAC 02D .1107	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1109	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1112	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1201	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1201	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1202	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1203	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02D .1203	11:15 NCR 1200									
15A NCAC 02D .1204	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1204	11:04 NCR 183		12:04 NCR 270	*						
15A NCAC 02D .1204	10:18 NCR 2318									
15A NCAC 02D .1205	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1205	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02D .1206	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1206	11:04 NCR 183		12:04 NCR 270	*						
15A NCAC 02D .1207	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1208	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 02D .1209	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 02D .1305	11:04 NCR 183		12:04 NCR 270	*						
15A NCAC 02D .1404	11:15 NCR 1200									
15A NCAC 02D .1500	11:19 NCR 1408									
15A NCAC 02D .1503	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1603	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1701	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1702	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1703	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1704	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1705	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1706	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1707	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1708	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1709	11:15 NCR 1200		12:04 NCR 270	L						
15A NCAC 02D .1710	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1700	12:02 NCR 52									
15A NCAC 02D .1902	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02D .1903	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02D .2200	11:26 NCR 1976									

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRR Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02H .0225	11:15 NCR 1200	11:15 NCR 1225 11:27 NCR 2073	11:20 NCR 1550 11:27 NCR 2073	*						
15A NCAC 02H .0610	10:18 NCR 2317			*	Object	07/17/97				
15A NCAC 02H .0610	11:08 NCR 442			*	Approve	08/21/97	*		12:07 NCR 561	
15A NCAC 02H .0610	12:02 NCR 52		12:08 NCR 650	*						
15A NCAC 02H .1202	11:15 NCR 1200	12:02 NCR 77								
15A NCAC 02H .1203	11:15 NCR 1200									
15A NCAC 02H .1204	11:15 NCR 1200									
15A NCAC 02H .1205	11:15 NCR 1200									
15A NCAC 02L	11:15 NCR 1200 11:15 NCR 1204									
15A NCAC 02L .0106		10:19 NCR 2508 12:08 NCR 713	11:21 NCR 1639	*						
15A NCAC 02L .0115	11:15 NCR 1200 11:15 NCR 1204	12:08 NCR 713	11:21 NCR 1639	1.						
15A NCAC 02L .0202	10:20 NCR 2591									
15A NCAC 02N	11:15 NCR 1200									
15A NCAC 02N	11:15 NCR 1204									
15A NCAC 02N .0701	11:15 NCR 1200	12:08 NCR 713	11:21 NCR 1639	*						
15A NCAC 02N .0707	11:15 NCR 1204	12:08 NCR 713	11:21 NCR 1639	*						
15A NCAC 02P	11:15 NCR 1200									
15A NCAC 02P .0402	11:15 NCR 1204	10:19 NCR 2512 12:08 NCR 713	11:21 NCR 1639	*						
15A NCAC 02Q .0101	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0102	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0102			11:06 NCR 350	*						
15A NCAC 02Q .0102	11:19 NCR 1408									
15A NCAC 02Q .0102	12:02 NCR 52									
15A NCAC 02Q .0103	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0108	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0201	12:02 NCR 52		12:10 NCR 867	*						
15A NCAC 02Q .0207	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02Q .0300	11:26 NCR 1976									

# **CUMULATIVE INDEX** (Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02Q .0301	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0302	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0306	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0307	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0312	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0312	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04 17 97			11 29 NCR 2211	
15A NCAC 02Q .0313	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04 17 97			11 29 NCR 2211	
15A NCAC 02Q .0400	12:04 NCR 240									
15A NCAC 02Q .0501	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0521	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0525	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04 17 97			11 29 NCR 2211	
15A NCAC 02Q .0527	10:18 NCR 2317		12:08 NCR 650	*						
15A NCAC 02Q .0527	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04 17 97			11 29 NCR 2211	
15A NCAC 02Q .0607	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04 17 97			11 29 NCR 2211	
15A NCAC 02Q .0700	11:08 NCR 442									
15A NCAC 02Q .0701	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0702	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0703	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0704	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0705	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0706	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0707	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0708	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0709	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0710	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0711	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0712	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0713	11:08 NCR 442		12:08 NCR 650	SE						
15A NCAC 02Q .0801	12:02 NCR 52									
15A NCAC 02Q .0803	12:02 NCR 52									



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 02Q .0805	10:18 NCR 2317		12:04 NCR 270	S						
15A NCAC 02Q .0806	10:24 NCR 3045		12:04 NCR 270	S						
15A NCAC 02Q .0807	10:24 NCR 3045		12:04 NCR 270	*						
15A NCAC 02R .0100	12:02 NCR 52									
15A NCAC 02R .0200	12:02 NCR 52									
15A NCAC 02R .0300	12:02 NCR 52									
15A NCAC 02R .0400	12:02 NCR 52									
15A NCAC 02R .0500	12:02 NCR 52									
15A NCAC 02R .0501		11:27 NCR 2075	12:08 NCR 650	S						
15A NCAC 02R .0502		11:27 NCR 2075	12:08 NCR 650	*						
15A NCAC 02R .0503		11:27 NCR 2075	12:08 NCR 650	*						
15A NCAC 02R .0504		11:27 NCR 2075	12:08 NCR 650	*						
15A NCAC 02R .0600	12:02 NCR 52									
<b>Health Services, Commission for</b>										
15A NCAC 13A .0100	12:02 NCR 52									
15A NCAC 13A .0101	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0101	N/A		N/A		Approve	07/17/97			12:04 NCR 317	
15A NCAC 13A .0105	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0107	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0109	12:07 NCR 509									
15A NCAC 13A .0110	12:07 NCR 509									
15A NCAC 13A .0111	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97				
15A NCAC 13A .0111	12:07 NCR 509								11:29 NCR 2211	
15A NCAC 13A .0112	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0119	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13B .1301		12:12 NCR 1064								
15A NCAC 13B .1627	11:08 NCR 442									
15A NCAC 13B .1800	11:08 NCR 442									
15A NCAC 13B .1800	11:26 NCR 1976									
15A NCAC 18A	11:04 NCR 183		11:13 NCR 1055	*						

# **CUMULATIVE INDEX** (Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 18A .0134	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0168	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97	*			
					Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0176	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97	*			
					Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0182	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0183	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0185	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0187	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0301	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0421	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0614	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0618	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0621	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0901	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .1301	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .1319	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
					Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .1937	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .1938	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .1958	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .1961	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Approve	01/16/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .2301	12:03 NCR 168		12:07 NCR 519	*	Approve	11/20/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .2302	12:03 NCR 168		12:07 NCR 519	*	Approve	11/20/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .2303	12:03 NCR 168		12:07 NCR 519	*	Approve	11/20/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .2304	12:03 NCR 168		12:07 NCR 519	*	Approve	11/20/97				
					Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .2305	12:03 NCR 168		12:07 NCR 519	*	Approve	11/20/97				
					Object	12/19/96	*		11:22 NCR 1717	
					Approve	10/16/97			12:11 NCR 947	

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 18A 2306	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A 2307	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A 2308	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A 2309	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A 2310	12-03 NCR 168		12-07 NCR 519	*						
15A NCAC 18A 2508	12-08 NCR 614									
15A NCAC 18A 2513	12-08 NCR 614									
15A NCAC 18A 2515	12-08 NCR 614									
15A NCAC 18A 2517	12-08 NCR 614									
15A NCAC 18A 2518	12-08 NCR 614									
15A NCAC 18A 2522	12-08 NCR 614									
15A NCAC 18A 2526	12-08 NCR 614									
15A NCAC 18A 2528	12-08 NCR 614									
15A NCAC 18A 2530	12-08 NCR 614									
15A NCAC 18A 2531	12-08 NCR 614									
15A NCAC 18A 2532	12-08 NCR 614									
15A NCAC 18A 2535	12-08 NCR 614									
15A NCAC 18A 2537	12-08 NCR 614									
15A NCAC 18A 2539	12-08 NCR 614									
15A NCAC 18A 2543	12-08 NCR 614									
15A NCAC 18A 2600	12-04 NCR 240									
15A NCAC 18A 2601	12-04 NCR 240		12-08 NCR 696	*						
15A NCAC 18A 2602	12-04 NCR 240		12-08 NCR 696	*						
15A NCAC 18A 2603	12-04 NCR 240		12-08 NCR 696	*						
15A NCAC 18A 2604	12-04 NCR 240		12-08 NCR 696	*						
15A NCAC 18A 2605	12-04 NCR 240		12-08 NCR 696	*						
15A NCAC 18A 2606	12-04 NCR 240		12-08 NCR 696	*						
15A NCAC 18A 2607	12-04 NCR 240		12-08 NCR 696	*						
15A NCAC 18A 2608	12-04 NCR 240		12-08 NCR 696	*						
15A NCAC 18A 2609	12-04 NCR 240		12-08 NCR 696	*						



**CUMULATIVE INDEX**  
(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 18A .2610	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2612	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2613	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2614	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2615	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2616	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2617	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2618	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2620	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2621	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2622	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2623	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2624	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2626	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2627	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2628	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2630	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2632	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2633	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2638	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .2643	12:04 NCR 240		12:08 NCR 696	*						
15A NCAC 18A .3101	12:11 NCR 920	12:12 NCR 1064	12:08 NCR 696	*						
15A NCAC 18A .3102	12:11 NCR 920	12:12 NCR 1064	12:08 NCR 696	*						
15A NCAC 18A .3103	12:11 NCR 920	12:12 NCR 1064	12:08 NCR 696	*						
15A NCAC 18A .3104	12:11 NCR 920	12:12 NCR 1064	12:08 NCR 696	*						
15A NCAC 18A .3105	12:11 NCR 920	12:12 NCR 1064	12:08 NCR 696	*						
15A NCAC 18A .3106	12:11 NCR 920	12:12 NCR 1064	12:08 NCR 696	*						
15A NCAC 18A .3107	12:11 NCR 920	12:12 NCR 1064	12:08 NCR 696	*						
15A NCAC 18A .3108	12:11 NCR 920	12:12 NCR 1064	12:08 NCR 696	*						
15A NCAC 18A .3109	12:11 NCR 920	12:12 NCR 1064	12:08 NCR 696	*						

