

NORTH CAROLINA REGISTER

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September 15, 2009

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Contact List for Rulemaking Questions or Concerns

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

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

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Raleigh, North Carolina 27609 (919) 431-3104 FAX

contact: Joe DeLuca Jr., Commission Counsel joe.deluca@oah.nc.gov (919) 431-3081
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Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street (919) 807-4700
Raleigh, North Carolina 27603-8005 (919) 733-0640 FAX

contact: Nathan Knuffman, Asst. Budget Officer osbmruleanalysis@ncmail.net (919)807-4728

Governor's Review

Eddie Speas edwin.speas@nc.gov
Legal Counsel to the Governor (919) 733-5811
116 West Jones Street
Raleigh, North Carolina 27603

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: Karen Cochrane-Brown, Staff Attorney karenc@ncleg.net
Jeff Hudson, Staff Attorney jeffreyh@ncleg.net

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 jim.blackburn@ncacc.org
Rebecca Troutman rebecca.troutman@ncacc.org

NC League of Municipalities (919) 715-4000
215 North Dawson Street
Raleigh, North Carolina 27603

contact: Erin L. Wynia ewynia@nclm.org

NORTH CAROLINA REGISTER
 Publication Schedule for January 2009 – December 2009

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
23:13	01/02/09	12/08/08	01/17/09	03/03/09	03/20/09	05/01/09	05/2010	09/29/09
23:14	01/15/09	12/19/08	01/30/09	03/16/09	03/20/09	05/01/09	05/2010	10/12/09
23:15	02/02/09	01/09/09	02/17/09	04/03/09	04/20/09	06/01/09	05/2010	10/30/09
23:16	02/16/09	01/26/09	03/03/09	04/17/09	04/20/09	06/01/09	05/2010	11/13/09
23:17	03/02/09	02/09/09	03/17/09	05/01/09	05/20/09	07/01/09	05/2010	11/27/09
23:18	03/16/09	02/23/09	03/31/09	05/15/09	05/20/09	07/01/09	05/2010	12/11/09
23:19	04/01/09	03/11/09	04/16/09	06/01/09	06/22/09	08/01/09	05/2010	12/27/09
23:20	04/15/09	03/24/09	04/30/09	06/15/09	06/22/09	08/01/09	05/2010	01/10/10
23:21	05/01/09	04/09/09	05/16/09	06/30/09	07/20/09	09/01/09	05/2010	01/26/10
23:22	05/15/09	04/24/09	05/30/09	07/14/09	07/20/09	09/01/09	05/2010	02/09/10
23:23	06/01/09	05/08/09	06/16/09	07/31/09	08/20/09	10/01/09	05/2010	02/26/10
23:24	06/15/09	05/22/09	06/30/09	08/14/09	08/20/09	10/01/09	05/2010	03/12/10
24:01	07/01/09	06/10/09	07/16/09	08/31/09	09/21/09	11/01/09	05/2010	03/28/10
24:02	07/15/09	06/23/09	07/30/09	09/14/09	09/21/09	11/01/09	05/2010	04/11/10
24:03	08/03/09	07/13/09	08/18/09	10/02/09	10/20/09	12/01/09	05/2010	04/30/10
24:04	08/17/09	07/27/09	09/01/09	10/16/09	10/20/09	12/01/09	05/2010	05/14/10
24:05	09/01/09	08/11/09	09/16/09	11/02/09	11/20/09	01/01/10	05/2010	05/29/10
24:06	09/15/09	08/24/09	09/30/09	11/16/09	11/20/09	01/01/10	05/2010	06/12/10
24:07	10/01/09	09/10/09	10/16/09	11/30/09	12/21/09	02/01/10	05/2010	06/28/10
24:08	10/15/09	09/24/09	10/30/09	12/14/09	12/21/09	02/01/10	05/2010	07/12/10
24:09	11/02/09	10/12/09	11/17/09	01/02/10	01/20/10	03/01/10	05/2010	07/30/10
24:10	11/16/09	10/23/09	12/01/09	01/15/10	01/20/10	03/01/10	05/2010	08/13/10
24:11	12/01/09	11/05/09	12/16/09	02/01/10	02/22/10	04/01/10	05/2010	08/28/10
24:12	12/15/09	11/20/09	12/30/09	02/15/10	02/22/10	04/01/10	05/2010	09/11/10

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (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;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: 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.

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NUMBER NO. 21 REDUCE MONTHLY BUDGET ALLOTMENTS FOR THE 2009-10 FISCAL YEAR

WHEREAS, there continues to be economic volatility in the State and nation; and

WHEREAS, although there has been some improvement in the State's fiscal outlook, there still remains a level of uncertainty; and

WHEREAS, it is important to continue to exercise fiscal restraint with regard to the State's budget.

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

The Office of State Budget and Management shall reduce monthly allotments by five percent of each State agency's certified budget. Special exceptions may be made for constitutionally mandated or entitlement programs as well as urgent situations related to direct classroom instruction, economic development opportunities, law enforcement, health care, and public safety.

This Executive Order rescinds Executive Order No. 20, issued on July 24, 2009. This Order shall be effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fourteenth day of August in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Bradley Greenville, LLC**

Pursuant to N.C.G.S. § 130A-310.34, Bradley Greenville, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Greenville, Pitt County, North Carolina. The Property, the site of the Lakeview Terrace Apartments, consists of 10.02 acres and is located at 111 Lakeview Terrace Drive, Greenville, North Carolina. Environmental contamination exists on the Property in groundwater. Bradley Greenville, LLC has committed itself to continuation of the Property's current use and the undertaking of extensive renovations. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Bradley Greenville, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at Sheppard Memorial Library, 530 S. Evans Street, Greenville, NC 27858 by contacting Wille Nelms at that address, at (252) 329-4580 or at wnelms@sheppardlibrary.org; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncdenr.gov or at (919) 508-8411.

Written public comments may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the Property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if Bradley Greenville, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the Property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on September 16, 2009. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Brownfields Program Manager
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Virginia Road, L.L.C.**

Pursuant to N.C.G.S. § 130A-310.34, Virginia Road, L.L.C. has filed with the North Carolina Department of Environment and Natural Resources (“DENR”) a Notice of Intent to Redevelop a Brownfields Property (“Property”) in Edenton, Chowan County, North Carolina. The Property, whose former uses have included the Leary Brothers Storage facility, consists of approximately 4.2 acres and is located at 101 Virginia Road. Environmental contamination exists on the Property in soil and groundwater. Virginia Road, L.L.C. has committed itself to redevelopment of the site for no uses other than retail, commercial and office purposes. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Virginia Road L.L.C., which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Edenton-Chowan Planning and Inspections Department, 113 E. King St., Edenton, NC 27932 by contacting Wes Haskett at that address, at (252) 482 5618 or at wes.haskett@ncmail.net; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncdenr.gov or at (919) 508-8411.

Written public comments may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the Property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if Virginia Road, L.L.C., as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the Property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on September 16, 2009. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Brownfields Program Manager
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

**Notice of Intent to Adopt Orthophotography Standards
and Request for Comments**

Subject: Secretary of State, Improvement of Land Records

The Department of the Secretary of State seeks public comments on proposed revised technical standards for orthophotography for land mapping. The Department is required by G.S. §102-17 to adopt technical standards and detailed specifications to be used to achieve a greater degree of statewide standardization of land mapping for use in land records. Over the past year the Department has worked with stakeholders and has produced a set of proposed Standards for Orthophotography. The North Carolina Land Records Advisory Committee and the North Carolina Geographic Information Coordinating Council have passed motions recommending that the Secretary adopt the revised standards. A copy of the proposed revised Orthophotography Standards may be found at <http://www.sosnc.com/> or may be obtained by contacting Thomas W. Morgan PLS, Land Records Manager, N.C. Department of the Secretary of State:

By Mail : P.O. Box 29626
 Raleigh, NC 27626-0626

By Facsimile: (919) 807-2285 Fax

By Email: tmorgan@sosnc.com

The Department's deadline for receiving these comments is September 25, 2009.

Comments must be received by the Department by close of business on September 25, 2009 and may be submitted by mail, facsimile or email to Thomas W. Morgan PLS, Land Records Manager, N.C. Department of the Secretary of State as set out above.

For further information, contact; Thomas W. Morgan PLS, Land Records Manager, N.C. Department of the Secretary of State, 919-807-2268.



U.S. Department of Justice
Civil Rights Division

CC:JBG:IRE:cv
DJ 166-012-3
2009-1870

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

August 5, 2009

David A. Holec, Esq.
City Attorney
P.O. Box 7207
Greenville, North Carolina 27835-7207

Dear Mr. Holec:

This refers to the annexation (Ordinance No. 09-18 (2009)) and its designation to District 1 of the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on June 9, 2009.

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. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Coates", written over a circular stamp or mark.

Christopher Coates
Chief, Voting Section

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

Statutory reference: G.S. 150B-21.2.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 12 - LICENSING BOARD FOR GENERAL CONTRACTORS

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Licensing Board for General Contractors intends to amend the rule cited as 21 NCAC 12 .0208, .0211.

Proposed Effective Date: January 1, 2010

Public Hearing:

Date: October 14, 2009

Time: 9:00 a.m.

Location: 3739 National Drive, Suite 200, Cumberland Building, Glenwood Place, Raleigh, NC

Reason for Proposed Action: To clarify when a license is required for construction management and for multiunit building projects.

Procedure by which a person can object to the agency on a proposed rule: Persons may be submit objections regarding the proposed rules changes to Mark Selph, NC Licensing Board for General Contractors, PO Box 17187, Raleigh, NC 27619.

Comments may be submitted to: Mark Selph, North Carolina Board for General Contractors, PO Box 17187, Raleigh, NC 27619

Comment period ends: November 16, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

SECTION .0200 - LICENSING REQUIREMENTS

21 NCAC 12 .0208 CONSTRUCTION MANAGEMENT

(a) The term "undertakes to superintend or manage" as used in G.S. 87-1 to describe a person, firm or corporation deemed to be a general contractor means that the person, firm, or corporation is responsible for superintending or managing the ~~entire~~ construction of an entire project, and either contracts directly with subcontractors to perform the construction for the project or is compensated for superintending or managing the project based upon the cost of the project or the time taken to complete the project. Such person, firm, or corporation must hold a general contracting license in the classifications and limitation applicable to the construction of the project.

(b) The term "undertakes to superintend or manage" described in Paragraph (a) of this Rule does not include the following:

- (1) an architect or engineer licensed in North Carolina who is supervising the execution of design plans for the project owner and who does not contract directly with subcontractors to perform the construction for the ~~project.~~ project; or
- (2) any person, firm, or corporation retained by an owner of real property as a consultant, agent, or advisor to perform development-related functions, including without limitation:
 - (A) assisting with site planning and design.
 - (B) formulating a development scheme.
 - (C) obtaining zoning and other entitlements.
 - (D) tenant selection and negotiation.
 - (E) interfacing and negotiating with the general contractor, engineer, architect, other construction and design professionals and other development consultants with whom the land owner separately contracts, including, without limitation, negotiating contracts on the owner's behalf, assisting with scheduling issues, ensuring that any disputes between such parties are resolved to

- the owner's satisfaction, and otherwise ensuring that such parties are proceeding in an efficient, coordinated manner to complete the project,
- (F) providing cost estimates and budgeting,
- (G) monitoring the progress of development activities performed by other parties,
- (H) arranging and negotiating governmental incentives and entitlements, and
- (I) selecting and sequencing sites for development.

Authority G.S. 87-1; 87-4.

21 NCAC 12 .0211 MULTIUNIT BUILDINGS

For the purposes of determining whether or not the cost of the undertaking is thirty thousand dollars (\$30,000) or more under G.S. 87-1, and whether or not the value of any single project falls within the license limitations established by G.S. 87-10(a), if a project consists of the construction or alteration of one or more buildings comprised of ~~two~~ three or more units within each building, including apartments, condominiums, and townhomes, then all such ~~units in a building~~ buildings shall be considered in determining the cost of the undertaking under G.S. 87-1 and the value of the project under G.S. 87-10(a).

Authority G.S. 87-1; 87-4; 87-10.

CHAPTER 53 - BOARD OF LICENSED PROFESSIONAL COUNSELORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Licensed Professional Counselors intends to adopt the rules cited as 21 NCAC 53 .0213, .0504, .0701-.0702, and .0801; amend the rules cited as 21 NCAC 53 .0102, .0204-.0206, .0208-.0212, .0301-.0302, .0305, .0308-.0309, .0403, .0501, and .0603-.0604; and repeal the rules cited as 21 NCAC 53 .0306, .0401, .0404-.0405, and .0502.

