

NORTH CAROLINA REGISTER

VOLUME 24 • ISSUE 15 • Pages 1205 - 1301

February 1, 2010

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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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NORTH CAROLINA REGISTER
Publication Schedule for January 2010 – December 2010

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
24:13	01/04/10	12/09/09	01/19/10	03/05/10	03/22/10	05/01/10	05/12/10	10/01/10
24:14	01/15/10	12/22/09	01/30/10	03/16/10	03/22/10	05/01/10	05/12/10	10/12/10
24:15	02/01/10	01/08/10	02/16/10	04/05/10	04/20/10	06/01/10	01/26/11	10/29/10
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25:12	12/15/10	11/22/10	12/30/10	02/14/11	02/21/11	04/01/11	05/2012	09/11/11

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.



EXECUTIVE ORDER NO. 37

NORTH CAROLINA EMERGENCY RESPONSE COMMISSION

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

Section 1. Establishment

There is hereby established the North Carolina Emergency Response Commission, hereinafter referred to as the "Commission." The Commission shall consist of not less than 12 members and shall be composed of at least the following persons, or their designee as approved by the Commission Chairperson:

- a. Secretary of the North Carolina Department of Crime Control and Public Safety, who shall serve as the Chairperson;
- b. Director of the Division of Emergency Management, North Carolina Department of Crime Control and Public Safety, who shall serve as the Vice-Chairperson;
- c. Commander of the State Highway Patrol, North Carolina Department of Crime Control and Public Safety;
- d. Deputy Secretary of the North Carolina Department of Environment and Natural Resources;
- e. Director of the Division of Safety and Loss Control, North Carolina Department of Transportation;
- f. Chief of the Office of Emergency Medical Services, Division of Facility Services, North Carolina Department of Health and Human Services;
- g. Deputy Director of the Training and Inspections Division, Office of State Fire Marshal, North Carolina Department of Insurance;
- h. Director of the State Bureau of Investigation, North Carolina Department of Justice;
- i. Director, Division of Public Health, North Carolina Department of Health and Human Services;
- j. Assistant Deputy Commissioner of the Labor for Occupational Safety and Health, North Carolina Department of Labor;
- k. President of the North Carolina Community College System; and
- l. Director of the Emergency Programs Division, North Carolina Department of Agriculture and Consumer Services.

In addition to the foregoing, six at-large members from local government and private industry may be appointed by the Governor and serve terms of two (2) years at the pleasure of the Governor.

Section 2. Duties

The Commission is designated as the State Emergency Response Commission as defined in the Emergency Planning and Community Right-to-Know Act of 1986 enacted by the United States Congress and hereinafter referred to as the "Act." The Commission serves in three roles:

- a. The Commission will perform all of the duties required under the Act and other advisory, administrative, regulatory, or legislative actions.
 1. Designate emergency planning districts to facilitate preparation and implementation of emergency plans as required under Section 301(b) of the Act.
 2. Appoint local emergency planning committees described under Section 301(c) of the Act and supervise and coordinate the activities of such committees for each planning district.
 3. Establish procedures for reviewing and processing requests from the public for information under Section 324 of the Act.
 4. Designate additional facilities that may be subject to the Act under Section 302 of the Act and notify the Administrator of the Environmental Protection Agency of any such additional facilities.
 5. Review the emergency plans submitted by the local emergency planning committees and recommend revisions of the plans that may be necessary to ensure their coordination with emergency response plans of adjacent districts and state plans.
- b. The Commission will act in an advisory capacity to the Homeland Security Advisor, as designated by the Governor, to provide input regarding the activities of the North Carolina State Homeland Security Program and the Domestic Preparedness Regions. Specifically, the Commission will:
 1. Review the State Homeland Security Strategy to ensure it is aligned with local, state, and federal priorities as required by the United States Department of Homeland Security (DHS), and that its goals and objectives are being met in accordance with program intent.
 2. Review DHS Homeland Security Grant Program applications and subsequent allocations for state and regional homeland security projects.
 3. Review plans for preventing, preparing for, responding to, and recovering from acts of terrorism and all hazards – man-made or natural.
- c. The Commission will act in an advisory capacity to provide coordinated stakeholder input to the Secretary of the Department of Crime Control and Public Safety and the Division of Emergency Management in the preparation, implementation, evaluation, and

revision of the North Carolina emergency management program. To this purpose, the Commission will work to:

1. Increase state and local disaster/emergency response capabilities; and
2. Coordinate training, education, technical assistance, and outreach activities.

Section 3. Administration

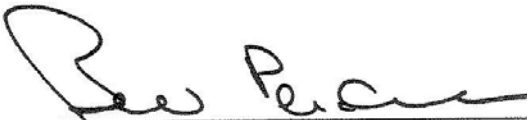
- a. The Department of Crime Control and Public Safety shall provide administrative support and staff to the Commission as may be required.
- b. Members of the Commission shall serve without compensation but may receive reimbursement for travel and subsistence expenses in accordance with state guidelines and procedures and contingent on the availability of funds.

Section 4. Effect and Duration

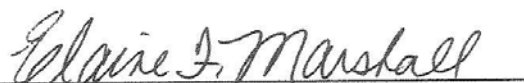
This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until December 14, 2013, pursuant to N.C. Gen. Stat. § 147-16.2 or until rescinded.

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 fifteenth of December 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



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 38

REESTABLISHING THE FOOD SAFETY AND DEFENSE TASK FORCE

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

Section 1. **Establishment**

The North Carolina Food Safety and Defense Task Force is hereby established.

Section 2. **Purpose**

The purpose of the Food Safety and Defense Task Force (hereinafter the "Task Force") is to coordinate interagency and public-private efforts to enhance protection of the State's food supply system and its agricultural industry.