# **CUMULATIVE INDEX** (Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 18A .3110	12.11 NCR 920	12.12 NCR 1064								
15A NCAC 18A .3111	12.11 NCR 920	12.12 NCR 1064								
15A NCAC 19A .0101	11.26 NCR 1976		12.02 NCR 61	S/L	Approve	10/16/97	*	12.11 NCR 947		
15A NCAC 19A .0101	12.02 NCR 52	12.02 NCR 88								
15A NCAC 19A .0102	11.26 NCR 1976		12.02 NCR 61	S/L	Approve	10/16/97	*	12.11 NCR 947		
15A NCAC 19A .0201	11.26 NCR 1976		12.02 NCR 61	*	Approve	10/16/97	*	12.11 NCR 947		
15A NCAC 19A .0203	11.21 NCR 1638		12.02 NCR 61	*	Approve	10/16/97	*	12.11 NCR 947		
15A NCAC 19A .0205	11.26 NCR 1976		12.02 NCR 61	*	Approve	10/16/97	*	12.11 NCR 947		
15A NCAC 19C .0800	12.10 NCR 866									
15A NCAC 19C .0801		12.01 NCR 31								
15A NCAC 19C .0802		12.01 NCR 31								
15A NCAC 19C .0803		12.01 NCR 31								
15A NCAC 21J .0101		11.07 NCR 422	11.20 NCR 1552	*	Approve	04/17/97	*	11.29 NCR 2211		
15A NCAC 21J .0101		11.07 NCR 422	11.20 NCR 1552	*	Approve	04/17/97	*	11.29 NCR 2211		
15A NCAC 24A .0202		11.24 NCR 1827	12.02 NCR 61	S	Approve	10/16/97		12.11 NCR 947		
15A NCAC 24A .0202		12.01 NCR 31	12.07 NCR 519	S						
15A NCAC 26C .0001	11.19 NCR 1408									
15A NCAC 26C .0002	11.19 NCR 1408									
15A NCAC 26C .0003	11.19 NCR 1408									
15A NCAC 26C .0004	11.19 NCR 1408									
15A NCAC 26C .0005	11.19 NCR 1408									
15A NCAC 26C .0006	11.19 NCR 1408									
15A NCAC 26C .0007	11.19 NCR 1408									
<b>Marine Fisheries Commission</b>										
15A NCAC 03	11.11 NCR 881									
15A NCAC 03	11.20 NCR 1537									
15A NCAC 03	11.26 NCR 1985									
15A NCAC 031 .0101	11.26 NCR 1976		12.05 NCR 418	*						
15A NCAC 031 .0117	11.26 NCR 1976	11.26 NCR 2000	12.05 NCR 418	*						
15A NCAC 03J .0103	11.26 NCR 1976		12.05 NCR 418	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 03J .0104	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03J .0202	11:07 NCR 407		11:11 NCR 888	*						
15A NCAC 03J .0202	11:26 NCR 1976	12:12 NCR 1063	12:05 NCR 418	*						
			12:12 NCR 1002	*						
			12:05 NCR 418	*						
15A NCAC 03J .0208	11:26 NCR 1976		12:05 NCR 418	*						
15A NCAC 03J .0301	11:26 NCR 1976		11:11 NCR 888	*						
15A NCAC 03L .0102	11:07 NCR 407		11:18 NCR 1371	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 03M .0204		11:14 NCR 1153	11:26 NCR 1988	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03M .0503		11:18 NCR 1383	12:05 NCR 418	*			*		12:07 NCR 561	
15A NCAC 03M .0503	11:20 NCR 1537	12:05 NCR 431	11:26 NCR 1988	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03M .0506		11:18 NCR 1383	12:05 NCR 418	*						
15A NCAC 03M .0506	11:26 NCR 1976	11:11 NCR 938	11:26 NCR 1988	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03M .0507		Temp Expired	12:05 NCR 418	*						
15A NCAC 03M .0513	11:26 NCR 1976		12:12 NCR 1002	*						
15A NCAC 03M .0513	11:26 NCR 1985		11:26 NCR 1088	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03M .0514		11:18 NCR 1383	N/A	*	Approve	08/21/97			12:07 NCR 561	
15A NCAC 03O .0204	N/A	N/A	12:05 NCR 418	*						
15A NCAC 03O .0211	11:26 NCR 1976			*						
<b>Parks and Recreation Commission</b>										
15A NCAC 12A .0001	12:13 NCR 1097									
15A NCAC 12A .0004	12:13 NCR 1097									
15A NCAC 12A .0005	12:13 NCR 1097									
15A NCAC 12B .0101	12:13 NCR 1097									
15A NCAC 12B .0104	12:13 NCR 1097									
15A NCAC 12B .0106	12:13 NCR 1097									
15A NCAC 12B .0203	12:13 NCR 1097									
15A NCAC 12B .0401	12:13 NCR 1097									
15A NCAC 12B .0402	12:13 NCR 1097									
15A NCAC 12B .0501	12:13 NCR 1097									
15A NCAC 12B .0602	12:13 NCR 1097									



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 12B .0701	12:13 NCR 1097									
15A NCAC 12B .0702	12:13 NCR 1097									
15A NCAC 12B .0802	12:13 NCR 1097									
15A NCAC 12B .0901	12:13 NCR 1097									
15A NCAC 12B .1001	12:13 NCR 1097									
15A NCAC 12B .1004	12:13 NCR 1097									
15A NCAC 12B .1102	12:13 NCR 1097									
15A NCAC 12B .1201	12:13 NCR 1097									
15A NCAC 12K .0101	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0103	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0104	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0105	12:02 NCR 52		12:12 NCR 1046	S						
15A NCAC 12K .0106	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0107	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0108	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0109	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0110	12:02 NCR 52		12:12 NCR 1046	*						
15A NCAC 12K .0111	12:02 NCR 52		12:12 NCR 1046	*						
<b>Radiation Protection</b>										
15A NCAC 11 .0104	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0117	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0301	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0339	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0340	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0353	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0358	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0401	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0402	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0403	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0404	12:04 NCR 240		12:09 NCR 749	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 11 .0405	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0406	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0407	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0408	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0409	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0410	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0411	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0412	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0413	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0414	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0415	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0416	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0417	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0418	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0419	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0420	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0421	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0422	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0423	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0424	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0425	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0426	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0427	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .0428	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .1100	12:04 NCR 240									
15A NCAC 11 .1400	12:04 NCR 240									
15A NCAC 11 .1601	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .1603	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .1611	12:04 NCR 240		12:09 NCR 749	*						
15A NCAC 11 .1620	12:04 NCR 240		12:09 NCR 749	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 11.1647	12:04 NCR 240		12:09 NCR 749	*						
<b>Soil &amp; Water Conservation</b>										
15A NCAC 06E.0104	N/A	N/A	N/A		Object	10/16/97				
15A NCAC 06E.0105	N/A	N/A	N/A		Object	10/16/97				
15A NCAC 06E.0106	N/A	N/A	N/A		Approve	10/16/97			12:11 NCR 947	
15A NCAC 06E.0107	N/A	N/A	N/A		Approve	10/16/97			12:11 NCR 947	
15A NCAC 06E.0108	N/A	N/A	N/A		Approve	10/16/97			12:11 NCR 947	
<b>Water Pollution Control System Operators Certification Commission</b>										
15A NCAC 08A	11:26 NCR 1976									
15A NCAC 08B	11:26 NCR 1976									
15A NCAC 08C	11:26 NCR 1976									
15A NCAC 08D	11:26 NCR 1976									
15A NCAC 08E	11:26 NCR 1976									
15A NCAC 08F	11:26 NCR 1976									
15A NCAC 08F.0101	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	*	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F.0102	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	*	Withheld	09/18/97	*			
15A NCAC 08F.0201	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Approve	11/20/97	*			
15A NCAC 08F.0202	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Object	09/18/97	*			
15A NCAC 08F.0203	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Approve	11/20/97	*		12:10 NCR 878	
15A NCAC 08F.0301	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*			
15A NCAC 08F.0401	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Object	11/20/97	*		12:10 NCR 878	
15A NCAC 08F.0402	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F.0403	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F.0404	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Withheld	09/18/97	*			
15A NCAC 08F.0405	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Approve	11/20/97	*		12:10 NCR 878	
15A NCAC 08F.0406	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F.0407	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F.0501	11:19 NCR 1442	11:19 NCR 1442	11:28 NCR 2123	*	Approve	09/18/97	*		12:10 NCR 878	



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 08F .0502		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97			12:10 NCR 878	
15A NCAC 08F .0503		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97			12:10 NCR 878	
15A NCAC 08F .0504		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97			12:10 NCR 878	
15A NCAC 08F .0505		11:19 NCR 1442	11:28 NCR 2123	S	Approve	09/18/97	*		12:10 NCR 878	
15A NCAC 08F .0506		11:19 NCR 1442	11:28 NCR 2123	*	Approve	09/18/97			12:10 NCR 878	
<b>Water Treatment Facility Certification Board</b>										
15A NCAC 18D .0105	10:18 NCR 2317		12:11 NCR 922	*						
15A NCAC 18D .0201	10:18 NCR 2317		12:11 NCR 922	S/L						
15A NCAC 18D .0307	10:18 NCR 2317		12:11 NCR 922	*						
15A NCAC 18D .0308	10:18 NCR 2317		12:11 NCR 922	S/L						
15A NCAC 18D .0309	10:18 NCR 2317		12:11 NCR 922	*						
15A NCAC 18D .0405	10:18 NCR 2317		12:11 NCR 922	*						
15A NCAC 18D .0701	10:18 NCR 2317		12:11 NCR 922	*						
<b>Wildlife Resources Commission</b>										
15A NCAC 10B .0100	12:06 NCR 445									
15A NCAC 10B .0111	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0113	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0115	11:11 NCR 882	Agency Withdrew Rule-making								
15A NCAC 10B .0116	11:12 NCR 959		11:18 NCR 1372	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 10B .0200	12:06 NCR 445									
15A NCAC 10B .0202	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0203	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0208	11:02 NCR 76		11:08 NCR 495	*	Agency Withdrew Rule-making					
15A NCAC 10B .0209	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0216	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10B .0300	12:06 NCR 445									
15A NCAC 10B .0400	12:06 NCR 445									
15A NCAC 10C .0101	12:06 NCR 445									
15A NCAC 10C .0102	12:06 NCR 445									
15A NCAC 10C .0103	12:06 NCR 445									