Proposed Effective Date: January 1, 2010

Public Hearing:

Date: November 16, 2009

Time: 2:00 p.m.

Location: Rand Conference Room, Wingate Inn, 1542 Mechanical Boulevard, Garner, NC 27529

Reason for Proposed Action: To update, clarify and expand the rules to coincide with statute changes.

Procedure by which a person can object to the agency on a proposed rule: All objections and or comments may be submitted in writing to the Board's office via US Mail, fax or

email. Contact information is as follows: mail NCBLPC, P.O. Box 1369, Garner, NC 27529; fax (919) 779-5642; email ncbnpc@mgmt4u.com.

Comments may be submitted to: Jennifer Robertson, NCBLPC, P.O. Box 1369, Garner, NC 27529; phone (919) 661-0820; fax (919) 779-5642; email ncbnpc@mgmt4u.com

Comment period ends: November 16, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

SECTION .0100 – GENERAL INFORMATION

21 NCAC 53 .0102 PROFESSIONAL ETHICS

The Board of Licensed Professional Counselors has adopted the Code of Ethics and Standards of Practice promulgated by the American Counseling Association, effective 2005, including the guidelines for the practice of online counseling adopted in October 1999 and any subsequent revisions of or amendments to the Code of Ethics and Standards published by the American Counseling Association and they are hereby incorporated by reference. Copies of the Code of Ethics and Standards are available free of charge from the American Counseling Association, 5999 Stevenson Ave., Alexandria, VA 22304, and online at www.counseling.org. In addition, the Board has adopted the Approved Clinical Supervisor (ACS) Code of Ethics promulgated by the Center for Credentialing and Education, effective 2008, and any subsequent revisions of or amendments to the Code of Ethics by the Center for Credentialing and Education and they are hereby incorporated by reference. Copies of the Approved Clinical Supervisor (ACS) Code of Ethics are available free of charge from the Center for Credentialing and Education online at www.cce-global.org.

Authority G.S. 90-334(h); 1993 S.L. c. 514, s.5.

SECTION .0200 - DEFINITIONS AND CLARIFICATION OF TERMS

21 NCAC 53 .0204 PROFESSIONAL DISCLOSURE STATEMENT

A professional disclosure statement is a printed document that includes the following information: name of licensee; the licensee's highest relevant degree, year degree received, and name of institution granting the degree; names and numbers of all relevant credentials (licenses, certificates, registrations); number of years of counseling experience; description of services offered and clientele (populations) served; length of sessions, specific fee or range of fees charged per session (if no fee is charged, a statement to that effect), and methods of payments for services, including information about billing/insurance reimbursement; an explanation of confidentiality, including responsibilities and exceptions; a statement of procedure for registering complaints, including the full name and address of the Board; and signature and date spaces for both client and licensee. A current copy of this statement ~~shall be filed with the Board and a copy shall be provided to each client prior to the performance of professional counseling services. Any changes in the~~ An updated professional disclosure statement shall be submitted to the Board. Board office at the time of renewal. The counselor shall retain a file copy of the disclosure statement signed by each client.

Authority G.S. 90-334; 90-343; S.L. c. 514, s. 5.

21 NCAC 53 .0205 COUNSELING EXPERIENCE

Counseling [counseling services as defined in G.S. 90-330(a)(3)] experience applicable to the experience requirement for licensure consists of a minimum of ~~2000~~ 3000 hours of supervised professional ~~practice.~~ practice after the graduate degree in counseling or counseling related field has been conferred. No more than 750 hours may be obtained as part of the master's degree. The remaining 1250 hours must be obtained after the master's degree has been awarded. The post master's experience shall be for a period of at least two years. To be applicable, experience shall be gained at a rate of not less than eight hours per week. At least 2000 hours of the supervised professional practice hours must consist of direct counseling experience. Direct counseling experience consists of live contact with individuals, groups, and families through counseling as defined in G.S. 90-330(a)(3)a thru b. To be applicable, experience shall be gained at a rate of not less than 8 hours per week but no more than 40 hours per week. At least 100 hours of individual or group clinical supervision supervision, as defined in Rule .0210 and Rule .0211 of this Section, shall be documented during the minimum of ~~2000~~ 3000 hours of supervised professional practice, as defined in Rule .0208 of this Section, at a rate of not less than one hour of clinical supervision per 40 hours of experience, and at least no less than three-quarters of the hours of clinical supervision shall be ~~individual.~~ individual clinical supervision.

Authority G.S. 90-334(i); 90-336(b)(2).

21 NCAC 53 .0206 GRADUATE COUNSELING EXPERIENCE

~~Master's counseling experience applicable to the experience requirement for licensure consists of supervised counseling~~

~~experiences in professional settings in practica and internships which are part of the supervised course of study in the master's program in counseling in which the individual is enrolled. A practicum and an internship must be completed as part of the graduate course of study with at least 17 hours of graduate counseling supervision, as defined in Rule .0210 and Rule .0211 of this Section. The supervision shall be verified by a university faculty member on forms provided by the Board and shall consist of a minimum of 300 hours of supervised graduate counseling experience at a rate of not less than one hour of clinical supervision per 40 hours of graduate counseling experience, as defined by Rule .0701(a)(2)(B) of this Section. At least 60 percent of this counseling experience shall be direct graduate counseling experience as defined in Rule .0205 of this Section.~~

Authority G.S. 90-332.1(a)(3); 90-334(i); 90-336(b)(2).

21 NCAC 53 .0208 SUPERVISED PROFESSIONAL PRACTICE

Supervised professional practice consists of counseling experience under the supervision of a qualified clinical supervisor, as defined in Rule .0209 of this Section, including a minimum of one hour of individual or group clinical supervision per 40 hours of counseling practice. At least three-quarters of the hours of clinical supervision shall be individual. Persons who have met all licensure requirements except the supervised professional practice or persons who are exempt from licensure under the provisions of G.S. 90-332.1(a)(4) and who wish to counsel as employed supervised counselors in supervised professional practices settings, as defined in Rule .0207 of the Section, under G.S. 90-336(b)(2) shall have their arrangements for supervised practice approved by the Board prior to engaging in practice. ~~apply to become a Licensed Professional Counselor Associate as defined in Section .0700. Persons who wish to counsel as employed supervised counselors in independent (private) practices must be under the on site supervision of a qualified clinical supervisor who provides supervision on a case-by-case basis, and must have their arrangements for supervised practice approved by the Board prior to engaging in practice. The focus of a supervision session shall be on raw data from clinical work which is made available to the supervisor through such means as direct (live) observation, co-therapy, audio and video recordings, and live supervision. Written materials and self-reports by the supervised counselor may supplement the supervision process but shall not be the sole basis of any supervision session.~~

Authority G.S. 90-332.1(a)(4); 90-334(i); 90-336(b)(2).

21 NCAC 53 .0209 QUALIFIED CLINICAL SUPERVISOR

(a) A qualified clinical supervisor is a licensed professional counselor with at least a master's degree as defined in G.S. 90-336(b)(1); who has an active and unrestricted license; the equivalent of three semester graduate credits in clinical supervision from a regionally accredited institution of higher education as documented by an official transcript or 45 contact hours of continuing education, as defined by Rule .0603(c) in

this Chapter, in clinical supervision; ~~in counseling~~ and a minimum of five years of post-graduate counseling experience, with a minimum of two years post licensure ~~experience~~ experience; or other equivalently licensed and experienced ~~qualified~~ mental health professionals, as determined by the Board.

(b) After July 1, 2014, all qualified clinical supervisors must hold the credential of Licensed Professional Counselor Supervisor or be another equivalently licensed and experience mental health professional.

(c) Equivalently licensed and experienced means that the mental health professional has at least a master's degree as defined in G.S. 90-336(b)(1); has an active and unrestricted license; the equivalent of three semester graduate credits in clinical supervision from a regionally accredited institution of higher education as documented by an official transcript or 45 contact hours of continuing education, as defined by Rule .0603(c) in this Chapter, in clinical supervision; and licensed professional must have a minimum of five years post-graduate counseling experience, with a minimum of two years post licensure experience.

Authority G.S. 90-330(a)(4); 90-334(i); 90-336(b)(2).

21 NCAC 53 .0210 INDIVIDUAL CLINICAL SUPERVISION

Individual clinical supervision consists of face-to-face supervision, as defined in Rule .0212 of this Section, of one or two supervisees with a qualified clinical supervisor, as defined as Rule .0209 of this Section, at a rate of not less than one hour of clinical supervision, as defined in Rule .0208 of this Section, per 40 hours of supervised professional practice, as defined in Rule .0205 of this Section. ~~contact between supervisee and supervisor during which the supervisee's counseling experience is discussed and critiqued. The discussion and critique shall be based on live observations, video tapes, audio tapes, or verbatim transcripts of actual counseling sessions conducted by the supervisee. Supervisee self reports and process (case) notes may be used to supplement the more direct forms and records of the supervisee's counseling sessions, but may not be used exclusively in lieu of them.~~

Authority G.S. 90-334(i); 90-336(b)(2).

21 NCAC 53 .0211 GROUP CLINICAL SUPERVISION

Group clinical supervision consists of ~~face-to-face~~ face-to-face, scheduled supervision ~~contact~~ between groups of ~~supervisees (not to exceed 10 supervisees per group)~~ supervisees, not to exceed 12 supervisees per group, and supervisor a qualified clinical supervisor, as defined in Rule .0209 of this Section, for a period of not less than one and one half hours of clinical supervision, as defined in Rule .0208 of this Section, per session, during which the supervisees' counseling experiences are discussed and critiqued. The discussions and critiques shall be based on live observations, video tapes, audio tapes, or verbatim transcripts of actual counseling sessions conducted by the supervisees. Supervisee self reports and process (case) notes may be used to supplement the more direct forms and records of

~~the supervisees' counseling sessions, but may not be used exclusively in lieu of them.~~

Authority G.S. 90-334(i); 90-336(b)(2).

21 NCAC 53 .0212 FACE TO FACE SUPERVISION DEFINED

For the purposes of this Chapter, ~~face-to-face~~ face-to-face, clinical supervision means supervision that is live, interactive, and visual. Video supervision with no interaction with the facilitator does not qualify for face to face supervision. is permitted as long as the session is synchronous (real time) and involves verbal and visual interaction during the supervision, as defined in Rule .0209 of this Section.

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

21 NCAC 53 .0213 MENTAL HEALTH PROFESSIONAL

A mental health professional includes the following individuals:

- (1) Licensed Professional Counselors (LPC),
- (2) Licensed Marriage and Family Therapists (LMFT),
- (3) Licensed Clinical Social Workers (LCSW) with a master's degree in social work from a school of social work accredited by the Council of Social Work Education,
- (4) Licensed Psychologists,
- (5) Licensed Medical Doctors with a Medical Board certification in psychiatry,
- (6) Nurse Practitioners approved to practice in North Carolina and certified by the American Nurses Credentialing Center as an advanced practice nurse practitioner and certified in psychiatric nursing, or
- (7) Clinical Nurse Specialists certified by the American Nurses Credentialing Center or the American Psychiatric Nurse Association as an Advanced Practice Psychiatric Clinical Nurse Specialist (CNS).

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

SECTION .0300 - HOW TO OBTAIN LICENSURE

21 NCAC 53 .0301 APPLICATIONS

~~Inquiries are to be directed to, and applications~~ Applications and forms shall be obtained from and returned to the Administrator of the Board. Applications shall be submitted only on forms obtained directly from the Board office. office or website, www.ncblpc.org.

Authority G.S. 90-334; 90-336(a); 1993 S.L. c. 514, s. 5.

21 NCAC 53 .0302 TRANSCRIPTS

The applicant must have official transcripts sent from institutions where graduate credit was earned. If the transcript course titles are ambiguous or do not adequately convey the

pertinent content of the courses, ~~clarifying documents may~~ additional documentation shall be requested. ~~required.~~

Authority G.S. 90-334; 90-336.

21 NCAC 53 .0305 EXAMINATION

~~The National Counseling Examination (NCE) of the National Board for Certified Counselors (NBCC) is (NCE), the National Clinical Mental Health Counselor Examination (NCMHCE), or the Counselor Rehabilitation Certification Examination (CRC) may be taken to complete the examination required requirement for LPCA and LPC licensure. The Board shall accept counselor licensing examinations from other states if the examinations are recognized by the NBCC. The Board shall accept examinations administered by other state counselor licensing boards and professional counselor credentialing associations if the Board determines that such examinations are equivalent to the NCE, NCMHCE, or CRC relative to content and minimum satisfactory performance level. levels for counselors. Beginning July 1, 2011, completion of a no fail jurisprudence exam, as selected by the Board, will be required for LPC licensure and for each consecutive renewal period. Applicants and renewing LPCs shall submit documentation of completion of the jurisprudence exam, taken within six months prior to application for licensure or renewal.~~

Authority G.S. 90-334(g); 90-336(b)(3); 90-337.