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 10C .0104	12-06 NCR 445									
15A NCAC 10C .0105	12-06 NCR 445									
15A NCAC 10C .0106	12-06 NCR 445									
15A NCAC 10C .0107	11:02 NCR 76	Agency Withdrew Rule-making								
15A NCAC 10C .0107	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0108	12-06 NCR 445									
15A NCAC 10C .0109	12-06 NCR 445									
15A NCAC 10C .0110	12-06 NCR 445									
15A NCAC 10C .0111	12-06 NCR 445									
15A NCAC 10C .0203	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0205	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0206	12-06 NCR 445									
15A NCAC 10C .0211	12-06 NCR 445									
15A NCAC 10C .0212	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0215	12-06 NCR 445									
15A NCAC 10C .0302	12-06 NCR 445									
15A NCAC 10C .0304	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0305	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0401	11:02 NCR 76	Agency Withdrew Rule-making								
15A NCAC 10C .0401	11:07 NCR 408	Agency Withdrew Rule-making								
15A NCAC 10C .0401	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0402	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0404	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10C .0407	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10D .0001	12-06 NCR 445									
15A NCAC 10D .0002	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10D .0002	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10D .0003	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10D .0004	12-06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10E .0001	12-06 NCR 445									

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 10E .0002	12:06 NCR 445									
15A NCAC 10E .0003	12:06 NCR 445									
15A NCAC 10E .0004	12:06 NCR 445									
15A NCAC 10F .0100	12:06 NCR 445									
15A NCAC 10F .0102	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0103	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0104	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0105	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0109	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0300	11:01 NCR 13	Agency Withdrew Rule-making								
15A NCAC 10F .0302	11:05 NCR 272		11:14 NCR 1150	*	Approve	03/20/97	*		11:26 NCR 2004	
15A NCAC 10F .0305	12:10 NCR 865									
15A NCAC 10F .0307	11:08 NCR 451		11:14 NCR 1150	*	Approve	03/20/97	*		11:26 NCR 2004	
15A NCAC 10F .0308	11:21 NCR 1638		11:29 NCR 2206	*	Approve	09/18/97			12:10 NCR 878	
15A NCAC 10F .0311	12:01 NCR 5	12:13 NCR 1186	12:07 NCR 517	*						
15A NCAC 10F .0311	12:11 NCR 920									
15A NCAC 10F .0317	11:13 NCR 1039		11:19 NCR 1427	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 10F .0317	12:11 NCR 920									
15A NCAC 10F .0318	12:06 NCR 445									
15A NCAC 10F .0327	11:14 NCR 1109		11:20 NCR 1551	*	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 10F .0327	12:11 NCR 920									
15A NCAC 10F .0330	12:05 NCR 337		12:11 NCR 921	*						
15A NCAC 10F .0330	N/A	N/A	N/A		Approve	09/18/97			12:10 NCR 878	
15A NCAC 10F .0333	12:01 NCR 5	12:13 NCR 1186	12:07 NCR 517	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 10F .0339	11:13 NCR 1039		11:19 NCR 1427	*	Approve	09/18/97			12:10 NCR 878	
15A NCAC 10F .0339	11:21 NCR 1638		11:29 NCR 2206	*	Approve	09/18/97				
15A NCAC 10F .0339	12:05 NCR 337		12:11 NCR 921	*						
15A NCAC 10F .0345	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0347	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10F .0355	11:25 NCR 1905	12:08 NCR 728	12:01 NCR 18	*	Approve	10/16/97			12:11 NCR 947	



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 10F .0360	12:01 NCR 5	12:13 NCR 1186	12:07 NCR 517	*						
15A NCAC 10F .0367	11:16 NCR 1269									
15A NCAC 10G	11:01 NCR 13	Agency Withdrew Rule-making								
15A NCAC 10G .0100	11:02 NCR 76	Agency Withdrew Rule-making								
15A NCAC 10G .0400	12:06 NCR 445									
15A NCAC 10G .0402	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10G .0403	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10G .0404	12:06 NCR 445		12:12 NCR 1004	*						
15A NCAC 10H .0100	12:06 NCR 445									
15A NCAC 10H .0300	12:06 NCR 445									
15A NCAC 10H .0802	12:06 NCR 445		12:13 NCR 1127	*						
15A NCAC 10H .0810	12:06 NCR 445		12:13 NCR 1137	*						
15A NCAC 10H .0900	12:06 NCR 445									
15A NCAC 10H .1000	12:06 NCR 445									
15A NCAC 10H .1100	12:06 NCR 445									
15A NCAC 10H .1200	12:06 NCR 445									
15A NCAC 10I .0001	12:06 NCR 445									
15A NCAC 10I .0002	12:06 NCR 445									
15A NCAC 10I .0003	12:06 NCR 445									
15A NCAC 10I .0004	12:06 NCR 445									
15A NCAC 10I .0005	12:06 NCR 445									
15A NCAC 10J .0001	12:06 NCR 445									
15A NCAC 10J .0002	12:06 NCR 445									
15A NCAC 10J .0003	12:06 NCR 445									
15A NCAC 10J .0004	12:06 NCR 445									

## FINAL DECISION LETTERS

Voting Rights Act  
Voting Rights Act  
Voting Rights Act  
Voting Rights Act

12:01 NCR 4  
12:02 NCR 50  
12:04 NCR 236  
12:05 NCR 334

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

Voting Rights Act  
Voting Rights Act  
Voting Rights Act  
Voting Rights Act

12:07 NCR 507  
12:11 NCR 918  
12:12 NCR 992  
12:13 NCR 1096

## GENERAL CONTRACTORS LICENSING BOARD

21 NCAC 12 .0202		11:24 NCR 1828	12:07 NCR 524	*						
21 NCAC 12 .0204	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0503	11:28 NCR 2117									
21 NCAC 12 .0504	11:28 NCR 2117									
21 NCAC 12 .0901	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0902	11:28 NCR 2117									
21 NCAC 12 .0903	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0904	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0905	11:28 NCR 2117									
21 NCAC 12 .0906	11:28 NCR 2117									
21 NCAC 12 .0907	11:28 NCR 2117									
21 NCAC 12 .0908	11:28 NCR 2117									
21 NCAC 12 .0909	11:28 NCR 2117									
21 NCAC 12 .0910	11:28 NCR 2117									
21 NCAC 12 .0911	11:28 NCR 2117									
21 NCAC 12 .0912	11:28 NCR 2117									

## GOVERNOR'S EXECUTIVE ORDERS

Number 112 - Eff. 05/22/97  
Number 113 - Eff. 06/12/97  
Number 114 - Eff. 06/26/97  
Number 115 - Eff. 07/03/97  
Number 116 - Eff. 07/21/97  
Number 117 - Eff. 09/07/97  
Number 118 - Eff. 09/15/97

12:01 NCR 1  
12:01 NCR 1  
12:03 NCR 110  
12:03 NCR 110  
12:04 NCR 227  
12:07 NCR 505  
12:08 NCR 612

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

Number 119 - E.F. 10/01/97

Number 120 - E.F. 10/22/97

## HOUSING FINANCE AGENCY

24 NCAC 01P .0101		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	12:08 NCR 612
24 NCAC 01P .0102		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	12:11 NCR 917
24 NCAC 01P .0103		11:14 NCR 1154	11:28 NCR 2132	S	Object	07/17/97				
24 NCAC 01P .0201		11:14 NCR 1154	11:28 NCR 2132	S	Approve	08/21/97	*		12:07 NCR 561	
24 NCAC 01P .0202		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97	*		12:04 NCR 317	
24 NCAC 01P .0203		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97	*		12:04 NCR 317	

## HEALTH AND HUMAN SERVICES

10 NCAC 01B .0501 11:23 NCR 1779

10 NCAC 01B .0502 11:23 NCR 1779

### Aging

10 NCAC 22 10:23 NCR 2956

### Child Day Care Commission

10 NCAC 03U .0102 12:08 NCR 617

10 NCAC 03U .0201 12:08 NCR 617

10 NCAC 03U .0202 12:08 NCR 617

10 NCAC 03U .0204 12:08 NCR 617

10 NCAC 03U .0205 12:08 NCR 617

10 NCAC 03U .0206 12:08 NCR 617

10 NCAC 03U .0207 12:08 NCR 617

10 NCAC 03U .0301 12:08 NCR 617

10 NCAC 03U .0302 11:24 NCR 1817

10 NCAC 03U .0302 12:08 NCR 617

10 NCAC 03U .0303 12:08 NCR 617

10 NCAC 03U .0304 12:08 NCR 617

10 NCAC 03U .0401 12:08 NCR 617

10 NCAC 03U .0403 12:08 NCR 617

10 NCAC 03U .0505 12:08 NCR 617



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 03U .0506	11:24 NCR 1817									
10 NCAC 03U .0506	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0507	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0508	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0509	11:24 NCR 1817									
10 NCAC 03U .0509	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0510	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0511	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0601	11:24 NCR 1817									
10 NCAC 03U .0602	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0602	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0604	11:03 NCR 109		11:09 NCR 571	*	Approve	03/20/97			11:26 NCR 2004	
10 NCAC 03U .0604	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0604	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0605	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0605	12:08 NCR 617		12:13 NCR 1098	S/L						
10 NCAC 03U .0700	11:08 NCR 449									
10 NCAC 03U .0701	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0702	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0703	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0704	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0705	11:14 NCR 1108		11:27 NCR 2054	*						
10 NCAC 03U .0705	11:24 NCR 1817	12:08 NCR 710								
10 NCAC 03U .0705	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0707	11:08 NCR 449		11:17 NCR 1338	*	Object Approve	03/20/97 04/17/97	*		11:29 NCR 2211	
10 NCAC 03U .0707	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0708	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0709	12:08 NCR 617		12:13 NCR 1098	*						
10 NCAC 03U .0710	12:08 NCR 617		12:13 NCR 1098	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 03U .0711	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .0712	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .0713	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .0714	11-24 NCR 1817									
10 NCAC 03U .0714	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .0802	11-24 NCR 1817									
10 NCAC 03U .0802	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .0803	11-24 NCR 1817									
10 NCAC 03U .0803	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .0804	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .0806	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .0901	11-08 NCR 449		11-17 NCR 1338	*						
10 NCAC 03U .0901	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .0902	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1001	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1002	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1003	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1004	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1301	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1302	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1303	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1304	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1401	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1402	11-24 NCR 1817									
10 NCAC 03U .1403	11-24 NCR 1817									
10 NCAC 03U .1701	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1702	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1703	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1705	12-08 NCR 617		12-13 NCR 1098	*						
10 NCAC 03U .1716	12-08 NCR 617		12-13 NCR 1098	*						