21 NCAC 53 .0306 REPORTING OF SCORES

~~Each applicant for licensure shall be informed in writing whether s/he has passed or failed the examination. Each applicant's score and the score required for passing shall be reported.~~

Authority G.S. 90-334(g); 90-336(b)(3).

21 NCAC 53 .0308 RECEIPT OF APPLICATION

~~Applications The application period of applications and all supporting documentation shall be received by the Board (not postmarked) by the close of the business day not less than 90 days prior to the next regularly scheduled examination date in order for applicants to be eligible to take the examination on that date. shall be no more than two years from date of receipt. If all requirements for an application have not been met by this date, the application will be denied; such applicants may reapply for licensure.~~

Authority G.S. 90-336(a).

21 NCAC 53 .0309 AGREEMENT TO ABIDE BY NCBLPC ETHICAL STANDARDS

Upon application for ~~initial~~ any license covered by G.S. 90, Article 24 and upon application for each succeeding renewal of such license, if granted, each applicant shall sign a statement agreeing to abide by the ethical standards adopted by the Board. If an applicant fails to sign the statement, the Board shall notify the applicant in writing of the statutory requirement to abide by the ethical standards adopted by the Board.

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

SECTION .0400 - DISCIPLINARY PROCEDURES

21 NCAC 53 .0401 RULE OF PROCEDURE

~~When the Board is made aware of an individual who is engaging in the practice of counseling who is not licensed by the North Carolina Board of Licensed Professional Counselors, the North Carolina Board of Examiners of Practicing Psychologists, the North Carolina Social Work Certification and Licensure Board, or the North Carolina Marital and Family Therapy Licensure Board, or other North Carolina Boards with statutory authority to regulate the practice of counseling, or who is not otherwise exempt from the provisions of G.S. 90, Article 24, or who is using the designation "Licensed Professional Counselor" without being licensed by the North Carolina Board of Licensed Professional Counselors, a registered letter with return receipt, showing delivery to addressee only, shall be mailed to the last known address of the person in question. The letter shall direct attention to pertinent aspects of the law and the rules of the Board. If this does not induce said person to cease violating the law and to desist from practicing counseling, and using the title "Licensed Professional Counselor," the information shall be forwarded to the appropriate law enforcement authorities.~~

Authority G.S. 90-331; 90-334; 90-341.

21 NCAC 53 .0403 ALLEGED VIOLATIONS

All complaints of alleged violations shall be in writing and shall be signed by the complainant(s). Formal complaints of violations of G.S. 90, Article 24, the American Counseling Association Code of Ethics, or the Center for Credentialing and Education's Approved Clinical Supervisor (ACS) Code of Ethics shall bear the complainant's signature; include the complainant's address and telephone number, date and location of the alleged violation(s), a detailed description of the incident(s), and required signed releases. Formal complaints shall be submitted on forms provided by the Board.

Authority G.S. 90-334.

21 NCAC 53 .0404 FORMAL COMPLAINTS

~~Formal complaints of a Licensed Professional Counselor's unethical conduct shall bear the complainant's signature, include the complainant's address and telephone number, date and location of the alleged violation(s), a detailed description of the incident(s), and required signed releases.~~

Authority G.S. 90-334.

21 NCAC 53 .0405 DISCIPLINARY ACTIONS

~~Board disciplinary actions may include the following:~~

- (1) ~~Reprimand. Reprimand is a public rebuke and sanction by the Board for misconduct in the practice of counseling. The Board may require specific follow up actions by the counselor.~~
- (2) ~~Probation. Probation is a stay of suspension or revocation allowing limited practice within conditions stipulated by the Board. Violation of any of these conditions may result in suspension or revocation.~~

- (3) ~~Suspension. Suspension is the withdrawal of privilege to practice for a specified period of time.~~
- (4) ~~Revocation. Revocation is the withdrawal of privilege to practice as a licensed professional counselor in the State of North Carolina.~~

Authority G.S. 90-334.

SECTION .0500 - FEES

21 NCAC 53 .0501 APPLICATION FEE

An application fee of ~~one hundred dollars (\$100.00)~~ will be assessed for processing each ~~application.~~ application as noted below:

- (1) Licensed Professional Counselor Associate Application - \$100.00
- (2) Licensed Professional Counselor Application - \$100.00
- (3) Licensed Professional Counselor Supervisor Application - \$100.00

Authority G.S. 90-334; 1993 S.L. c. 514, s. 5.

21 NCAC 53 .0502 EXAMINATION FEE

~~Examination fees are set by the individual examination agencies but shall not exceed the amount set in G.S. 90-334(f).~~

Authority G.S. 90-334.

21 NCAC 53 .0504 FUND SUSPENSION

In the event the Board's authority to expend funds is suspended pursuant to G.S. 93B-2, the Board shall continue to issue and renew licenses and all fees tendered shall be placed in an escrow account maintained by the Board for this purpose. Once the Board's authority is restored, the funds shall be moved from the escrow account into the general operating account.

Authority G.S. 93B-2(d).

SECTION .0600 - RENEWAL OF LICENSE

21 NCAC 53 .0603 CONTINUING EDUCATION

(a) Continuing education is required for the renewal of licenses to ensure that ~~Licensed Professional Counselors~~ Licensed Professional Counselor Associates, Licensed Professional Counselors, and Licensed Professional Counselor Supervisors maintain their professional knowledge and competency in the field of counseling. Continuing education activities appropriate for the purpose of license renewal are those that are directed toward professionals in the mental health field and that focus on increasing knowledge and skills in the practice of counseling in one or more of the following content areas: counseling theory; human growth and development; social and cultural foundations; the helping relationship; group dynamics; lifestyle and career development; appraisal of individuals; diagnosis and treatment planning; research and evaluation; ~~and professional orientation.~~ orientation; and ethics.

(b) Forty contact hours of continuing education, including a minimum of three contact hours of ethics, are required within the two-year license renewal period. However, in the cases of newly issued licenses in which the initial renewal periods are less than two full years, 30 contact hours, including a minimum of three contact hours of ethics, are required. Contact hours are defined as the number of actual clock hours spent in direct participation in a structured education format as a learner. Typically, one Continuing Education Unit (CEU) is equivalent to 10 contact hours. In a college or university graduate course, one semester hour of credit is equivalent to 15 contact hours and one quarter hour of credit is equivalent to 10 contact hours.

(c) All continuing education training must be provided by one of the following national organizations or its state affiliate or division or by a vendor approved by one of the following organizations:

- (1) American Counseling Association
- (2) American Mental Health Counselors Association
- (3) National Board for Certified Counselors
- (4) American School Counselor Association
- (5) National Rehabilitation Association
- (6) Association for Play Therapy
- (7) American Art Therapy Association
- (8) International Society for Sandplay Therapy
- (9) National Association of Alcoholism & Drug Abuse Counselors
- (10) Association of Social Work Boards
- (11) American Association Marriage and Family Therapy
- (12) National Area Health Education Center Organization
- (13) American Psychological Association

(d) Evidence of completion of continuing education training shall consist of a certificate of attendance and completion signed by the responsible officer of a continuing education provider, and shall include date(s) of attendance, number of hours, name of attendee, and name of course.

(e) Continuing education activities also acceptable for renewal of licensure are as follows:

- (1) Contact hours will be awarded for academic credit granted during a renewal period from a regionally accredited institution of higher education for work done in a counseling or counseling related subject. A copy of a transcript or grade report is the required documentation. Documentation must contain the following information: date(s) of attendance, number of semester hours earned, name of attendee, and name of course. Contact hours are as defined in Paragraph (b) of this Rule. Completion dates must fall within the renewal period as defined in G.S. 90-339.
- (2) Publication activities used for contact hours are limited to articles written by the licensee and published in peer reviewed journals, editing of a chapter in a book based on

counseling or counseling related material, or authoring or co-authoring a published book on counseling or counseling related material. Publication dates must fall within the renewal period as defined in G.S. 90-339. Required documentation is a copy of the cover page of the article(s) or book, copy of the copyright page denoting date of publication; for a chapter in an edited book, a copy of the table of contents listing the chapter is also required. The maximum contact hours awarded for publication activities is 10. Contact hours awarded for publication activities will not be applied to the three contact hour requirement for ethics.

(3) Contact hours will be awarded for academic credit granted during a renewal period from a regionally accredited institution of higher education for work done toward the completion of a dissertation. Required documentation is a copy of a transcript or grade report showing credit earned during the renewal period. The maximum contact hours awarded for dissertation is 10. Completion date must fall within the renewal period as defined in G.S. 90-339. Contact hours awarded for dissertation will not be applied to the three contact hour requirement for ethics.

(4) Contact hours will be awarded for clinical supervision, as defined by Rule .0208 of this Chapter, which was received by the licensee during the renewal period. Contact hours shall not be granted for clinical supervision provided by the licensee to others. The maximum contact hours awarded for clinical supervision is 10. Contact hours are defined as the number of actual clock hours spent in direct, clinical supervision. Required documentation is a letter from the qualified clinical supervisor, as defined by Rule .0209 of this Chapter, who provided the clinical supervision received, verifying a licensee's participation in the activity. The letter shall confirm the dates of the activity, the number of participation hours, and the position or title and credential of the provider. Dates of activity must fall within the renewal period as defined in G.S. 90-339. Contact hours awarded for clinical supervision will not be applied to the three contact hour requirement for ethics.

(5) Contact hours will be awarded for the following leadership positions: Officer of state, regional, or national counseling organization; editor or editorial board member of a professional counseling journal; active member of a state, regional, or national counseling committee producing a substantial written product; chair of a major state, regional

or national counseling conference or convention. The leadership position must be occupied for a minimum of six months and dates must fall within the renewal period as defined in G.S. 90-339. The required documentation is a letter of confirmation of the leadership position, the nature of the position or service rendered, and the signature of an officer of the organization. The maximum contact hours awarded for a leadership position is 10. Contact hours awarded for leadership will not be applied to the three contact hour requirement for ethics.

(6) Contact hours will be awarded for hours obtained in activities or workshops for which the licensee was a presenter. The dates of activities presented must fall within the renewal period as defined in G.S. 90-339 and focus on one or more of the approved content areas. The maximum contact hours awarded for presenting professional activities/workshops is five. The required documentation is a letter of confirmation from the organization for which the licensee presented and shall contain the following information: date(s) of presentation, name of presentation, and length of presentation. Contact hours are defined as the number of actual clock hours spent in presenting. Contact hours awarded for presenting will not be applied to the three contact hour requirement for ethics.

(f) If documentation for continuing education is not clearly identifiable as dealing with counseling, the Board shall request a written description of the continuing education and how it applies to the professional practice of counseling. If the Board determines that the training is not appropriate, the individual shall be given 90 days from the date of notification to replace the hours not approved. Those hours shall be considered replacement hours and cannot be applied to the next renewal period.

(g) Licensed Professional Counselor Supervisors must meet all the continuing education requirements outlined in Paragraphs (a) thru (g) of this Rule and in addition must provide documentation of a minimum of 10 contact hours of continuing education training related to professional knowledge and competency in the field of counseling supervision. Continuing education trainings appropriate for the purpose of supervision credential renewal are those that are directed toward professionals in the mental health field, which focus on increasing knowledge and skills in the practice of counseling supervision, and are completed during the renewal period as defined in G.S. 90-339.

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

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

~~Licensed Professional Counselors~~ Licensed Professional Counselor Associates, Licensed Professional Counselors, and Licensed Professional Counselor Supervisors who fail to document sufficient ~~appropriate~~ continuing education activities to renew their licenses by the expiration date shall be notified in writing of the ~~deficiencies~~ deficiencies in their continuing education activities and shall be allowed 45 days from the date of notification to respond to the noted deficiencies. ~~Continuing education activities cannot be undertaken during this period for the purpose of supplementing the continuing education activities submitted on the renewal form. The licenses of LPCs who fail to respond within the 45 day period following notification shall lapse and be subject to the late renewal fee. LPCs, LPCAs, LPCs, and LPCSs who are unable to provide documentation of sufficient continuing education activities to renew their licenses have the option of retaking the National Counselor Examination (NCE) for the purpose of renewal of their lapsed licenses within one year of the expiration dates of their licenses (which in all cases fall on June 30 in the year of expiration). Passing results are required for license renewal.~~ following options:

- (1) Within one year of expiration (which in all cases fall on June 30th in the year of expiration) the LPCAs, LPC or LPCS must complete the required hours of continuing education and an additional 20 hours of continuing education for the purpose of renewal of their lapsed license. All continuing education acquired during this additional time period for the purpose of renewal of a lapsed license shall not be utilized for future renewal purposes. Once these requirements have been met, the license will be reinstated.
- (2) Request in writing to the Board a hardship extension. A hardship is defined as a special circumstance or event beyond the control or fault of the licensee including military deployment; major illness of self, partner or child; or death of partner or child. Requests shall be received no later than June 1st of the year of expiration. Approval of extension and time period will be determined on an individual basis by Board review. If approved, all continuing education acquired during this additional time period shall not be utilized for future renewal purposes. Once these requirements have been met, the license will be reinstated.

~~Failure to take and pass the NCE to complete one of the above listed options~~ within one year after the license's expiration date will require that a license be reissued only upon application as for an original license. license and all current licensure requirements will be applied to the new application.

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

**SECTION .0700 – LICENSED PROFESSIONAL
COUNSELOR ASSOCIATE**

**21 NCAC 53 .0701 LICENSED PROFESSIONAL
COUNSELOR ASSOCIATE**

(a) A license as a Licensed Professional Counselor Associate (LPCA) shall be granted by the Board to persons preparing for the practice of counseling who:

- (1) has completed graduate training as defined in G.S. 90-336(b)(1);
- (2) has completed a minimum of three semester hours or five quarter hours in each of the required coursework areas of study as follows:

- (A) Coursework in the counseling process in a multicultural society shall include the study of basic counseling theories, and shall provide a general knowledge of theories, their principles, and techniques for application in counseling relationships. In addition, this coursework shall provide a broad understanding of philosophic bases of counseling processes, an orientation to wellness and prevention as desired counseling goals, essential interviewing and counseling skills, and consultation theories and their application in various professional settings. The course will also provide a systems perspective that provides an understanding of family and other systems theories and major models of family and related interventions. Finally, this coursework will include crisis intervention and suicide prevention models, including the use of psychological first aid strategies.
- (B) Practicum and Internship experience which shall be provided in supervised graduate counseling experience in an university-approved counseling setting for at minimum one semester duration and for academic credit in a regionally accredited program of study. This graduate counseling experience shall be completed as defined in Rule .0206 of this Chapter.
- (C) Coursework in professional orientation and identity to the counseling profession shall provide an understanding of all aspects of functioning as a professional counselor, including a history of the counseling profession, various roles contemporary counselors have in our society, membership in professional counseling associations, self-care strategies appropriate to the counselor

role, ethical conduct, standards of preparation, credentialing processes, and counseling supervision models, practices, and processes. This coursework shall increase knowledge of the evolution of the counseling profession and the role it has played in setting standards, advocating for a professional identity, and promoting licensure and accreditation for the profession. In addition, the coursework will highlight the importance of social justice and advocacy. Finally, this course will include the counselors' roles and responsibilities as members of an interdisciplinary emergency management response team during a local, regional, or national crisis, disaster or other trauma-causing event.

(D) Coursework in human growth and development shall provide a broad understanding of human behavior, including an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior. Coursework shall contribute to the knowledge of theories of individual and family development and transitions across the life span; theories of learning and personality development, including current understandings about neurobiological behavior; theories and models of individual, cultural, couple, family, and community resilience; theories and etiology of addictions and addictive behaviors, including strategies for prevention, intervention, and treatment; and theories for facilitating optimal development and wellness over the life span. In addition, the coursework will highlight the effects of crises, disasters, and other trauma-causing events on persons of all ages. Finally, the coursework will include a general framework for understanding exceptional abilities and strategies for differentiated interventions.

(E) Coursework in social and cultural foundations in counseling shall provide an understanding of theories of multicultural counseling, identity development, and social justice while examining multicultural and

pluralistic trends, including characteristics and concerns within and among diverse groups nationally and internationally. In addition, the coursework will emphasize the counselors' roles in developing cultural self-awareness; promoting cultural social justice; advocating and promoting conflict resolution; appreciating other culturally supported behaviors that promote optimal wellness and growth of the human spirit, mind, or body; and eliminating biases, prejudices, and processes of intentional and unintentional oppression and discrimination. This coursework shall include study of attitudes, beliefs, understandings, and acculturative experiences, including specific experiential learning activities designed to foster students' understanding of self and culturally diverse clients

(F) Coursework in group work shall include studies that provide a broad understanding of group development, dynamics, methods, and counseling theories. This coursework shall help students understand group leadership styles, basic and advanced group skills, and other aspects of group counseling and group consultation.

(G) Coursework in career and vocational development and information shall include studies that provide a broad understanding of career development theories and decision-making models as well as career and educational planning, placement, follow-up, and evaluation. The coursework will provide career, avocational, educational, occupational and labor market information resources. The coursework will enhance student awareness of career information systems; assessment instruments and techniques, and career counseling processes, techniques, and resources, including those applicable to specific populations in a global economy. The coursework will prepare students for career development program planning, organization, implementation, administration, and evaluation. The coursework will increase the knowledge of the interrelationships among and between work, family, and other life roles and

factors, including the role of multicultural issues in career development.

(H) Coursework in appraisal shall include studies that provide a broad understanding of historical perspectives concerning the nature and meaning of assessment as well as basic concepts of standardized and non-standardized testing and other assessment techniques. This coursework develops a knowledge of statistical concepts, an understanding of validity and reliability; social and cultural factors related to the assessment and evaluation; and ethical strategies for selecting, administering, and interpreting assessment, evaluation instruments and techniques in counseling.

(I) Coursework in research shall include studies that provide a broad understanding of the importance of research in advancing the counseling profession. Included in this coursework shall be study of research methodology, statistical methods, the use of research to inform evidence-based practice; and ethical and culturally relevant strategies for interpreting and reporting the results of research and/or program evaluation studies. In addition, the coursework will provide principles, models, and applications of needs assessment, program evaluation, and the use of findings to effect program modification.

(3) has passed an examination as defined in Rule .0305 of this Chapter; and

(4) has submitted a complete application for LPCA.

(b) To prevent a lapse in licensure, Licensed Professional Counselor Associates who desire to become Licensed Professional Counselors (LPC) shall complete the application process for the LPC licensure no less than 60 days prior to expiration to allow for administrative processing and Board action.

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

21 NCAC 53 .0702 SUPERVISED PRACTICE FOR LICENSED PROFESSIONAL COUNSELOR ASSOCIATE
A Licensed Professional Counselor Associate may not actively practice unless the following requirements have been met:

(1) Has a completed supervision contract, on forms provided by the Board, on file with the Board. A supervision contract form shall document the name of the qualified clinical

supervisor; contact information for the qualified clinical supervisor; the modality of supervision to be provided, such as direct (live) observation, co-therapy, audio and video recordings, and live supervision, as defined by Rule .0208 of this Chapter; the frequency of supervision; and the location of the proposed supervision. A separate supervision contract form shall be filed for each separate work setting.

(2) If receiving supervision from more than one supervisor, a separate supervision contract form shall be filed for each individual qualified clinical supervisor.

(3) A supervisor shall document, on forms provided by the Board, each quarter that supervision has occurred and shall file a final report upon termination of supervision.

(4) If not receiving supervision, it shall be the responsibility of the Licensed Professional Counselor Associate to report such to the Board. A report shall be submitted to the Board within two weeks of termination of supervision and within two weeks of a change in the conditions specified in the supervision contract form on file with the Board.

(5) An LPCA shall only provide counseling while under the supervision of a qualified clinical supervisor.

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

SECTION .0800 – LICENSED PROFESSIONAL COUNSELOR SUPERVISOR

21 NCAC 53 .0801 LICENSED PROFESSIONAL COUNSELOR SUPERVISOR

(a) The credential of Licensed Professional Counselor Supervisor (LPCS) shall be granted by the Board to a Licensed Professional Counselor who has:

(1) an active and unrestricted LPC license from the NC Board of Licensed Professional Counselors;

(2) the equivalent of three semester graduate credits in clinical supervision training from a regionally accredited institution of higher education as documented by an official transcript;

(3) documented required licensed professional counseling experience as defined in G.S. 90-336(d)(2)a, b, or c on forms provided by the Board; and

(4) a completed application for Licensed Professional Counselor Supervisor.

(b) The LPCS shall provide supervisees with a copy of a Professional Disclosure Statement specific to supervision that includes the following: business address and telephone number of the LPCS; the listing of degrees, credentials, and licenses held by the LPCS; general areas of competence in mental health

practice for which the LPCS can provide supervision (e.g. addictions counseling, school counseling, career counseling); a statement documenting training in supervision and experience in providing supervision; a general statement addressing the model of or approach to supervision, including role of the supervisor, objectives and goals of supervision, and modalities (e.g., tape review, live observation); a description of the evaluation procedures used in the supervisory relationship; a statement defining the limits and scope of confidentiality and privileged communication within the supervisory relationship; a fee schedule, if applicable; the emergency contact information for the LPCS; and a statement indicating that the LPCS follows the American Counseling Association's Code of Ethics and the Center for Credentialing and Education's Approved Clinical Supervisor (ACS) Code of Ethics.

(c) The supervisor shall provide written reports, on forms provided by the Board, each quarter that supervision has occurred and shall file a final report upon termination of supervision, and shall be available for consultation with the Board or its committees regarding the supervisee's competence for licensure.

(d) A supervision contract form, as provided by the Board, shall document the name of the qualified clinical supervisor; contact information for the qualified clinical supervisor; the modality of supervision to be provided, such as direct (live) observation, co-therapy, audio and video recordings, and live supervision, as defined by Rule .0208 of this Chapter; the frequency of supervision; and the location of the proposed supervision. A separate supervision contract form shall be filed for each supervisee.

(e) The LPCS, in collaboration with the supervisee, will maintain a log of clinical supervision hours that includes the date; supervision start and stop times; the modality of supervision to be provided, such as direct (live) observation, co-therapy, audio and video recordings, and live supervision, as defined by Rule .0208 of this Chapter; and notes on recommendations or interventions used during the supervision. The LPCS will maintain copies of these logs for a minimum of seven years beyond termination of supervision and will provide copies to the Board for inspection upon request.

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

Note from the Codifier: The rules published in this Section of the NC Register are emergency rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code. The agency must subsequently publish a proposed temporary rule on the OAH website (www.ncoah.com/rules) and submit that adopted temporary rule to the Rules Review Commission within 60 days from publication of the emergency rule or the emergency rule will expire on the 60th day from publication. This section of the Register may also include, from time to time, a listing of emergency rules that have expired. See G.S. 150B-21.1A and 26 NCAC 02C .0600 for adoption and filing requirements.

TITLE 13 – DEPARTMENT OF LABOR

Rule-making Agency: Department of Labor

Rule Citation: 13 NCAC 14 .0303, .0309, .0508, .0901

Effective Date: August 27, 2009

Findings Reviewed and Approved by the Codifier: August 19, 2009

Reason for Action: On August 5, 2009, the N.C. General Assembly enacted SL 2009-451, which reduced funding to the N.C. Department of Labor's Apprenticeship Bureau by twenty-five percent (25%). SL 2009-451 was signed by the Governor on August 7, 2009. In order to supplement this large budgetary loss and to avoid an operating expense shortfall by the Bureau, Section 12.1 of SL 2009-451 creates a new section of Chapter 94, N.C. Gen. Stat. 94-12, to establish a fee for new and current apprenticeships. Effective August 15, 2009, this new statute imposes fees in the total amount of \$50.00 on each apprentice who is covered by a written apprenticeship agreement under Chapter 94.

CHAPTER 14 - APPRENTICESHIP AND TRAINING DIVISION

SECTION .0300 - APPRENTICESHIP REGISTRATION

13 NCAC 14 .0303 REGISTRATION OF APPRENTICE AND AGREEMENT

(a) A sponsor or an individual, or a person or organization on behalf of the individual, shall request that an apprenticeship agreement between the individual and his sponsor be registered by submitting to the director a copy of the apprenticeship agreement.

(b) If the director finds that:

- (1) The agreement is complete and applies to a registered apprenticeship program;
- (2) The agreement meets the requirements of Rule .0205 of this Chapter; and
- (3) The individual meets the minimum qualifications for an apprentice; then

The director shall approve the apprenticeship agreement and cause it to be recorded by the division, which constitutes registration of the agreement.