# **CUMULATIVE INDEX** (Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 03U .1717	11-14 NCR 1108		11-27 NCR 2054	•						
10 NCAC 03U .1717	11-24 NCR 1817									
10 NCAC 03U .1717	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .1718	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .1719	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .1720	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .1721	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .1722	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .1723	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2500	11-29 NCR 2181									
10 NCAC 03U .2510	11-08 NCR 449									
10 NCAC 03U .2601	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2602	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2603	11-24 NCR 1817									
10 NCAC 03U .2603	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2604	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2605	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2606	11-08 NCR 449									
10 NCAC 03U .2606	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2607	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2608	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2609	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2610	11-24 NCR 1817									
10 NCAC 03U .2610	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2611	11-24 NCR 1817									
10 NCAC 03U .2611	12-08 NCR 617		12-13 NCR 1098	•						
10 NCAC 03U .2612	12-08 NCR 617		12-13 NCR 1098	•						

## **Facility Services**

Public Notice - Draft 1998 State Medical Facilities Plan

Abbreviated Notice of Temporary Rule-making

12-01 NCR 2

12-06 NCR 443



# **CUMULATIVE INDEX** (Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 03	10:18 NCR 2399									
10 NCAC 03R .0214	12:08 NCR 617									
10 NCAC 03R .3000	11:23 NCR 1780									
10 NCAC 03R .3001	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3002		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3020	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
					Object	11/21/96	*			
					Approve	03/20/97	*		11:26 NCR 2004	
10 NCAC 03R .3030	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3030		10:21 NCR 2699	11:08 NCR 452	S/L/SE						11 11 NCR 888
					Object	10/17/96	*			
					Object	11/21/96	*			
					Approve	03/20/97	*		11:26 NCR 2004	
					Extend Review	03/20/97	*		12:07 NCR 561	
10 NCAC 03R .3031	11:23 NCR 1780		11:08 NCR 459		Approve	08/21/97	*		12:10 NCR 878	
10 NCAC 03R .3032	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3033		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
					Object	01/16/97				
					Extend Review	03/20/97				
					Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 03R .3034		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
10 NCAC 03R .3035		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
					Return to agency	03/20/97				
10 NCAC 03R .3036		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
					Object	01/16/97				
					Return to agency	03/20/97				
10 NCAC 03R .3037		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
					Object	01/16/97				
					Return to agency	03/20/97				
10 NCAC 03R .3038		10:21 NCR 2699	11:08 NCR 452	S/L/SE						
					Object	01/16/97				
					Return to agency	03/20/97				
10 NCAC 03R .3040	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3050	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3051		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3052		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3053		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3053		11:22 NCR 1713								
10 NCAC 03R .3053		12:06 NCR 481								
10 NCAC 03R .3054		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 03R .3055		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3056		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3057		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3058		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3059		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3060		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97	*			
10 NCAC 03R .3060		12:06 NCR 481								
10 NCAC 03R .3061		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97	*			
10 NCAC 03R .3061		12:06 NCR 481								
10 NCAC 03R .3062		11:21 NCR 1655	12:04 NCR 246	*	Withdrawn by agency	11/97				
10 NCAC 03R .3062		12:06 NCR 481			Withdrawn by agency	11/97				
10 NCAC 03R .3063		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97	*			
10 NCAC 03R .3063		12:06 NCR 481								
10 NCAC 03R .3064		11:21 NCR 1655	12:04 NCR 246	*	Withdrawn by agency	11/97				
10 NCAC 03R .3064		12:06 NCR 481			Withdrawn by agency	11/97				
10 NCAC 03R .3065		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97	*			
10 NCAC 03R .3065		12:06 NCR 481								
10 NCAC 03R .3066		11:21 NCR 1655	12:04 NCR 246	*	Withdrawn by agency	11/97				
10 NCAC 03R .3066		12:06 NCR 481			Withdrawn by agency	11/97				
10 NCAC 03R .3067		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3068		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3069		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3070		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3071		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3072		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Approve	11/20/97				
10 NCAC 03R .3072		12:06 NCR 481								
10 NCAC 03R .3073		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Object	11/20/97				
10 NCAC 03R .3074		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Object	11/20/97				
10 NCAC 03R .3075		11:21 NCR 1655	12:04 NCR 246	*	Approve	11/20/97				
10 NCAC 03R .3076		11:21 NCR 1655	12:04 NCR 246	S/L/SE	Approve	11/20/97				

(Updated through December 23, 1997)

## Medical Assistance

### Medicaid Disproportionate Share List



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 26H .0213		12:09 NCR 827								
10 NCAC 26H .0401	12:08 NCR 618									
10 NCAC 26H .0506	10:21 NCR 2686									
10 NCAC 26H .0506		11:19 NCR 1438	11:29 NCR 2205	S/L/SE	Approve	09/18/97	*		12:10 NCR 878	
10 NCAC 26H .0602		12:04 NCR 313								
10 NCAC 26K .0106	12:05 NCR 337									
10 NCAC 26K .0106	12:06 NCR 444									
10 NCAC 26M .0201	12:06 NCR 444									
10 NCAC 26M .0202	12:06 NCR 444									
10 NCAC 26M .0203	12:05 NCR 337									
10 NCAC 26M .0203	12:06 NCR 444									
10 NCAC 26M .0204	12:06 NCR 444									
10 NCAC 50A .0604	12:06 NCR 444									
10 NCAC 50B .0202		11:10 NCR 841	11:28 NCR 2118	*	Approve	07/17/97	*		12:04 NCR 317	
10 NCAC 50B .0202	12:06 NCR 444									
10 NCAC 50B .0404		11:10 NCR 841	11:28 NCR 2118	L	Approve	07/17/97			12:04 NCR 317	
10 NCAC 50B .0409		11:10 NCR 841	11:28 NCR 2118	*	Approve	07/17/97			12:04 NCR 317	
10 NCAC 50D .0101	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0102	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0103	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0201	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0301	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0302	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0401	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0402	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0501	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0502	10:24 NCR 3057	11:04 NCR 196	Temp Expired							
10 NCAC 50D .0503	10:24 NCR 3057	11:04 NCR 196	Temp Expired							

## Medical Care Commission

10 NCAC 03B 11:16 NCR 1268

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 03B .1001		11-20 NCR 1560	11-29 NCR 2187	*	Approve	10/16/97	*		12:11 NCR 947	
10 NCAC 03B .1002		11-20 NCR 1560	11-29 NCR 2187	*	Approve	10/16/97	*		12:11 NCR 947	
10 NCAC 03C .3707	11-20 NCR 1534		11-29 NCR 2187	*	Approve	10/16/97			12:11 NCR 947	
10 NCAC 03D .0801	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0802	11-23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .0803	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0806	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0901	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0902	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0904	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0905	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0907	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0908	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0909	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0911	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0913	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0915	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0916	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0917	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0918	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0919	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0920	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0921	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0922	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0923	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0924	11-23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .0925	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .0926	11-23 NCR 1779		12:05 NCR 339	*						
10 NCAC 03D .1001	11-23 NCR 1779		12:05 NCR 339	S/L						
10 NCAC 03D .1002	11-23 NCR 1779		12:05 NCR 339	S/L						

**CUMULATIVE INDEX**  
(Updated through December 23, 1997)

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status			Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date					
10 NCAC 03D .1003	11:23 NCR 1779		12:05 NCR 339	S/L							
10 NCAC 03D .1004	11:23 NCR 1779		12:05 NCR 339	*							
10 NCAC 03D .1103	11:23 NCR 1779		12:05 NCR 339	*							
10 NCAC 03D .1202	11:23 NCR 1779		12:05 NCR 339	S/L							
10 NCAC 03D .1203	11:23 NCR 1779		12:05 NCR 339	*							
10 NCAC 03D .1204	11:23 NCR 1779		12:05 NCR 339	*							
10 NCAC 03D .1205	11:23 NCR 1779		12:05 NCR 339	S/L							
10 NCAC 03D .1206	11:23 NCR 1779		12:05 NCR 339	S/L							
10 NCAC 03D .1301	11:23 NCR 1779		12:05 NCR 339	*							
10 NCAC 03D .1302	11:23 NCR 1779		12:05 NCR 339	*							
10 NCAC 03D .1401	11:23 NCR 1779		12:05 NCR 339	*							
10 NCAC 03D .1403	11:23 NCR 1779		12:05 NCR 339	*							
10 NCAC 03D .1500	11:23 NCR 1779										
10 NCAC 03D .2001	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97					
10 NCAC 03D .2101	10:18 NCR 2399		11:29 NCR 2187	*	Approve	11/20/97	*				
10 NCAC 03D .2102	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97	*				
10 NCAC 03D .2103	10:18 NCR 2399		11:29 NCR 2187	*	Approve	11/20/97	*				
10 NCAC 03D .2104	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97	*			12:11 NCR 947	
10 NCAC 03D .2105	10:18 NCR 2399		11:29 NCR 2187	*	Approve	10/16/97	*			12:11 NCR 947	
10 NCAC 03D .2106	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97					
10 NCAC 03D .2201	10:18 NCR 2399		11:29 NCR 2187	*	Approve	11/20/97	*				
10 NCAC 03D .2202	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97	*				
10 NCAC 03D .2203	10:18 NCR 2399		11:29 NCR 2187	*	Approve	11/20/97	*				
10 NCAC 03D .2301	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97	*				
10 NCAC 03D .2302	10:18 NCR 2399		11:29 NCR 2187	*	Approve	11/20/97	*			12:11 NCR 947	
10 NCAC 03D .2303	10:18 NCR 2399		11:29 NCR 2187	*	Approve	10/16/97				12:11 NCR 947	
10 NCAC 03D .2401	10:18 NCR 2399		11:29 NCR 2187	*	Object	10/16/97	*			12:11 NCR 947	
					Approve	11/20/97	*			12:11 NCR 947	
					Approve	10/16/97	*			12:11 NCR 947	