(c) If the director approves the apprenticeship agreement, he shall also and simultaneously cause the name of the individual who is to be trained under the agreement to be recorded by the division, which constitutes registration of the individual.

(d) The sponsor shall submit to the director the apprenticeship agreement of a probationary apprentice, although the agreement will not be registered.

(e) All apprenticeship registrations submitted after August 15, 2009, and all active apprenticeships registered prior to August 15, 2009, shall be subject to a registration fee and an annual fee in accordance with Rule .0901 of this Chapter.

History Note: Authority G.S. 94-1; 94-2; 94-4; 94-8; 94-12; Eff. February 1, 1984; Emergency Amendment Eff. August 27, 2009.

13 NCAC 14 .0309 CERTIFICATE OF COMPLETION

(a) Upon notification from a sponsor that an individual has completed his apprenticeship in the sponsor's registered apprenticeship program, the director shall issue to the individual, or to the sponsor for the individual, a certificate of completion or other written indicia signifying that the individual has completed his training and instruction in a registered apprenticeship program in a certain, identified trade and the date the training was completed.

(b) Notwithstanding Paragraph (a) of this Rule, the director shall not issue the certificate of completion if he decides upon satisfactory evidence that the apprentice is not fully trained because he did not complete the apprenticeship or because the apprenticeship program did not comply with the rules of this Chapter. In addition, the director shall not issue the certificate of completion if he determines that the fees authorized by Rule .0901 of this Chapter have not been paid. The director shall promptly give written notification to the sponsor and individual of his decision not to issue the certificate of completion and the reason(s) therefor.

(c) ~~The sponsor or individual may appeal the director's decision within 30 days or receipt of notification in accordance with Chapter 150B of the North Carolina General Statutes and 13 NCAC 14B.~~ Article 3 of Chapter 150B of the N.C. General Statutes.

(d) Upon request of a sponsor, the director may issue an honorary certificate of completion to recognize an individual who by training and experience was fully qualified as a journeyman prior to the registration of the sponsor's apprenticeship program.

History Note: Authority G.S. 94-1; 94-2; 94-4; Eff. February 1, 1984; Emergency Amendment Eff. August 27, 2009.

SECTION .0500 - DE-REGISTRATION OR WITHDRAWAL OF APPROVAL

13 NCAC 14 .0508 DE-REGISTRATION OR CANCELLATION OF AGREEMENT

(a) The director may de-register an apprenticeship agreement or cancel the recordation of an OJT agreement only as follows:

- (1) During a probationary period, upon request of either party to the agreement;
- (2) After the probationary period:
 - (A) Upon mutual consent of the parties;
 - (B) Upon written request of the apprentice or trainee; or
 - (C) Upon a unilateral request of the sponsor for good and sufficient reason(s), as provided in Paragraphs (c) and (d) of this Rule; or
- (3) At any time when the apprenticeship or OJT program in which the apprentice or trainee is to be trained has been de-registered or had its approval withdrawn in accordance with the rules of this ~~Chapter.~~ Chapter; or
- (4) At any time for failure to pay the registration fee or annual fee in accordance with Rule .0901 of this Chapter.

(b) Whenever an apprenticeship agreement is de-registered or recordation of an OJT agreement is cancelled, the director shall:

- (1) Cause the de-registration to be recorded with the division or cause the cancellation to be indicated in the records of the division;
- (2) In addition and simultaneously de-register the individual by causing the individual's de-registration to be recorded with the division, in the case of an apprenticeship agreement; and
- (3) Promptly notify the parties to the agreement that the apprenticeship agreement and apprentice have been de-registered or that recordation of the trainee's OJT agreement has been cancelled and the effective date thereof, except when the sponsor has notified the apprentice or trainee as a result of the de-registration of or withdrawal of approval from the sponsor's program.

(c) After the probationary period, a sponsor shall give due notice to an apprentice or trainee of reasons why the apprentice's agreement should be de-registered or the recordation of the trainee's agreement should be cancelled, and the sponsor shall provide the apprentice or trainee a reasonable opportunity to take corrective action, unless the offer of the opportunity would be futile.

(d) After the apprentice or trainee has been given due notice and a reasonable opportunity to take corrective action, unless the offer of the opportunity would be futile, the sponsor may unilaterally request de-registration of the apprentice's agreement or cancellation of the recordation of the trainee's agreement. The director shall de-register or cancel recordation of the agreement upon written request of the sponsor unless the apprentice or trainee initiates a complaint as provided in either Section .0600 or .0800 of this Chapter, as applicable, within the time therein allowed. The sponsor shall have the burden of proof in any administrative hearing to show that there is good cause for

de-registration or cancellation and to show that a reasonable opportunity for corrective action was provided or would have been futile.

(e) The effective date of de-registration or cancellation shall be the date of receipt by the director of the sponsor's request, although the notation will not be made in the division's records until after the period has run during which the apprentice or trainee may initiate a complaint or until resolution of the complaint when the apprentice or trainee has initiated a complaint.

(f) Prior to taking any action pursuant to Subparagraph (a)(4) of this Rule, the director shall notify the sponsor and the apprentice in writing of his intent to de-register or cancel an apprenticeship agreement for failure to pay the registration fee or annual fee. If the sponsor or apprentice fails to either pay the fee or request a review of such decision within 15 days, the director shall de-register or cancel the apprenticeship agreement and notify them of the availability of an administrative hearing and of judicial review in accordance with Article 3 of Chapter 150B of the N.C. General Statutes.

History Note: Authority G.S. 94-1; 94-2; 94-4; Eff. February 1, 1984; Emergency Amendment Eff. August 27, 2009.

SECTION .0900 – APPRENTICESHIP FEES**13 NCAC 14 .0901 APPRENTICESHIP REGISTRATION AND ANNUAL FEES**

(a) Except as provided in Paragraph (d) of this Rule, all apprenticeship registrations submitted after August 15, 2009, shall be subject to a registration fee of fifty dollars (\$50.00). The sponsor will receive an invoice for the registration fee after the agreement is approved by the director in accordance with Rule .0303 of this Chapter. The registration fee may be payable as thirty dollars (\$30.00) by the sponsor and twenty dollars (\$20.00) by the apprentice. In subsequent years, an annual fee of fifty dollars (\$50.00) shall be paid to the Department in accordance with Paragraph (b) of this Rule.

(b) Except as provided in Paragraph (d) of this Rule, all active apprenticeships registered prior to August 15, 2009, shall be subject to an annual fee of fifty dollars (\$50.00). The initial annual fee shall be paid by the sponsor on or before September 30, 2009. Thereafter, the annual fee shall be submitted on or before September 30th of each subsequent year until the apprenticeship is completed or the agreement is de-registered or cancelled in accordance with the Rules of this Chapter, whichever is earlier. The annual fee may be payable as thirty dollars (\$30.00) by the sponsor and twenty dollars (\$20.00) by the apprentice.

(c) Failure to pay the fees described in Paragraphs (a) or (b) of this Rule may result in the de-registration or cancellation of the apprenticeship agreement in accordance with Rule .0508 of this Chapter. In addition, a certificate of completion will not be issued pursuant to Rule .0309 of this Chapter if the fees described in Paragraphs (a) or (b) of this Rule have not been paid.

(d) The provisions of this Rule shall not apply to the State, a department or agency of the State, or any political subdivision of

EMERGENCY RULES

the State or an apprentice of the State, a department or agency of the State, or any political subdivision of the State.

History Note: Authority G.S. 94-1; 94-2; 94-4; 94-12; Emergency Adoption Eff. August 27, 2009.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday, August 20, 2009 9:00 a.m. at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3100. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Ralph A. Walker
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
John B. Lewis
Clarence E. Horton, Jr.
Daniel F. McLawhorn
Curtis Venable

COMMISSION COUNSEL

Joe Deluca (919)431-3081
Bobby Bryan (919)431-3079

RULES REVIEW COMMISSION MEETING DATES

September 17, 2009 October 15, 2009
November 19, 2009 December 17, 2009

RULES REVIEW COMMISSION

August 20, 2009

MINUTES

The Rules Review Commission met on Thursday, August 20, 2009, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jim Funderburk, Jeff Gray, Jennie Hayman, John Lewis, Dan McLawhorn, and Ralph Walker.

Staff members present were: Joseph DeLuca and Bobby Bryan, Commission Counsel; Tammara Chalmers, and Dana Vojtko.

The following people were among those attending the meeting:

Becky Garrett	Board of Recreational Therapy
Evan Kane	DENR/Division of Water Quality
Mike Abraczinskas	DENR/Division of Air Quality
Paul Grable	DENR/Division of Air Quality
Nancy Pate	Department of Environment and Natural Resources
John Randall	Board of Examiners for Speech and Language Pathologists and Audiologists
Carolin Bakewell	Dental Board
Nahale Kalfas	Board of Examiners for Speech and Language Pathologists and Audiologists
Denise Stanford	Licensing Board of General Contractors
Christina Apperson	Medical Board
Barry Gupton	NCDOI/Building Code Council
Rose Williams	Department of Insurance
Stephen Dirksen	Board of Funeral Service
Debra Watts	Department of Environment and Natural Resources
Eric Smith	Department of Environment and Natural Resources
David Tuttle	Board of Examiners for Engineers and Surveyors

The meeting was called to order at 9:02 a.m. with Ms. Hayman presiding.

The Honorable John B. Lewis, Jr. swore in the new Commissioner, the Honorable Ralph Walker.

Chairman Hayman read into the record the Statement of Economic Interest for Ralph Walker, which stated there were no conflicts or potential conflicts of interest.

APPROVAL OF MINUTES

She also reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the July 16, 2009 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

12 NCAC 09B .0301 – Criminal Justice Education and Training Standards Commission. No rewritten rule has been submitted and no action was taken.

21 NCAC 12 .0202 – Licensing Board for General Contractors. The Commission approved the rewritten rule submitted by the agency.

Prior to the review of the rule from the Board of Examiners for Engineers and Surveyors, Commissioner Walker recused himself and did not participate in any discussion or vote concerning these rules because his brother is a practicing civil engineer.

21 NCAC 56 .0103, .0503 – Board of Examiners for Engineers and Surveyors. The Commission approved the rewritten rules submitted by the agency.

Prior to the review of the rule from the Board of Examiners for Speech and Language Pathologists and Audiologists, Commissioner McLawhorn recused himself and did not participate in any discussion or vote concerning this rule because a member of his immediate family is licensed by the agency.

21 NCAC 64 .0212 – Board of Examiners for Speech and Language Pathologists and Audiologists. No rewritten rule has been submitted and no action was taken.

LOG OF FILINGS

Chairman Hayman presided over the review of the log of permanent rules.

All permanent rules were approved unanimously with the following exceptions:

11 NCAC 05A .0801: Department of Insurance – This rule was withdrawn by the agency.

15A NCAC 02C .0119: Environmental Management Commission - The Commission objected to this rule based on lack of statutory authority. The agency does not appear to possess, and certainly has not cited any authority for the provisions in (c) delegating to the Secretary the authority to subdelegate certain powers of the Commission and in (d) the authority to subdelegate to “to another governmental agency” the authority to permit wells. Absent specific authority from the legislature no agency has the authority to delegate to another rulemaking agency its rulemaking authority or any other power specifically granted to a given agency. However in this particular case the legislature has granted explicit authority in G.S. 143-215.3(a)(4) for the EMC to "delegate such of the powers of the Commission as the Commission deems necessary to one or more of its members, to the Secretary or any other qualified employee of the Department." But this grant of authority from the legislature requires the EMC to set out the specific person to whom this delegation is made. It is not authorized to delegate its authority to delegate (i.e. to subdelegate) to another agency. Under the terms above it must specify the actual person or position receiving the delegated authority.

15A NCAC 02D .1010: Environmental Management Commission - The Commission approved this rule, however the Commission received more than ten written objections to this rule. Thus this rule is subject to legislative review.

Prior to the review of the rules from the Board of Barber Examiners, Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because he is legal counsel to the Board.

21 NCAC 06F .0101: Board of Barber Examiners - The Commission objected to this rule based on ambiguity. It is unclear whether the requirement in the rule is to have one barber chair per two students as set out in (a)(6) or “no more than one student enrolled per barber chair” as set out in (b) page 2 lines 41 and 42. The only difference in the two rules refers to schools “permitted prior to December 1, 1994” in (b). However the remaining requirements of the rules are essentially the same and it is unclear why or whether there is meant to be a different student per chair requirement. The board should also examine the requirement in (a)(2) to determine whether they still wish to retain an old requirement of a minimum of 10 barber chairs in a barber school. It appears to be an arbitrary

requirement since they have other rules specifying minimum numbers of teachers, square footage and spacing for barber chairs and sinks.