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 03M .0105	11-23 NCR 1779		12-06 NCR 459	*						
10 NCAC 03M .0205	11-23 NCR 1779		12-06 NCR 459	*						
<b>Mental Health, Developmental Disabilities and Substance Abuse Services</b>										
10 NCAC 14G .0102		12-12 NCR 1060								
10 NCAC 14V .3402	11-08 NCR 449		11-14 NCR 1124	*	Withdrawn	01/16/97				
			11-24 NCR 1822	*	Approve	05/15/97	*		11:30 NCR 2314	
10 NCAC 14V .3803	11-08 NCR 449		11-14 NCR 1124	*	Withdrawn	01/16/97				
			11-24 NCR 1822	*	Approve	05/15/97	*		11:30 NCR 2314	
10 NCAC 14V .5602	11-08 NCR 449		11-14 NCR 1124	*	Withdrawn	01/16/97				
			11-24 NCR 1822	*	Approve	05/15/97			11:30 NCR 2314	
10 NCAC 15A .0128	11-08 NCR 449		11-14 NCR 1124	*	Withdrawn	01/16/97				
			11-24 NCR 1822	*	Approve	05/15/97			11:30 NCR 2314	
10 NCAC 15A .0129	11-08 NCR 449		11-14 NCR 1124	*	Withdrawn	01/16/97				
			11-24 NCR 1822	*	Approve	05/15/97			11:30 NCR 2314	
10 NCAC 18W .0201	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97	*			
					Approve	02/20/97	*			
10 NCAC 18W .0202	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0203	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0204	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0205	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0206	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0207	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0208	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0209	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0210	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0211	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0212	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0213	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0214	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0215	10-15 NCR 1478		11-14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0216	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97				
					Approve	02/20/97	*			
10 NCAC 18W .0217	10-15 NCR 1478		11-14 NCR 1124	S	Object	01/16/97	*			
					Approve	02/20/97	*			
					Approve	01/16/97	*			

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 18W .0218	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97				
10 NCAC 18W .0219	10:15 NCR 1478		11:14 NCR 1124	S	Approve	02/20/97	*			
10 NCAC 45H .0200	11:08 NCR 449				Approve	01/16/97	*			
10 NCAC 45H .0203	11:08 NCR 449	11:29 NCR 2208	11:29 NCR 2208	*						
<b>Secretary of Human Resources</b>										
10 NCAC 14V .7006		12:01 NCR 31	12:07 NCR 511	*						
10 NCAC 14V .7101	11:30 NCR 2300		12:06 NCR 459	*						
10 NCAC 14V .7102	11:30 NCR 2300		12:06 NCR 459	*						
10 NCAC 14V .7103	11:30 NCR 2300		12:06 NCR 459	S						
10 NCAC 14V .7104	11:30 NCR 2300		12:06 NCR 459	S						
10 NCAC 14V .7105	11:30 NCR 2300		12:06 NCR 459	S						
<b>Social Services Commission</b>										
10 NCAC 24A .0508	12:12 NCR 993	12:13 NCR 1180								
10 NCAC 30 .0207	12:11 NCR 919									
10 NCAC 35E .0101		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 35E .0105		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 35E .0106		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 35E .0308		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 41A .0007		12:11 NCR 938								
10 NCAC 41E	12:11 NCR 919									
10 NCAC 41F .0707		12:11 NCR 938								
10 NCAC 41F .0813		12:11 NCR 938								
10 NCAC 41G	12:11 NCR 919									
10 NCAC 41I .0100	10:17 NCR 2228									
10 NCAC 41I .0102	10:17 NCR 2228									
10 NCAC 42C .3401		12:13 NCR 1180	10:21 NCR 2687	*						
10 NCAC 42C .3403		12:13 NCR 1180								
10 NCAC 42C .3404		12:13 NCR 1180								
10 NCAC 42C .3601		12:13 NCR 1180								

**CUMULATIVE INDEX**  
(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 42J .0001		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97	*		12:07 NCR 561	
10 NCAC 42J .0004		11:16 NCR 1288	11:30 NCR 2301	*	Approve	08/21/97			12:07 NCR 561	
10 NCAC 42J .0005		11:16 NCR 1288	11:30 NCR 2301	*	Object	08/21/97				
					Approve	09/18/97	*		12:10 NCR 878	
10 NCAC 42R .0201	12:11 NCR 919	12:13 NCR 1180								
10 NCAC 47A .0502		12:11 NCR 938								
10 NCAC 47B .0102		12:11 NCR 938								
10 NCAC 47B .0303		12:11 NCR 938								
10 NCAC 47B .0304		12:11 NCR 938								
10 NCAC 47B .0305		12:11 NCR 938								
10 NCAC 47B .0403		12:11 NCR 938								
<b>Vocational Rehabilitation Services</b>										
10 NCAC 20C .0201	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0202	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0203	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0601	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0603	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0604	12:08 NCR 618		12:13 NCR 1135	*						
10 NCAC 20C .0606	12:08 NCR 618		12:13 NCR 1135	*						
<b>INSURANCE</b>										
11 NCAC 06	12:09 NCR 744									
11 NCAC 10	12:09 NCR 744									
11 NCAC 10 .0602		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	
11 NCAC 10 .0603		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	
11 NCAC 10 .0606		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	
11 NCAC 11	12:09 NCR 744									
11 NCAC 12	12:09 NCR 744									
11 NCAC 12 .1801		12:11 NCR 942								
11 NCAC 12 .1802		12:11 NCR 942								
11 NCAC 12 .1803		12:11 NCR 942								



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
11 NCAC 12.1804		12:11 NCR 942								
11 NCAC 13	12:09 NCR 744									
11 NCAC 14	12:09 NCR 744									
11 NCAC 15	12:09 NCR 744									
11 NCAC 16	12:09 NCR 744									
11 NCAC 17	12:09 NCR 744									
11 NCAC 19	12:09 NCR 744									
11 NCAC 20	12:09 NCR 744									
11 NCAC 21	12:09 NCR 744									
<b>Fire and Rescue Commission</b>										
11 NCAC 05	12:09 NCR 744									
<b>Home Inspector Licensure Board</b>										
<b>Home Inspector Licensure Board</b>										
11 NCAC 08	12:09 NCR 744									
11 NCAC 08.1000	12:09 NCR 744									11.27 NCR 2049
11 NCAC 08.1001		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1002		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1003		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1004		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1005		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97	*		12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1006		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1007		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1008		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1009		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1010		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08.1011		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn 03/97	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj

# **CUMULATIVE INDEX** (Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
11 NCAC 08 .1101		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1102		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97				
11 NCAC 08 .1103		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1104		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1105		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1106		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1107		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1108		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1109		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1110		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1111		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1112		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1113		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1114		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1115		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1116		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1201		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1202		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1203		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1204		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1205		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1206		11:15 NCR 1212	11:19 NCR 1416	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
11 NCAC 08 .1207		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97				Temp Filed over obj
11 NCAC 08 .1208		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1209		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn	03/97			12:03 NCR 213	Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency withdrew	03/97			12:03 NCR 213	Temp Filed over obj
			11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
<b>JUSTICE</b>										
<b>Alarm Systems Licensing Board</b>										
12 NCAC 11	11:30 NCR 2300									
12 NCAC 11 .0202	10:24 NCR 3057		11:14 NCR 1136	*	Tabled	06/19/97			12:07 NCR 561	
					Approve	08/21/97				
12 NCAC 11 .0204	12:12 NCR 993									
12 NCAC 11 .0210	12:08 NCR 618									
<b>Criminal Justice Education and Training Standards Commission</b>										
12 NCAC 09A .0103	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0102	11:14 NCR 1109		11:20 NCR 1539	*	Object	04/17/97				
12 NCAC 09B .0111	11:14 NCR 1109		11:20 NCR 1539	*	Approve	05/15/97	*		11:30 NCR 2314	
12 NCAC 09B .0206	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0224	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0225	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0409	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0304	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0307	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97	*		11:29 NCR 2211	
12 NCAC 09C .0309	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0601	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0602	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0603	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0604	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0605	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0606	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0607	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0608	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
Private Protective Services Board										
12 NCAC 07D .11:10 NCR 818										
12 NCAC 07D .11:16 NCR 1268										
12 NCAC 07D .0100 11:16 NCR 1268										
12 NCAC 07D .0104 11:16 NCR 1268			12:09 NCR 748	*						
12 NCAC 07D .0201 11:10 NCR 818			12:08 NCR 622	*						
12 NCAC 07D .0204 11:14 NCR 1108			12:08 NCR 622	*						
12 NCAC 07D .0504 11:10 NCR 818			12:08 NCR 622	*						
12 NCAC 07D .0701 11:10 NCR 818			12:08 NCR 622	*						
12 NCAC 07D .0801 11:10 NCR 818			12:08 NCR 622	*						
12 NCAC 07D .0902 11:10 NCR 818			12:08 NCR 622	*						
12 NCAC 07D .1106 11:14 NCR 1108			12:08 NCR 622	*						
Sheriffs' Education and Training Standards Commission										
12 NCAC 10B .0101 12:04 NCR 242			12:08 NCR 624	*						
12 NCAC 10B .0103 12:07 NCR 508			12:12 NCR 995	*						
12 NCAC 10B .0107 12:04 NCR 242			12:08 NCR 624	*						
12 NCAC 10B .0202 12:04 NCR 242			12:08 NCR 624	*						
12 NCAC 10B .0204 12:04 NCR 242			12:08 NCR 624	*						
12 NCAC 10B .0206 12:04 NCR 242			12:08 NCR 624	*						
12 NCAC 10B .0304 12:04 NCR 242			12:08 NCR 624	L						
12 NCAC 10B .0401 12:07 NCR 508			12:12 NCR 995	S/L						
12 NCAC 10B .0402 12:07 NCR 508			12:12 NCR 995	*						
12 NCAC 10B .0403 12:07 NCR 508			12:12 NCR 995	*						
12 NCAC 10B .0406 12:07 NCR 508			12:12 NCR 995	*						
12 NCAC 10B .0407 12:07 NCR 508			12:12 NCR 995	*						
12 NCAC 10B .0408 12:07 NCR 508			12:12 NCR 995	*						
12 NCAC 10B .0409 12:07 NCR 508			12:12 NCR 995	*						
12 NCAC 10B .0505 12:04 NCR 242			12:08 NCR 624	*						
12 NCAC 10B .0601 12:04 NCR 242			12:08 NCR 624	*						
12 NCAC 10B .0603 12:04 NCR 242			12:08 NCR 624	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
12 NCAC 10B .0605	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0701	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0702	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0702	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .0703	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0704	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0705	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0706	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0707	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0801	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0802	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0903	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0908	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0909	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0910	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .0911	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1002	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1004	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1005	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1006	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1101	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1101	12:07 NCR 508									
12 NCAC 10B .1102	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1102	12:07 NCR 508		12:08 NCR 624	*						
12 NCAC 10B .1103	12:04 NCR 242									
12 NCAC 10B .1103	12:07 NCR 508		12:08 NCR 624	*						
12 NCAC 10B .1104	12:04 NCR 242									
12 NCAC 10B .1104	12:07 NCR 508		12:08 NCR 624	*						
12 NCAC 10B .1105	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1202	12:04 NCR 242		12:08 NCR 624	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
12 NCAC 10B .1204	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1205	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1206	12:04 NCR 242		12:08 NCR 624	*						
12 NCAC 10B .1301	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .1302	12:07 NCR 508		12:12 NCR 995	S						
12 NCAC 10B .1303	12:07 NCR 508		12:12 NCR 995	S						
12 NCAC 10B .1304	12:07 NCR 508		12:12 NCR 995	S						
12 NCAC 10B .2002	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .2101	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .2102	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .2104	12:07 NCR 508		12:12 NCR 995	*						
12 NCAC 10B .2105	12:07 NCR 508		12:12 NCR 995	*						
<b>State Bureau of Investigation/Division of Criminal Information</b>										
12 NCAC 04E .0103	11:11 NCR 881		11:17 NCR 1339	*	Approve	05/15/97			11:30 NCR 2314	
12 NCAC 04E .0104	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
12 NCAC 04E .0401	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97			12:04 NCR 317	
12 NCAC 04E .0404	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
12 NCAC 04E .0405	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
<b>LABOR</b>										
<b>Boiler &amp; Pressure Vessel</b>										
13 NCAC 13 .0213	11:25 NCR 1918 12:13 NCR 1184		Temp Expired 12/27/97 12:13 NCR 1184	S/L						
<b>Occupational Safety and Health</b>										
<b>*Verbatim Adoption Federal Standards</b>										
*13 NCAC 07F .0101										12:08 NCR 613
*13 NCAC 07F .0501										12:08 NCR 613
*13 NCAC 07F .0502										12:08 NCR 613
13 NCAC 07A .0302	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07A .0708	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07A .0900	11:11 NCR 881									