21 NCAC 06Q .0104: Board of Barber Examiners - The Commission objected to this rule based on lack of statutory authority. There is no authority cited to refuse to renew a license, certificate or permit (hereinafter "license") during the pendency of any investigation or hearing over a complaint concerning a licensee. All the statutes cited refer to an established condition, e.g. "gross malpractice or gross incompetence" in G.S. 86A-18(2). That means the gross malpractice or incompetence must be established either as the result of a liability lawsuit or a board hearing and final decision (and any appeals following those decisions). The board could refuse to issue a license until it was satisfied that a person had met all the qualifications of licensure, including not having committed any of the prohibitions in the various statutes referred to. But it could not refuse to renew a license based on an accusation or complaint until there was a final decision (including any appellate review) in the matter. As a matter of fact G.S. 86A-19, not cited or referred to by the board in its rule specifically states that the board "...may neither refuse to issue nor refuse to renew, or suspend or revoke any certificate of registration, barbershop permit, or barber school permit, for any of these causes except in accordance with the provisions of Chapter 150B of the General Statutes." G.S. 150B sets out how the board must conduct any enforcement action and how to determine when it is completed.

Prior to the review of the rules from the Board of Dental Examiners, Commissioner Crisp recused himself and did not participate in any discussion or vote concerning these rules because his daughter is a dental hygienist.

21 NCAC 16G .0106: Board of Dental Examiners - The Commission objected to this rule based on ambiguity. In (a), it is not clear what standards the Board will use in approving off-campus hygiene class sites. While presumably the listed sites would be approved, it is not clear if, or when, other sites would be approved.

Prior to the review of the rules from the Medical Board, Commissioner Lewis recused himself and did not participate in any discussion or vote concerning these rules because he is a public member of the Board.

21 NCAC 65 .0602: Board of Recreational Therapy Licensure - The Commission objected to this rule based on lack of statutory authority. Paragraph (c) of this rule is not consistent with G.S. 90C-29. The statute requires a person who desires to continue to be licensed to apply for license renewal "within 30 days before the expiration date of a license." The rule requires the application package to be postmarked by December 1 of the year prior to the expiration date printed on the license. No matter what date is printed on the license, there is no date prior to December 1 of one year that is within 30 days of a date in the following year. There is no authority for an agency to adopt a rule that creates an impossibility.

COMMISSION PROCEDURES AND OTHER BUSINESS

The meeting adjourned at 10:18 a.m.

The next scheduled meeting of the Commission is Thursday, September 17, 2009 at 9:00 a.m.

Respectfully Submitted,

Dana Vojtko
Publications Coordinator

LIST OF APPROVED PERMANENT RULES August 20, 2009 Meeting

INSURANCE, DEPARTMENT OF

Refund of Unearned Premium at Death: Credit Life/Credit A...

11 NCAC 12 .0705

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

Detention Officer Certification Course

12 NCAC 10B .0601

ALARM SYSTEMS LICENSING BOARD

Records Retention 12 NCAC 11 .0206

ENVIRONMENTAL MANAGEMENT COMMISSION

French Broad River Basin 15A NCAC 02B .0304
Cape Fear River Basin 15A NCAC 02B .0311
Definitions 15A NCAC 02C .0102
Registration 15A NCAC 02C .0103
Permits 15A NCAC 02C .0105
Standards of Construction: Water Supply Wells 15A NCAC 02C .0107
Standards of Construction: Wells Other than Water Supply 15A NCAC 02C .0108
Pumps and Pumping Equipment 15A NCAC 02C .0109
Well Tests for Yield 15A NCAC 02C .0110
Disinfection of Water Supply Wells 15A NCAC 02C .0111
Well Maintenance: Repair: Groundwater Resources 15A NCAC 02C .0112
Abandonment of Wells 15A NCAC 02C .0113
Data and Records Required 15A NCAC 02C .0114
Designated Areas: Wells Cased to Less than 20 Feet 15A NCAC 02C .0116
Designated Areas: Water Supply Wells Cased to Minimum Dep... 15A NCAC 02C .0117
Variance 15A NCAC 02C .0118
Heavy-Duty Vehicle Idling Restrictions 15A NCAC 02D .1010

BARBER EXAMINERS, BOARD OF

Instructors 21 NCAC 06F .0104
Roster and Student Records 21 NCAC 06F .0110
Copies of Barber School Records 21 NCAC 06F .0111
Uniforms and Identification 21 NCAC 06F .0122
Time Clock and Recordation of Student Hours 21 NCAC 06F .0123
Student Hours 21 NCAC 06F .0124
School Handbooks and Enrollment Agreements 21 NCAC 06F .0125
Notification of Address Change 21 NCAC 06J .0110
Notification of Change of Address 21 NCAC 06K .0111
Measurements of Barber Shop 21 NCAC 06L .0102
Equipment 21 NCAC 06L .0103
Moved Shop 21 NCAC 06L .0108
Notification of Change of Address 21 NCAC 06L .0120
Fees 21 NCAC 06N .0101
Unsupervised Apprentice 21 NCAC 06O .0104
Identification 21 NCAC 06O .0112
School Failing to Maintain, Falsifying, or Failing to Sub... 21 NCAC 06O .0115
Unlicensed School Instructors 21 NCAC 06O .0116
Display of Sign or Barber Pole 21 NCAC 06R .0101
General Examination Instructions 21 NCAC 06S .0101

GENERAL CONTRACTORS, LICENSING BOARD FOR

Classification 21 NCAC 12 .0202

DENTAL EXAMINERS, BOARD OF

Clinical Examination 21 NCAC 16D .0201

Permitted Functions of Dental Assistant II 21 NCAC 16H .0203

MEDICAL BOARD

Locum Tenens Permit 21 NCAC 32O .0118

Title and Practice Protection 21 NCAC 32O .0119

Identification Requirements 21 NCAC 32O .0120

Fees 21 NCAC 32O .0121

Definitions 21 NCAC 32S .0101

Qualifications for License 21 NCAC 32S .0102

Inactive License Status 21 NCAC 32S .0104

Annual Registration 21 NCAC 32S .0105

Continuing Medical Education 21 NCAC 32S .0106

Exemption from License 21 NCAC 32S .0107

Scope of Practice 21 NCAC 32S .0108

Prescriptive Authority 21 NCAC 32S .0109

Supervision of Physician Assistants 21 NCAC 32S .0110

Supervising Physicians 21 NCAC 32S .0111

Notification of Intent to Practice 21 NCAC 32S .0112

Violations 21 NCAC 32S .0113

Title and Practice Protection 21 NCAC 32S .0115

Identification Requirements 21 NCAC 32S .0116

Fees 21 NCAC 32S .0117

Practice During A Disaster 21 NCAC 32S .0118

Definitions 21 NCAC 32S .0201

Qualifications and Requirements for License 21 NCAC 32S .0202

Mandatory Notification of Intent to Practice 21 NCAC 32S .0203

Annual Renewal 21 NCAC 32S .0204

Inactive License Status 21 NCAC 32S .0205

License Reactivation 21 NCAC 32S .0206

License Reinstatement 21 NCAC 32S .0207

Limited Volunteer License 21 NCAC 32S .0208

Non Applicability 21 NCAC 32S .0209

Identification Requirements 21 NCAC 32S .0210

Agency 21 NCAC 32S .0211

Prescriptive Authority 21 NCAC 32S .0212

Supervision of Physician Assistants 21 NCAC 32S .0213

Supervising Physician 21 NCAC 32S .0214

Responsibilities of Primary Supervising Physician in Rega... 21 NCAC 32S .0215

Continuing Medical Education 21 NCAC 32S .0216

Violations 21 NCAC 32S .0217

RULES REVIEW COMMISSION

<u>Title and Practice Protection</u>	21	NCAC 32S .0218
<u>Practice During a Disaster</u>	21	NCAC 32S .0219
 FUNERAL SERVICE, BOARD OF		
<u>Accreditation of Prerecorded Programs and Live Programs B...</u>	21	NCAC 34B .0413
<u>Body Identification Tags</u>	21	NCAC 34B .0616
<u>Registration of Embalming Facility Located Outside a Fune...</u>	21	NCAC 34B .0706
<u>Records of Cremation and Delivery</u>	21	NCAC 34C .0303
<u>Annual Report</u>	21	NCAC 34D .0302
 ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR		
<u>Organization</u>	21	NCAC 56 .0103
<u>Examinations</u>	21	NCAC 56 .0503
 RECREATIONAL THERAPY LICENSURE, BOARD OF		
<u>Licensure Fees</u>	21	NCAC 65 .0501
 COMMUNITY COLLEGES, BOARD OF		
<u>Work Station Occupational Skills Training</u>	23	NCAC 02E .0402
 BUILDING CODE COUNCIL		
<u>NC Plumbing Code - Venting Required</u>		901.2.1
<u>NC Plumbing Code - Subsurface Irrigation Systems</u>		Appendix C

AGENDA
RULES REVIEW COMMISSION
Thursday, September 17, 2009, 9:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Criminal Justice Education and Training Standards Commission – 12 NCAC 09B .0301 (Bryan)
 - B. Environmental Management Commission – 15A NCAC 02C .0119 (DeLuca)
 - C. Board of Barber Examiners – 21 NCAC 06F .0101 (DeLuca)
 - D. Board of Barber Examiners – 21 NCAC 06Q .0104 (DeLuca)
 - E. Board of Dental Examiners – 21 NCAC 16G .0106 (Bryan)
 - F. Board of Examiners for Speech and Language Pathologists and Audiologists – 21 NCAC 64 .0212 (DeLuca)
 - G. Board of Recreational Therapy Licensure – 21 NCAC 65 .0602 (Bryan)
- IV. Review of Log of Permanent Rule filings for rules filed between July 21, 2009 and August 20, 2009 (attached)
- V. Review of Temporary Rules
- VI. Commission Business

- Next meeting: October 15, 2009

Commission Review
Log of Permanent Rule Filings
July 21, 2009 through August 20, 2009

SOCIAL SERVICES COMMISSION

The rules in Chapter 70 are from the Social Services Commission and deal with children's services.

The rules in Subchapter 70E concern licensing of family foster homes including foster mutual home assessment (.0100); forms (.0200); definitions (.0300); standards for licensing (.0400); licensing regulations and procedures (.0500); general (.0600); licensing regulations and procedures (.0700); mutual home assessment (.0800); forms (.0900); capacity (.1000); and standards for licensing (.1100).

<u>Responsibility</u>	10A	NCAC	70E	.0702
Amend/*				
<u>New Licenses</u>	10A	NCAC	70E	.0703
Amend/*				
<u>Relicensure and Renewal</u>	10A	NCAC	70E	.0704
Amend/*				
<u>Termination</u>	10A	NCAC	70E	.0707
Amend/*				
<u>Revocation and Denial</u>	10A	NCAC	70E	.0708
Amend/*				
<u>Foster Home</u>	10A	NCAC	70E	.1001
Amend/*				
<u>Medication</u>	10A	NCAC	70E	.1102
Amend/*				
<u>Criteria for the Family</u>	10A	NCAC	70E	.1104
Amend/*				
<u>Conflict of Interest</u>	10A	NCAC	70E	.1105
Amend/*				
<u>Relationship to Supervising Agency</u>	10A	NCAC	70E	.1107
Amend/*				
<u>Fire and Building Safety</u>	10A	NCAC	70E	.1108
Amend/*				
<u>Training Requirements</u>	10A	NCAC	70E	.1117
Amend/*				

The rules in Subchapter 70F concern child placing agencies: maternity homes and children's camps including general provisions (.0100); and organization and administration (.0200).

<u>Governance</u>	10A	NCAC	70F	.0201
Amend/*				
<u>Responsibilities of the Governing Body</u>	10A	NCAC	70F	.0202
Amend/*				
<u>Personnel Policies</u>	10A	NCAC	70F	.0206
Amend/*				

The rules in Subchapter 70G concern child placing agencies and foster care including general provisions (.0400); minimum licensing standards (.0500); and best practice standards (.0300).

RULES REVIEW COMMISSION

<u>Placement Services</u>	10A	NCAC	70G	.0503
Amend/*				
<u>Physical Restraint Holds, Behavior Management and Discipline</u>	10A	NCAC	70G	.0512
Amend/*				
<u>Critical Incidents</u>	10A	NCAC	70G	.0513
Amend/*				

The rules in Subchapter 70H concern child-placing agencies: adoption including scope (.0200); applicability (.0300); and minimum licensing standards (.0400).

<u>Preplacement Assessment</u>	10A	NCAC	70H	.0405
Amend/*				
<u>Services to Adoptive Applicants and Families</u>	10A	NCAC	70H	.0407
Amend/*				

The rules in Subchapter 70I concern the minimum licensing standards for residential child-care including general licensing requirements (.0100); minimum licensure standards (.0200); organization and administration (.0300); personnel (.0400); service planning (.0500); service delivery (.0600); buildings, grounds and equipment (.0700); best practice standards (.0800); and physical plant (.0900).

<u>Governance</u>	10A	NCAC	70I	.0301
Amend/*				
<u>Discipline and Behavior Management</u>	10A	NCAC	70I	.0613
Amend/*				
<u>Application of Physical Plant Requirements</u>	10A	NCAC	70I	.0901
Amend/*				
<u>Design and Construction</u>	10A	NCAC	70I	.0902
Amend/*				
<u>Vehicles Used for Transportation of Children</u>	10A	NCAC	70I	.0918
Amend/*				

The rules in Subchapter 70J concern minimum licensing standards for specialized residential child care programs including children's foster care camps (.0100); and emergency shelter care program (.0200).

<u>Applicability</u>	10A	NCAC	70J	.0101
Amend/*				

The rules in Subchapter 70K concern residential maternity homes including general provisions (.0100); minimum licensure standards (.0200); and physical plant (.0300).

<u>Personnel</u>	10A	NCAC	70K	.0201
Amend/*				
<u>Program of Care</u>	10A	NCAC	70K	.0204
Amend/*				
<u>Design and Construction</u>	10A	NCAC	70K	.0302
Amend/*				
<u>Kitchen</u>	10A	NCAC	70K	.0307
Amend/*				
<u>Vehicles Used for Transportation of Residents</u>	10A	NCAC	70K	.0318
Adopt/*				

The rules in Chapter 71 concern adult and family support.

The rules in Subchapter 71L concern the maternity home fund.

Approval Criteria 10A NCAC 71L .0102
Amend/*

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 13 cover hazardous and solid waste management, inactive hazardous substances, and waste disposal sites.

The rules in Subchapter 13A cover hazardous waste management and specifically HWTSD (hazardous waste treatment, storage, or disposal) facilities.

Definitions 15A NCAC 13A .0102
Amend/*

Petitions - Part 260 15A NCAC 13A .0103
Amend/*

Identification and Listing of Hazardous Wastes - Part 261 15A NCAC 13A .0106
Amend/*

The rules in Subchapter 13B concern solid waste management including general provisions (.0100); permits for solid waste management facilities (.0200); treatment and processing facilities (.0300); transfer facilities (.0400); disposal sites (.0500); monitoring requirements (.0600); administrative penalty procedures (.0700); septage management (.0800); yard waste facilities (.0900); solid waste management loan program (.1000); scrap tire management (.1100); medical waste management (.1200); disposition of remains of terminated pregnancies (.1300); municipal solid waste compost facilities (.1400); standards for special tax treatment of recycling and resource recovery equipment and facilities (.1500); requirements for municipal solid waste landfill facilities (.1600); and requirements for beneficial use of coal combustion by-products (.1700).

Incorporation by Reference 15A NCAC 13B .0815
Repeal/*

Definitions 15A NCAC 13B .0816
Repeal/*

Septage Management Firm Permits 15A NCAC 13B .0817
Repeal/*

Permit Fees 15A NCAC 13B .0818
Repeal/*

Septage Land Application Site Permits 15A NCAC 13B .0819
Repeal/*

Septage Detention and Treatment Facility Permits 15A NCAC 13B .0820
Repeal/*

Location of Septage Land Application Sites 15A NCAC 13B .0821
Repeal/*

Management of Septage Land Application Sites 15A NCAC 13B .0822
Repeal/*

Record Keeping for Septage Management Firms 15A NCAC 13B .0823
Repeal/*

Sampling and Analysis 15A NCAC 13B .0824
Repeal/*

Standards for Septage Treatment and Detention Facilities 15A NCAC 13B .0825
Repeal/*

Land Use and Site Closure 15A NCAC 13B .0826
Repeal/*

Transportation of Septage 15A NCAC 13B .0827
Repeal/*

Revocation of Permits 15A NCAC 13B .0828
Repeal/*

Appeals 15A NCAC 13B .0829

Repeal/*				
<u>Incorporation by Reference</u>	15A	NCAC	13B	.0830
Adopt/*				
<u>Definitions</u>	15A	NCAC	13B	.0831
Adopt/*				
<u>General Provisions</u>	15A	NCAC	13B	.0832
Adopt/*				
<u>Septage Management Firm Permits</u>	15A	NCAC	13B	.0833
Adopt/**				
<u>Permit Fees</u>	15A	NCAC	13B	.0834
Adopt/*				
<u>Septage Land Application Site Permits</u>	15A	NCAC	13B	.0835
Adopt/*				
<u>Septage Detention and Treatment Facility Permits</u>	15A	NCAC	13B	.0836
Adopt/*				
<u>Location of Septage Land Application Sites</u>	15A	NCAC	13B	.0837
Adopt/*				
<u>Management of Septage Land Application Sites</u>	15A	NCAC	13B	.0838
Adopt/*				
<u>Record Keeping for Septage Management Firms</u>	15A	NCAC	13B	.0839
Adopt/*				
<u>Sampling and Analysis</u>	15A	NCAC	13B	.0840
Adopt/*				
<u>Standards for Septage Detention and Treatment Facilities</u>	15A	NCAC	13B	.0841
Adopt/*				
<u>Innovative or Alternative Treatment or Storage Methods</u>	15A	NCAC	13B	.0842
Adopt/*				
<u>Land Use and Site Closure</u>	15A	NCAC	13B	.0843
Adopt/*				
<u>Transportation of Septage</u>	15A	NCAC	13B	.0844
Adopt/*				
<u>Revocation of Permits</u>	15A	NCAC	13B	.0845
Adopt/*				
<u>Appeals</u>	15A	NCAC	13B	.0846
Adopt/*				

The rules in Chapter 18 are from the Commission for Public Health and cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D).

The rules in Subchapter 18C are water supply rules including their protection and location (.0100-.0200); submission of plans, etc. (.0300); design criteria (.0400-.0500); raw surface water facilities (.0600); surface water treatment facilities (.0700); hydropneumatic storage tanks (.0800); distribution systems (.0900); disinfection (.1000); protection of unfiltered and filtered supplies (.1100-.1200); variances (.1300); fluoridation (.1400); water quality standards and variances (.1500-.1600); systems grants (.1700); local plan approval (.1800); administrative penalties (.1900); filtration and disinfection (.2000); operating permits (.2100); and ground water systems (.2200).

<u>Pilot Plant Studies</u>	15A	NCAC	18C	.0714
Amend/*				
<u>General Requirement</u>	15A	NCAC	18C	.1301
Amend/*				
<u>Tests, Forms and Reporting</u>	15A	NCAC	18C	.1302
Amend/*				
<u>Facility Oversight</u>	15A	NCAC	18C	.1303

Amend/*				
<u>Disinfection</u>	15A	NCAC	18C	.2002
Amend/*				
<u>Analytical and Monitoring Requirements</u>	15A	NCAC	18C	.2004
Amend/*				
<u>Reporting and Record Keeping Requirements</u>	15A	NCAC	18C	.2006
Amend/*				
<u>Enhanced Filtration and Disinfection</u>	15A	NCAC	18C	.2007
Amend/*				
<u>Disinfectants and Disinfection Byproducts</u>	15A	NCAC	18C	.2008
Amend/*				
<u>Applicability and Residual Disinfectant Concentrations</u>	15A	NCAC	18C	.2201
Adopt/*				
<u>Ground Water Rule</u>	15A	NCAC	18C	.2202
Adopt/*				

REVENUE, DEPARTMENT OF

The rules in Chapter 7 are sales and use tax.

The rules in Chapter 7B concern state sales and use tax including general provisions (.0100); general application of law to manufacturing and industrial processing (.0200); specific tangible personalty classified for use by industrial users (.0300); specific industries (.0400); exempt sales to manufacturers (.0500); sales of mill machinery and accessories (.0600); specific industry purchases (.0700); adjustments, replacements and alterations and installation sales (.0800); advertising, advertising agencies and public relations firms (.0900); barbers, beauty shop operators, shoe and watch repairmen (.1000); sales of bulk tobacco barns and farm machines and equipment (.1100); hotels, motels, tourist camps and tourist cabins (.1200); sales in interstate commerce (.1300); sales of medicines, drugs and medical supplies (.1400); finance companies, finance charges and carrying charges (.1500); sales to or by hospitals, educational, charitable or religious institutions, and refunds thereto (.1600); sales to or by the state, counties, cities and other political subdivisions (.1700); hospitals and sanitariums (.1800); tire recappers and retreaders: and tire and tube repairs (.1900); sales and gifts by employers to employees or other users (.2000); electricity, piped natural gas, bottled gas, coal, coke, fuel oil, oxygen, acetylene, hydrogen, liquefied petroleum gas and other combustibles (.2100); food and food products for human consumption (.2200); sales to out-of-state merchants for resale (.2300); sales of medical supplies and equipment to veterinarians (.2400); furniture and storage warehousemen (.2500); liability of contractors, use tax on equipment brought into state and building materials (.2600); dentists, dental laboratories and dental supply houses (.2700); florists, nurserymen, greenhouse operators and farmers (.2800); vending machines (.2900); articles taken in trade, trade-ins, repossessions, returned merchandise and used or secondhand merchandise (.3000); radio and television stations and motion picture theatres (.3100); telecommunications and telegraph companies (.3200); orthopedic appliances (.3300); memorial stone and monument dealers and monument manufactures (.3400); machinists, foundrymen and pattern makers (.3500); funeral expenses (.3600); lubricants and oils and greases (.3700); premiums and gifts and trading stamps (.3800); containers, wrapping and packing and shipping materials (.3900); fertilizer, seeds and feed and insecticides (.4000); artists, art dealers and photographers (.4100); sales to the United States government or agencies thereof (.4200); refunds to interstate carriers (.4300); lease or rental (.4400); laundries, dry cleaning plants, launderettes, linen rentals and solicitors for such businesses (.4500); motor vehicles and boats (.4600); printers and newspaper or magazine publishers (.4700); basis of reporting (.4800); transportation charges (.4900); eyeglasses and other ophthalmic aids and supplies, oculists and optometrists and opticians (.5000); leased departments and transient sellers (.5100); baby chicks and poults (.5200); certificate of authority and bond requirements (.5300); and forms used for sales and use tax purposes (.5400).

<u>Measure of Tax Due</u>	17	NCAC	07B	.0105
Amend/*				
<u>Research Services</u>	17	NCAC	07B	.0115
Adopt/*				
<u>Taxability of Gross Receipts</u>	17	NCAC	07B	.1201
Amend/*				
<u>Governmental Sale and Purchases</u>	17	NCAC	07B	.1701
Amend/*				
<u>Sales to Tire Recappers</u>	17	NCAC	07B	.1905
Amend/*				

<u>Electricity and Other Fuel</u> Amend/*	17	NCAC	07B	.2101
<u>Contractors, Subcontractors, and Retailer-Contractors</u> Amend/*	17	NCAC	07B	.2602
<u>Pre-Fabricated Buildings: Contractors</u> Amend/*	17	NCAC	07B	.2606
<u>Plumbing: Heating Contractors: Purchases</u> Amend/*	17	NCAC	07B	.2608
<u>Broadcasting Equipment</u> Amend/*	17	NCAC	07B	.3102
<u>Motion Picture Production Firms</u> Amend/*	17	NCAC	07B	.3107
<u>Exempt Prosthetic Devices</u> Amend/*	17	NCAC	07B	.3301
<u>Exempt Durable Medical Equipment</u> Amend/*	17	NCAC	07B	.3302
<u>Commercial Printers and Publishers</u> Amend/*	17	NCAC	07B	.4701
<u>Taxable Optical Supplies</u> Amend/*	17	NCAC	07B	.5004

CHIROPRACTIC EXAMINERS, BOARD OF

The rules in Chapter 10 include organization of the Board (.0100); the practice of chiropractic (.0200); rules of unethical conduct (.0300); rule-making procedures (.0400); investigation of complaints (.0500); contested cases and hearings in contested cases (.0600-.0700); and miscellaneous provisions (.0800).

<u>Drug Testing</u> Adopt/*	21	NCAC	10	.0504
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STATE PERSONNEL COMMISSION

The rules in Chapter 1 are from the State Personnel Commission.