# **CUMULATIVE INDEX** (Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
13 NCAC 07F	11:03 NCR 106									
13 NCAC 07F .0101	11:24 NCR 1817		12:05 NCR 354	*	Approve	11/20/97	*			
13 NCAC 07F .0101	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0102	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97				
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0201	11:09 NCR 568									
13 NCAC 07F .0201	11:24 NCR 1817		12:02 NCR 60	*	Approve	11/20/97	*			
13 NCAC 07F .0201	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0301	11:03 NCR 106									
13 NCAC 07F .0301	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07F .0426	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07F .0501	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 07F .0502	11:26 NCR 1984		12:03 NCR 170	*	Approve	11/20/97	*			
13 NCAC 16 .0101	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0102	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0103	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0201	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0202	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0203	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0204	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0205	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0206	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0207	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0208	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0301	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0302	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0303	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0401	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0402	11:26 NCR 1984		12:05 NCR 412	*						
13 NCAC 16 .0501	11:26 NCR 1984		12:05 NCR 412	*						

republicated 11/24 NCR 1817

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
13 NCAC 16 .0502	11:26 NCR 1984		12.05 NCR 412	*						
13 NCAC 16 .0601	11:26 NCR 1984		12.05 NCR 412	*						
13 NCAC 16 .0602	11:26 NCR 1984		12.05 NCR 412	*						
<b>LANDSCAPE ARCHITECTS, BOARD OF</b>										
21 NCAC 26 .0104		12.08 NCR 730								
21 NCAC 26 .0105		12.08 NCR 730								
21 NCAC 26 .0302		12.08 NCR 730								
21 NCAC 26 .0506		12.08 NCR 730								
21 NCAC 26 .0507		12.08 NCR 730								
21 NCAC 26 .0508		12.08 NCR 730								
21 NCAC 26 .0509		12.08 NCR 730								
<b>MEDICAL BOARD</b>										
21 NCAC 32B	11:18 NCR 1369									
21 NCAC 32B	12:04 NCR 245									
21 NCAC 32F .0103		11:18 NCR 1386 Temp Expired	12.04 NCR 294	*						
21 NCAC 32H .0102	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0201	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0202	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0203	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0301	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0302	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0303	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0401	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0402	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0402		12.04 NCR 314								
21 NCAC 32H .0403	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0404	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0405	11:26 NCR 1986		12.04 NCR 294	*						
21 NCAC 32H .0406	11:26 NCR 1986		12.04 NCR 294	L						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 3211 .0407	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0408	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0409	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0501	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0502	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0503	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0504	11:26 NCR 1986		12:04 NCR 294	L						
21 NCAC 3211 .0505	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0506	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0507	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0508	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0601	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0602	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0801	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .0901	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 3211 .1004	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 320	11:18 NCR 1369		12:04 NCR 294	*						
<b>MORTUARY SCIENCE, BOARD OF</b>										
21 NCAC 34A	12:09 NCR 745									
21 NCAC 34A .0201		12:07 NCR 556								
21 NCAC 34B	12:09 NCR 745									
21 NCAC 34C	12:09 NCR 745									
21 NCAC 34D	12:09 NCR 745									
<b>NURSING, BOARD OF</b>										
21 NCAC 36 .0109	11:24 NCR 1821		11:28 NCR 2130	*						
21 NCAC 36 .0227	12:05 NCR 338									
21 NCAC 36 .0320	11:14 NCR 1109		11:19 NCR 1428	*	Object	03/20/97				
21 NCAC 36 .0601	12:01 NCR 5		12:06 NCR 479	*	Approve	04/17/97	*		11:29 NCR 2211	
21 NCAC 36 .0602	12:01 NCR 5		12:06 NCR 479	*						



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 36.0603	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36.0604	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36.0605	12:01 NCR 5		12:06 NCR 479	*						
21 NCAC 36.0606	12:01 NCR 5		12:06 NCR 479	*						
<b>NURSING HOME ADMINISTRATORS</b>										
21 NCAC 37D.0202		11:11 NCR 940	11:18 NCR 1372	*	Approve	04/17/97	*		11:29 NCR 2211	
21 NCAC 37G.0102		11:11 NCR 940	11:18 NCR 1372	*	Approve	04/17/97			11:29 NCR 2211	
<b>OPTICIANS, BOARD OF</b>										
21 NCAC 40	12:09 NCR 745									
21 NCAC 40.0108		12:07 NCR 557								
<b>OPTOMETRY, BOARD OF</b>										
21 NCAC 42	12:06 NCR 453									
21 NCAC 42B.0107	11:18 NCR 1369		11:25 NCR 1917	*						
21 NCAC 42E.0102		12:06 NCR 487	12:12 NCR 1058	*	Approve	09/18/97			12:10 NCR 878	
<b>PHARMACY, BOARD OF</b>										
21 NCAC 46.1601	12:03 NCR 168		12:07 NCR 527	*						
21 NCAC 46.1603	12:03 NCR 168		12:09 NCR 797	*						
21 NCAC 46.1604	12:03 NCR 168		12:09 NCR 797	*						
21 NCAC 46.1804	12:03 NCR 168		12:09 NCR 797	*						
21 NCAC 46.1810	12:03 NCR 168		12:09 NCR 797	*						
21 NCAC 46.1813	12:03 NCR 168		12:09 NCR 797	*						
21 NCAC 46.2103	12:03 NCR 168		12:09 NCR 797	*						
21 NCAC 46.2201	12:03 NCR 168		12:09 NCR 797	*						
21 NCAC 46.2301	12:03 NCR 168		12:09 NCR 797	*						
<b>PHYSICAL THERAPY EXAMINERS</b>										
21 NCAC 48A.0103	12:08 NCR 619		12:13 NCR 1150	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 48A .0105	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48B .0102	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48C .0101	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48C .0102	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48C .0103	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48C .0301	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48C .0302	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48C .0401	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48C .0402	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48D .0102	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48D .0103	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48D .0105	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48D .0106	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48D .0109	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48D .0110	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48D .0112	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48E .0101	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48E .0104	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48E .0110	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48F .0102	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48G .0202	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48G .0203	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48G .0402	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48G .0403	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48G .0404	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48G .0504	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48G .0512	12:08 NCR 619	Agency Withdrew Rule-making	12:13 NCR 1150	*						
21 NCAC 48G .0601	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48H .0701	12:08 NCR 619		12:13 NCR 1150	*						
21 NCAC 48H .0704	12:08 NCR 619		12:13 NCR 1150	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

## PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, EXAMINERS OF

21 NCAC 50 .0106	12:07 NCR 509									
21 NCAC 50 .0202	12:07 NCR 509									
21 NCAC 50 .0301	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .0306	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .0404	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .0405	12:07 NCR 509									
21 NCAC 50 .0506	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .0510	12:07 NCR 509									
21 NCAC 50 .0511	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .1102	12:07 NCR 509	12:07 NCR 557								
21 NCAC 50 .1104	12:07 NCR 509									
21 NCAC 50 .1201	12:07 NCR 509									
21 NCAC 50 .1205	12:07 NCR 509									
21 NCAC 50 .1206	12:07 NCR 509									
21 NCAC 50 .1210	12:07 NCR 509									
21 NCAC 50 .1212	12:07 NCR 509									
21 NCAC 50 .1302	12:07 NCR 509									

## PROFESSIONAL ENGINEERS AND LAND SURVEYORS

### PSYCHOLOGY BOARD

21 NCAC 56	12:08 NCR 619									
21 NCAC 54 .1611	12:05 NCR 338									
21 NCAC 54 .1612	12:05 NCR 338									
21 NCAC 54 .1613	12:05 NCR 338									
21 NCAC 54 .2006	12:05 NCR 338									
21 NCAC 54 .2010	12:05 NCR 338									
21 NCAC 54 .2104	12:05 NCR 338									
21 NCAC 54 .2301	12:05 NCR 338									
21 NCAC 54 .2302	12:05 NCR 338									



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

21 NCAC 54 .2303	12:05 NCR 338									
21 NCAC 54 .2304	12:05 NCR 338									
21 NCAC 54 .2305	12:05 NCR 338									
21 NCAC 54 .2306	12:05 NCR 338									
21 NCAC 54 .2307	12:05 NCR 338									
21 NCAC 54 .2308	12:05 NCR 338									
21 NCAC 54 .2309	12:05 NCR 338									
21 NCAC 54 .2310	12:05 NCR 338									
21 NCAC 54 .2311	12:05 NCR 338									
21 NCAC 54 .2312	12:05 NCR 338									
21 NCAC 54 .2313	12:05 NCR 338									
21 NCAC 54 .2314	12:05 NCR 338									
21 NCAC 54 .2401	12:05 NCR 338									
21 NCAC 54 .2402	12:05 NCR 338									
21 NCAC 54 .2501	12:05 NCR 338									
21 NCAC 54 .2502	12:05 NCR 338									
21 NCAC 54 .2503	12:05 NCR 338									
21 NCAC 54 .2504	12:05 NCR 338									
21 NCAC 54 .2505	12:05 NCR 338									
21 NCAC 54 .2601	12:05 NCR 338									
21 NCAC 54 .2602	12:05 NCR 338									
21 NCAC 54 .2704	12:05 NCR 338									
21 NCAC 54 .2705	12:05 NCR 338									
21 NCAC 54 .2706	12:05 NCR 338									

## PUBLIC EDUCATION

16 NCAC 06C .0307			12:01 NCR 18	*	Object	10/16/97
16 NCAC 06C .0310	12:03 NCR 210		12:01 NCR 18	*		
16 NCAC 06C .0502	12:09 NCR 834					
16 NCAC 06C .0601			12:12 NCR 1050	*		

Temp Filed over obj

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
16 NCAC 06C .0602			12-12 NCR 1050	*						
16 NCAC 06D .0103			12-01 NCR 18	*	Object	10/16/97				
16 NCAC 06D .0301			12-01 NCR 18	*	Object	10/16/97				
16 NCAC 06D .0303			12-01 NCR 18	*	Approve	10/16/97			12-11 NCR 947	
16 NCAC 06D .0305			12-01 NCR 18	*	Approve	10/16/97			12-11 NCR 947	
16 NCAC 06D .0306			12-01 NCR 18	*	Approve	10/16/97			12-11 NCR 947	
16 NCAC 06E .0105		12-05 NCR 433								
16 NCAC 06G .0304			12-01 NCR 18	S	Approve	10/16/97			12-11 NCR 947	
16 NCAC 06G .0305			12-01 NCR 18	*	Object	10/16/97				
16 NCAC 06G .0306			12-01 NCR 18	*	Object	10/16/97				
16 NCAC 06G .0307			12-01 NCR 18	S	Object	10/16/97				
16 NCAC 06G .0308			12-01 NCR 18	S	Object	10/16/97				
16 NCAC 06G .0309			12-01 NCR 18	S	Object	10/16/97	*		12-11 NCR 947	
16 NCAC 06G .0401			12-01 NCR 18	*	Approve	10/16/97			12-11 NCR 947	
16 NCAC 06G .0402			12-01 NCR 18	*	Approve	10/16/97			12-11 NCR 947	
16 NCAC 06G .0403			12-01 NCR 18	*	Approve	10/16/97			12-11 NCR 947	
16 NCAC 06G .0404			12-01 NCR 18	*	Approve	10/16/97			12-11 NCR 947	
16 NCAC 06G .0501		12-12 NCR 1071								
<b>Public School Administration, Standards Board for</b>										
16 NCAC 07 .0201		12-07 NCR 533	12-12 NCR 1052	*						
16 NCAC 07 .0202		12-07 NCR 533	12-12 NCR 1052	*						
16 NCAC 07 .0301		12-07 NCR 533	12-12 NCR 1052	*						
16 NCAC 07 .0302		12-07 NCR 533	12-12 NCR 1052	*						
16 NCAC 07 .0303		12-07 NCR 533	12-12 NCR 1052	*						
<b>REAL ESTATE COMMISSION</b>										
21 NCAC 58A .0101	12-08 NCR 620		12-13 NCR 1159	*						
21 NCAC 58A .0103	12-08 NCR 620		12-13 NCR 1159	*						
21 NCAC 58A .0104	12-08 NCR 620		12-13 NCR 1159	*						
21 NCAC 58A .0105	12-08 NCR 620		12-13 NCR 1159	*						

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

21 NCAC 58A .0107	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0108	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0109	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0110	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0114	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0302	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0302	10:22 NCR 2829		11:03 NCR 114	*	Object Approve	12/19/96 01/16/97	*		11:22 NCR 1717	
21 NCAC 58A .0502	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0505	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0506	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0601	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0613	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .0614	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58A .1501	10:22 NCR 2829		11:03 NCR 114	*	Object Approve	12/19/96 01/16/97	*		11:22 NCR 1717	
21 NCAC 58A .1502	10:22 NCR 2829		11:03 NCR 114	*	Object Approve	12/19/96 01/16/97	*		11:22 NCR 1717	
21 NCAC 58A .1702	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58B .0402	12:08 NCR 620		12:13 NCR 1159	*						
21 NCAC 58E .0407	12:08 NCR 620		12:13 NCR 1159	*						
<b>REVENUE</b>										
17 NCAC 01C .0506			11:10 NCR 838	*	Approve	01/16/97	*		11:22 NCR 1717	12:04 NCR 228 12:05 NCR 336 12:12 NCR 990
Tax Review Board										
Tax Review Board										
Tax Review Board										

## SECRETARY OF STATE

18 NCAC 06 .1104	12:07 NCR 534
18 NCAC 06 .1205	12:07 NCR 534
18 NCAC 06 .1206	12:07 NCR 534
18 NCAC 06 .1211	12:07 NCR 534



# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

18 NCAC 06.1212		12.07 NCR 534								
18 NCAC 06.1304		12.07 NCR 534								
18 NCAC 06.1401		12.07 NCR 534								
18 NCAC 06.1410		12.07 NCR 534								
18 NCAC 06.1411		12.07 NCR 534								
18 NCAC 06.1412		12.07 NCR 534								
18 NCAC 06.1506		12.07 NCR 534								
18 NCAC 06.1509		12.07 NCR 534								
18 NCAC 06.1702		12.07 NCR 534								
18 NCAC 06.1703		12.07 NCR 534								
18 NCAC 06.1704		12.07 NCR 534								
18 NCAC 06.1705		12.07 NCR 534								
18 NCAC 06.1706		12.07 NCR 534								
18 NCAC 06.1712		12.07 NCR 534								
18 NCAC 06.1713		12.07 NCR 534								
18 NCAC 06.1714		12.07 NCR 534								
18 NCAC 06.1801		12.07 NCR 534								
18 NCAC 06.1802		12.07 NCR 534								
18 NCAC 06.1803		12.07 NCR 534								
18 NCAC 06.1804		12.07 NCR 534								
18 NCAC 06.1805		12.07 NCR 534								
18 NCAC 06.1806		12.07 NCR 534								
18 NCAC 06.1809		12.07 NCR 534								
18 NCAC 06.1811		12.07 NCR 534								

## SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGIST, BOARD OF EXAMINERS

21 NCAC 64.0209	11:23 NCR 1780		12.05 NCR 427	*						
21 NCAC 64.0303	11:23 NCR 1780									
21 NCAC 64.1001	11:23 NCR 1780		12.05 NCR 427	*						
21 NCAC 64.1002	11:23 NCR 1780		12.05 NCR 427	*	Object	11/20/97				

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

21 NCAC 64 .1003 11:23 NCR 1780  
 21 NCAC 64 .1004 11:23 NCR 1780  
 21 NCAC 64 .1005 11:23 NCR 1780

## STATE PERSONNEL COMMISSION

25 NCAC 01D .2501	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2503	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2504	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2505	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2507	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2508	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2509	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2511	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2513	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2514	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01D .2516	11:13 NCR 1062 Temp Expired	11:19 NCR 1429	*	Approve	09/18/97			12:10 NCR 878	
25 NCAC 01D .2517	12:09 NCR 835								
25 NCAC 01E .0705	11:14 NCR 1110	11:19 NCR 1434	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01E .0707	11:14 NCR 1110	11:19 NCR 1434	*	Approve	09/18/97	*		12:10 NCR 878	
25 NCAC 01E .0709	11:14 NCR 1110	11:19 NCR 1434	*	Approve	09/18/97			12:10 NCR 878	

## SUBSTANCE ABUSE PROFESSIONAL CERTIFICATION BOARD

21 NCAC 68 12:09 NCR 745  
 21 NCAC 68 .0101 12:11 NCR 944  
 21 NCAC 68 .0301 12:11 NCR 944  
 21 NCAC 68 .0302 12:11 NCR 944  
 21 NCAC 68 .0303 12:11 NCR 944  
 21 NCAC 68 .0304 12:11 NCR 944

# CUMULATIVE INDEX

(Updated through December 23, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 68 .0305		12:11 NCR 944								
21 NCAC 68 .0306		12:11 NCR 944								
21 NCAC 68 .0307		12:11 NCR 944								
<b>TRANSPORTATION</b>										
<b>Highways, Division of</b>										
19A NCAC 02B .0164	11:20 NCR 1537		11:26 NCR 1991	*	Object	07/17/97				
19A NCAC 02B .0242	11:26 NCR 1986		12:03 NCR 207	*	Approve	08/21/97			12:07 NCR 561	
19A NCAC 02B .0303	11:26 NCR 1986		12:03 NCR 207	*	Approve	10/16/97			12:11 NCR 947	
19A NCAC 02D .0415	11:20 NCR 1537		11:26 NCR 2004	*	Approve	10/16/97			12:11 NCR 947	
19A NCAC 02E .0218	12:05 NCR 337		12:12 NCR 1053	*	Approve	07/17/97			12:04 NCR 317	
19A NCAC 02E .0219	12:05 NCR 337		12:12 NCR 1053	*						
19A NCAC 02E .0220	12:05 NCR 337		12:12 NCR 1053	*						
19A NCAC 02E .0221	12:05 NCR 337		12:12 NCR 1053	*						
19A NCAC 02E .0222	12:05 NCR 337		12:12 NCR 1053	*						
<b>Motor Vehicles, Division of</b>										
19A NCAC 03D .0525		12:08 NCR 729								
19A NCAC 03I .0100	11:19 NCR 1413									
19A NCAC 03I .0200	11:19 NCR 1413									
19A NCAC 03I .0300	11:19 NCR 1413									
19A NCAC 03I .0400	11:19 NCR 1413									
19A NCAC 03I .0500	11:19 NCR 1413									
19A NCAC 03I .0600	11:19 NCR 1413									
19A NCAC 03I .0700	11:19 NCR 1413									
19A NCAC 03I .0800	11:19 NCR 1413									
19A NCAC 03J .0102	11:11 NCR 882		11:17 NCR 1340	*	Approve	02/20/97	*		11:24 NCR 1832	
19A NCAC 03J .0306	11:11 NCR 882		11:17 NCR 1340	*	Object	02/20/97	*			
19A NCAC 03J .0308	11:11 NCR 882		11:17 NCR 1340	*	Approve	02/20/97	*		11:26 NCR 2004	
19A NCAC 03J .0601	11:11 NCR 882		11:17 NCR 1340	*	Object	02/20/97	*		11:26 NCR 2004	
					Approve	02/20/97	*		11:24 NCR 1832	