The rules in Subchapter 1C concern personnel administration including employment (.0100); general employment policies (.0200); personnel records and reports (.0300); appointment (.0400); work schedule (.0500); competitive service (.0600); secondary employment (.0700); requirements for teleworking programs (.0800); employee recognition programs (.0900); and separation (.1000).

<u>Reduction in Force</u> Amend/*	25	NCAC	01C	.1004
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ADMINISTRATIVE HEARINGS, OFFICE OF

The rules in Chapter 1 are general provisions for the Office of Administrative Hearings including petition for rule-making and declaratory rulings.

<u>Emergency Waiver</u> Adopt/*	26	NCAC	01	.0105
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The rules in Chapter 3 are from the Hearings Division and cover procedure (.0100), mediated settlement conferences (.0200), and expedited hearing procedures for complex contested cases (.0300).

<u>Order for Mediated Settlement Conference</u> Amend/*	26	NCAC	03	.0201
<u>Selection of Mediator</u>	26	NCAC	03	.0202

RULES REVIEW COMMISSION

<u>Duties of Parties, Representatives, and Attorneys</u> Amend/*	26	NCAC	03	.0204
<u>Sanctions for Failure to Attend</u> Amend/*	26	NCAC	03	.0205
<u>Authority and Duties of Mediators</u> Amend/*	26	NCAC	03	.0206
<u>Compensation of the Mediator</u> Amend/*	26	NCAC	03	.0207

CONTESTED CASE DECISIONS

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) 431-3000. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray	Randall May
Selina Brooks	A. B. Elkins II
Melissa Owens Lassiter	Joe Webster
Don Overby	

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL BEVERAGE CONTROL COMMISSION</u>				
NC Alcoholic Beverage Control Commission v. Ciro Maya Maya, T/A Carolina Sports Arena	08 ABC 2411	Overby	06/29/09	
N.C. Alcoholic Beverage Control Commission v. Du Cong Phan T/A Good Food Market	09 ABC 0565	May	05/18/09	
North Carolina Alcoholic Beverage Control Commission v. Mayra Leticia Rodriguez, T/A La Perla Del Pacifico	09 ABC 0975	Gray	07/28/09	
<u>CRIME VICTIMS COMPENSATION</u>				
Robert Melvin v. Janice Carmichael, NC Crime Victim Compensation	08 CPS 2634	Elkins	06/01/09	
B-Red Enterprises, Inc., Linda Parrish v. Secretary of Crime Control and Public Safety	08 CPS 3043	Webster	06/23/09	
Allen Bender, AB's Gravel Driveways, LLC v. North Carolina State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 1259	Gray	06/29/09	
Cape Romain Contractors, Inc., Andrew Dupre v. North Carolina Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 1599	Gray	07/02/09	
John Emiliani, Jr., v. N.C. Division of Motor Vehicles	09 CPS 1604	Brooks	06/15/09	
Rowland L. Simmons v. North Carolina State Highway Patrol	09 CPS 2087	Brooks	05/19/09	
George Allen Cook (Case #08-35780), v. N.C. Department of Crime Control and Public Safety, Victim Compensation Services Division	09 CPS 2391	May	07/29/09	
Cynthia K. Shreve v. Victims Compensation Program	09 CPS 2404	May	06/23/09	
Allen Robinson v. NCSHP	09 CPS 2449	Overby	06/17/09	
Jeffrey Andrew Kennedy v. NC State Highway Patrol, Citation and Notice of Assessment	09 CPS 2511	May	07/09/09	
Rowland L. Simmons v. North Carolina State Highway Patrol	09 CPS 2885	May	06/11/09	
A list of Child Support Decisions may be obtained by accessing the OAH Website: http://www.ncoah.com/hearings/decisions/				
<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>				
Patricia L. Tiller v. NC Dept. of Health & Human Ser., Health Care Personnel Registry Sec	07 DHR 0302	Lassiter	07/14/09	
Envisions of Life LLC v. Hearing Office – 05 Division of Medical Assistance	08 DHR 0967	Lassiter	07/01/09	
Choices Group Home Inc., Victor Vega v. N.C. Department of Health and Human Service Regulation	08 DHR 2404	Gray	07/16/09	

CONTESTED CASE DECISIONS

Choices Group Home Inc, Victor Vega v. Office of Administrative Hearings, Department of Health and Human Services	08 DHR 2512	Gray	07/16/09
Abundant Life Child Care Center, Tiffany D. Monroe v. Division of Child Development, June Locklear, Brenda Faircloth	08 DHR 2954	Elkins	06/03/09
Amy G. Poteat v. Health Care Personnel Registry	08 DHR 3489	May	06/03/09
Victoria Martin v. Surry County Dept of Health and Human Services AFDC/Work First	09 DHR 1533	May	06/04/09
Michael Parks Fresh Start Residential Services Inc. v. NC DHHS Division of Health Service Regulation Mental Health Licensure Certification	09 DHR 1474	Overby	06/17/09
Spring House Residential Facility v. N.C. Dept. of Health and Human Services DHSR MHLIC	09 DHR 1482	May	06/19/09
Yolanda Portillo v. N.C. Department of Health and Human Services	09 DHR 1558	Webster	07/17/09
Regina T. Jones v. N.C. Department of Health and Human Services	09 DHR 1859	Webster	06/23/09
Sharay C. Vinson v. North Carolina Department of Health and Human Services, Division of Health Service Regulation	09 DHR 1884	Brooks	07/10/09
Jason M. Paris (petitioner, Christine O. Jacobs (representing petitioner) v. N.C. Department of Health and Human Services (DHHS)	09 DHR 2296	May	07/10/09
Contour Service, Inc., (MHL #090-101) v. Department of Health Services, Division of Health Service Regulation	09 DHR 2350	May	07/21/09
Helen Webb v. Department of Health and Human Dept. of Child Dept	09 DHR 2589	Webster	07/17/09
Lanika Ortega v. North Carolina Department of Health and Human Services	09 DHR 2637	Lassiter	07/27/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 2654	Webster	07/17/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 2655	Webster	07/17/09
John Okoroma v. Mecklenburg County Dept. of Social Services	09 DHR 2710	May	07/24/09
Angela Conner Tawes, Conner's Cape Hatteras Supermarket, Inc v. North Carolina Department of Health and Human Services,	09 DHR 2717	Gray	06/15/09
Sharon M. Hill v. NC Department of Health and Human Services, Division of Health Services and Regulation	09 DHR 2809	Lassiter	07/27/09
Division of Public Health, Women's and Children's Health Section	09 DHR 2829	Brooks	07/10/09
Trinia E. McCorkle v. North Carolina Department of Health and Human Services, Division of Medical Assistance			
Kasina L. Davis v. North Carolina Department of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section	09 DHR 2832	Gray	07/01/09
Brenda V. Patterson v. N.C. State Department of Social Services	09 DHR 2836	Webster	07/17/09
Brenda Patterson v. Division of Child Development	09 DHR 2837	Webster	07/17/09
Edward A. Patterson v. Division of Child Development	09 DHR 2838	Webster	07/17/09
Brenda V. Patterson v. Division of Child Development	09 DHR 2839	Webster	07/17/09
Edward A. Patterson v. Division of Child Development	09 DHR 2841	Webster	07/17/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 3002	Webster	07/17/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 3003	Webster	07/17/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 3004	Webster	07/17/09
Mary's House, Inc., MHL #041-288, Craig Thomas, Executive Director v. Ms. Emery Milliken, General Counsel, Department of Health and Human Services, Office of Legal Affairs	09 DHR 3008	Mann	07/22/09
Edward A. Patterson v. Division of Child Development	09 DHR 3113	Webster	07/17/09
Brenda V. Patterson v. Division of Child Development	09 DHR 3114	Webster	07/17/09
Edward A. Patterson v. Division of Child Development	09 DHR 3503	Webster	07/17/09

DEPARTMENT OF ADMINISTRATION

Meherrin Tribe of North Carolina by and through Douglas Patterson v. North Carolina Commission of Indian Affairs	09 DOA 2367	Morrison	06/15/09
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DEPARTMENT OF CORRECTION

Rufus Thomas Blackwell, III, v. (N.C. Department of Correction) Department of Payroll & Overpayment Manager	09 DOC 1296	Overby	07/08/09
Robert Allen Sartori v. K Dufault, C. Bray WCI Mail, Staff Department of Correction	09 DOC 3121	Gray	07/01/09

DEPARTMENT OF JUSTICE

Jackie Marie Daniels v. N.C. Criminal Justice Education and Training Standards Commission	09 DOJ 0218	Elkins	07/24/09
Tyrone Scott v. North Carolina Private Protective Services Board	09 DOJ 0658	Gray	05/28/09
Jaime Patrick Clayborne v. Department of Justice Company Police Program	09 DOJ 1949	Webster	05/27/09
William Marquis Davis v. North Carolina Private Protective Services Board	09 DOJ 2506	Morrison	06/04/09
Ross Patton Gilmore v. North Carolina Alarm Licensing Board	09 DOJ 2452	Morrison	06/04/09
Edward A. Patterson v. Attorney General Office	09 DOJ 2840	Webster	07/17/09

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Alvin J. Smith v. NC Div of Motor Vehicles, Driver Ass't Branch 09 DOT 2616 Brooks 06/09/09

DEPARTMENT OF STATE TREASURER

Donna F. Levi v. Department of State Treasurer 09 DST 0161 Gray 07/17/09

Hilda Harris Member ID: 1725605 v. Department of State Treasurer
Retirement Systems Division 09 DST 1290 Overby 05/27/09

EDUCATION, STATE BOARD OF

Courtney M. Sears, Petitioner v. Department of Public Instruction
Licensure Section 08 EDC 3644 Morrison 06/08/09

Jennifer Satinsky v. North Carolina State Board of Education 08 EDC 3650 Morrison 06/05/09

Lindsey Forde-Smith v. North Carolina State Board of Education 09 EDC 1848 Gray 07/09/09

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

Old Mill Forestry, LLC v. N.C. Department of Environment and Natural
Resources, Division of Water Quality 08 EHR 1806 Lassiter 05/08/09

Cherokee County Health Department James Pann(managing member,
Creek Ridge Holdings, LLC) v. N.C. Department of Environment
and Natural Resources 08 EHR 2986 Gray 05/27/09

John C Campbell Folk School, John M Clarke, Bldgs & Ground Mgr v.
NCDENR Public Water Supply Section 09 EHR 1852 Overby 06/03/09

DEPARTMENT OF INSURANCE

Barbara A Evans v. State Health Plan 09 INS 3067 Lassiter 07/27/09

MISCELLANEOUS

Rodney Dale v. Judge Angela Hoyle 09 MIS 2704 May 06/09/09

OFFICE OF STATE PERSONNEL

Julie Norris Watson v. NC DPI 08 OSP 0541 Brooks 05/22/09

Jody Lynn Hinson v. N.C. Department of Crime Control and Public
Safety, N.C. Highway Patrol 08 OSP 2409 Overby 06/03/09

Timothy Strong v. Central Regional Hospital, NC DHHS 09 OSP 2401 Elkins 05/27/09

Benjamin Hicks v. Central Regional Hospital, NC DHHS 09 OSP 2399 Elkins 05/27/09

Thomas E. Freeman, Jr. v. NC DHHS/Central Regional Hospital
And Whitaker School 09 OSP 2826 Webster 07/17/09

Cecil L. Glaze v. UNC Charlotte 09 OSP 2884 Mann 07/29/09

Vicky Williams Herring, NC Employment Security Commission 09 OSP 3501 Elkins 07/30/09

Hope C. Freeman v. Bladen County Department of, Social Services 09 OSP 3504 Elkins 07/24/09

OFFICE OF SECRETARY OF STATE

Robert Lee Evans v. NC Office of Administrative Hearings 09 SOS 2300 Lassiter 06/03/09

Asali J. Howard v. North Carolina Department of The Secretary
Of State 09 SOS 2707 May 07/16/09

UNC HOSPITALS

Carlos A Perez-Sanchez v. UNC Hospitals 09 UNC 1294 Overby 06/03/09

Bobbie Perlow v. UNC Hospitals 09 UNC 1606 Brooks 07/15/09

Nicole Bryant v. UNC Hospitals 09 UNC 2022 Lassiter 06/16/09

Cynthia K. Yellock v. UNC Hospitals 09 UNC 2298 Mann 07/21/09

Jennifer Jacobs v. UNC Hospitals 09 UNC 2409 Mann 07/21/09

Ryan Rockey v. UNC Hospitals 09 UNC 2587 May 07/15/09

Mary Ann Strickland v. UNC Hospitals 09 UNC 2712 Overby 06/04/09

John C. Presley v. UNC Hospitals 09 UNC 4020 Gray 07/21/09