DESCRIPTION	CODE	ANNUAL SUBSCRIPTION PRICE
<b>Title 1 - Dept. of Administration - Complete Title</b>	<b>201 00 001</b>	<b>\$90.00</b>
Division of Purchase & Contract	201 10 051	\$30.00
Federal Block Grant Funds	201 10 331	\$25.00
<b>Title 2 - Dept. of Agriculture - Complete Title</b>	<b>202 00 001</b>	<b>\$140.00</b>
Food & Drug Protection Division	202 15 091	\$35.00
Structural Pest Control Committee	202 15 341	\$30.00
Agricultural Markets	202 15 431	\$30.00
Plant Industry	202 15 481	\$30.00
Animal Industry	202 15 521	\$30.00
<b>Title 3 - Dept. of State Auditor - Complete Title</b>	<b>203 00 001</b>	<b>\$25.00</b>
<b>Title 4 - Dept. of Commerce - Complete Title</b>	<b>204 00 001</b>	<b>\$125.00</b>
Alcoholic Beverage Control Commission	204 15 021	\$45.00
Banking Commission	204 15 031	\$45.00
Credit Union Division	204 15 061	\$25.00
Savings & Loan Division	204 15 091	\$25.00
Industrial Commission/Workers Compensation	204 15 101	\$30.00
Savings Institutions Division	204 15 161	\$35.00
<b>Title 5 - Dept. of Corrections - Complete Title</b>	<b>205 00 001</b>	<b>\$70.00</b>
Division of Prisons	205 15 021	\$35.00
<b>Title 6 - Council of State - Complete Title</b>	<b>206 00 001</b>	<b>\$30.00</b>
<b>Title 7 - Dept. of Cultural Resources - Complete Title</b>	<b>207 00 001</b>	<b>\$60.00</b>
<b>Title 8 - State Board of Elections - Complete Title</b>	<b>208 00 001</b>	<b>\$30.00</b>
<b>Title 9 - Offices of the Governor &amp; Lt. Governor - Complete Title</b>	<b>209 00 001</b>	<b>\$45.00</b>
<b>Title 10 - Dept. of Human Resources - Complete Title</b>	<b>210 00 001</b>	<b>\$470.00</b>
Licensing of Health Facilities	210 20 101	\$95.00
Detention Facilities	210 20 201	\$40.00
Mental Health & Rehabilitation Services	210 20 301	\$110.00
Social Services	210 20 401	\$185.00
Children Services/Day Care	210 20 411	\$55.00
Services for the Aging	210 20 421	\$45.00
Services for the Blind	210 20 431	\$40.00
Services for the Deaf & Hard of Hearing	210 20 441	\$25.00
Employment Opportunities	210 20 451	\$45.00
<b>Title 11 - Dept. of Insurance - Complete Title</b>	<b>211 00 001</b>	<b>\$90.00</b>
Insurance	211 10 011	\$80.00
Consumer Services	211 10 041	\$30.00
Fire & Rescue Services	211 10 051	\$25.00
Agent Services	211 10 061	\$35.00
Engineering & Building Codes	211 10 081	\$30.00
<b>Title 12 - Dept. of Justice - Complete Title</b>	<b>212 00 001</b>	<b>\$90.00</b>
Private Protective Services	212 10 071	\$30.00
Police & Sheriff's Education & Training Standards	212 10 091	\$40.00
NC Alarm Systems Licensing Board	212 10 111	\$30.00
<b>Title 13 - Dept. of Labor - Complete Title</b>	<b>213 00 001</b>	<b>\$110.00</b>
Mine & Quarry Safety	213 15 061	\$25.00
General Safety/OSHA	213 20 001	\$70.00
Wage & Hour Rules	213 15 121	\$25.00
Boiler & Pressure Vessel Safety	213 15 131	\$25.00
Apprenticeship & Training	213 15 141	\$25.00
Elevator & Amusement Device Safety	213 15 151	\$25.00
<b>Title 14A - Dept. of Crime Control &amp; Public Safety - Complete Title</b>	<b>214 00 001</b>	<b>\$45.00</b>
Alcohol Law Enforcement	214 00 081	\$25.00
Victims Compensation Fund	214 00 111	\$25.00
<b>Title 15A - Dept. of Environ., Health, &amp; Nat. Resources - Complete Title</b>	<b>215 00 001</b>	<b>\$395.00</b>
Environmental Management	215 15 001	\$165.00
Air Quality	215 15 101	\$90.00
Water Quality	215 15 201	\$85.00
Land & Waste Management	215 15 301	\$85.00
Solid Waste Management	215 15 311	\$50.00

DESCRIPTION	CODE	ANNUAL SUBSCRIPTION PRICE
Underground Storage Tanks	215 15 321	\$30.00
Coastal Management, Fishing & Boating	215 15 401	\$53.00
Environmental Health	215 25 001	\$150.00
Radiation/Nuclear Waste	215 25 101	\$65.00
Sanitation	215 25 201	\$60.00
Public Health	215 25 301	\$85.00
Intoxilizer & Breathalyzer	215 25 311	\$25.00
<b>Title 16 - Dept. of Public Instruction - Complete Title</b>	<b>216 00 001</b>	<b>\$60.00</b>
Elementary & Secondary Education	216 10 061	\$30.00
<b>Title 17 - Department of Revenue - Complete Title</b>	<b>217 00 001</b>	<b>\$130.00</b>
Taxes on Individuals	217 15 101	\$40.00
Taxes on Business	217 15 201	\$70.00
Sales & Use Tax Division	217 15 271	\$45.00
Motor Fuels Tax Division	217 15 291	\$30.00
<b>Title 18 - Secretary of State - Complete Title</b>	<b>218 00 001</b>	<b>\$60.00</b>
Securities Division	218 10 060	\$35.00
<b>Title 19A - Dept. of Transportation - Complete Title</b>	<b>219 00 001</b>	<b>\$90.00</b>
Division of Highways	219 10 021	\$45.00
Division of Motor Vehicles	219 10 031	\$45.00
<b>Title 20 - Dept. of the State Treasurer - Complete Title</b>	<b>220 00 001</b>	<b>\$45.00</b>
<b>Title 21 - Occupational Licensing Boards - Complete Title</b>	<b>221 00 001</b>	<b>\$230.00</b>
<b>Title 22 - Administrative Procedures - Repealed</b>	n/a	
<b>Title 23 - Community Colleges - Complete Title</b>	<b>223 00 001</b>	<b>\$45.00</b>
<b>Title 24 - Independent Agencies - Complete Title</b>	<b>224 00 001</b>	<b>\$40.00</b>
<b>Title 25 - Office of State Personnel - Complete Title</b>	<b>225 00 001</b>	<b>\$80.00</b>
<b>Title 26 - Office of Administrative Hearings - Complete Title</b>	<b>226 00 001</b>	<b>\$35.00</b>
<b>Title 27 - North Carolina State Bar - Complete Title</b>	<b>227 00 001</b>	<b>\$60.00</b>
<b>North Carolina Administrative Code - Complete Code</b> (Add \$85.00 Shipping and Handling)	<b>299 99 981</b>	<b>\$850.00</b>
<b>CD-ROM North Carolina Administrative Code</b> (updated quarterly)	<b>266 00 001</b>	<b>\$750.00</b>
<b>CD-ROM North Carolina Administrative Code</b> (When purchased with the Full Code in Print)	<b>266 50 001</b>	<b>\$250.00</b>
<b>Master Index</b>	<b>288 50 001</b>	<b>\$475.00</b>
<b>Master Table of Contents</b>	<b>288 80 001</b>	<b>\$75.00</b>
<b>Binder(s) Titled "Official North Carolina Administrative Code"</b>	<b>299 90 000</b>	<b>\$16.00/each</b>

METHOD OF PAYMENT: ☐ Check Enclosed

☐ VISA ☐ MasterCard ☐ American Express

CARD NUMBER \_\_\_\_\_ EXP. DATE \_\_\_\_\_

NAME (As it appears on card) \_\_\_\_\_

SIGNATURE \_\_\_\_\_

#### CUSTOMER INFORMATION

FIRM OR COMPANY NAME \_\_\_\_\_

CONTACT NAME \_\_\_\_\_ TELEPHONE NUMBER \_\_\_\_\_

STREET ADDRESS (Required for all shipments) \_\_\_\_\_ DEPT. OR MAIL STOP \_\_\_\_\_

P.O. BOX (IF ANY) \_\_\_\_\_

CITY/STATE/ZIP \_\_\_\_\_ SUBSCRIBER ACCOUNT NUMBER \_\_\_\_\_

CODENUMBER	PRICE	QUANTITY	TOTAL
Binder(s) 299 90 000			
Subtotal			
North Carolina State Sales Tax (6%)			
Shipping and Handling (\$4.50/copy)			
GRAND TOTAL			

Mail with payment to

Barclays Law Publishers P.O. Box 95767 Chicago, IL 60694-5767

For faster service call (800) 888-3600

Office of Administrative Hearings  
P.O. Drawer 27447  
Raleigh, North Carolina 27611-7447

PLACE  
STAMP  
HERE

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

FOLD HERE

## NORTH CAROLINA REGISTER ORDER FORM

☐ Please enter my subscription for the *North Carolina Register* to start with the \_\_\_\_\_ issue.  
(\$195.00/year subscription. N.C. subscribers please add sales tax.)

☐ Renew *North Carolina Register*

☐ Check Enclosed

☐ Please bill me

Please make checks payable to Office of Administrative Hearings

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE \_\_\_\_\_

(Return to Office of Administrative Hearings - fold at line, staple at bottom and affix postage.)



## CHANGE OF ADDRESS

### 1. Present Address

NAME

ADDRESS

CITY

STATE

ZIP

### 2. New Address

NAME

ADDRESS

CITY

STATE

ZIP

Office of Administrative Hearings  
P.O. Drawer 27447  
Raleigh, North Carolina 27611-7447



# FIRST CLASS MAIL