Section 3. **Membership**

Task Force members shall serve at the pleasure of the Governor. The Governor shall appoint members to the Task Force as follows:

- a. The Commissioner of Agriculture, or designee;
- b. The Secretary of Environment and Natural Resources, or designee;
- c. The Secretary of Health and Human Services, or designee;
- d. The Secretary of Crime Control and Public Safety, or designee;
- e. Representatives of the University of North Carolina System; and
- f. Representatives of other government agencies, private industry, and other public members invited to participate by the Governor.

The Commissioner of Agriculture, the Secretary of Health and Human Services, and the Secretary of Environment and Natural Resources shall serve as co-chairs of the Task Force.

Section 4. **Duties**

The Task Force shall have the following duties:

- a. Partner with state and federal agencies to conduct focused studies of the vulnerability of the State's food system to criminal and terrorist acts and make recommendations regarding the following issues:

1. improving safety and defense of the food supply system,
 2. reducing terrorism threat measures,
 3. improving food safety and defense mitigation and response plans, and
 4. implementing or coordinating training for key stakeholders in the State's food supply system.
- b. Recommend legislation needed to improve the ability of State departments and agencies to protect the safety and defense of the State's food supply and the agricultural industry base, including legislation to protect sensitive and proprietary information of the State's food supply system, safety and defense vulnerability information, and defense plans that, if compromised, would heighten the exposure of the State's food supply system to criminal or terrorist acts.
- c. Recommend budget, staffing, and resource adjustments necessary to improve the capability of State departments and agencies to protect the safety and defense of the State's food supply system and agricultural industrial base.
- d. Prepare an annual report no later than December 15th each year that includes any recommendations or proposals for changes in laws, rules, and programs that the Task Force determines to be appropriate to enhance food safety and defense in the State.

Section 5. Administration

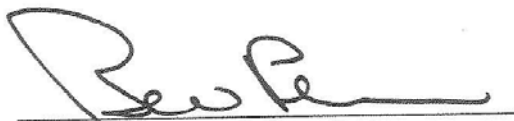
The Office of State Budget and Management shall assist the Task Force in its efforts to obtain State and Federal funding necessary to carry out its duties.

Section 6. Effect and Duration

This Executive Order shall be effective immediately. It shall remain in effect until December 14, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded. All other executive orders or portions of executive orders inconsistent herewith are hereby rescinded. This order specifically replaces Executive Order No. 89, dated September 12, 2005, and Executive Order No. 126, dated September 7, 2007.

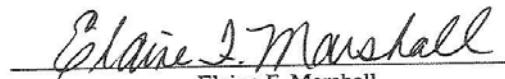
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifteenth day of December in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and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



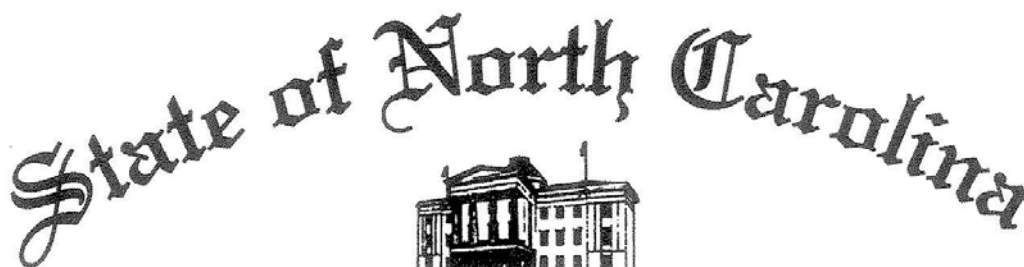


Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 39

REPLACING EXECUTIVE ORDER NO. 124,
STATEWIDE FLEXIBLE BENEFITS PROGRAM

WHEREAS, State employees are an important resource to State government; and

WHEREAS, the State needs to provide a uniform competitive compensation package that includes an up-to-date benefits program in order to maintain the State's competitive edge with businesses and other states in the region; and

WHEREAS, the State needs to provide the same tax-advantaged benefits to all State employees, regardless of the agency, department, university or community college where they work; and

WHEREAS, the reasonable cost of administering an efficiently designed flexible benefits program could be recovered by the savings associated with such a program.

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

Section 1. **Policy**

A statewide employee flexible benefits coordination effort is hereby formalized for the purpose of administering these benefits to employees and promoting the development and maintenance of a competitive compensation package for all State employees in conjunction with the provisions of N.C. Gen. Stat. § 126-95.

Section 2. **Administration**

There is created within the Office of State Personnel a Statewide Employee Flexible Benefits Program (SEFBP). The State Personnel Director shall be responsible for central flexible benefits coordination for all State employees. The administration of the statewide flexible benefits plan shall become the responsibility of SEFBP. This program shall begin the process of assessing the flexible benefits plan design, administrative procedures, administrative capabilities, and communications needs for the implementation of a comprehensive statewide flexible benefits plan. These responsibilities include, but are not limited to the following:

- a. implementing the Statewide Flexible Benefits Plan;
- b. administering contracts for supplemental insurance carriers and third party administrators for spending accounts and premium conversion plans participating in the SEFBP;
- c. coordinating administration of spending accounts;
- d. coordinating enrollment and communication efforts concerning the SEFBP and other benefit programs;
- e. coordinating the Statewide Flexible Benefits Advisory Committee; and
- f. speaking on behalf of State government flexible benefits in the Legislature.

Section 3. Statewide Flexible Benefits Advisory Committee

There is hereby established a Statewide Flexible Benefits Advisory Committee (FBAC) for the purpose of assisting the State in developing and maintaining an effective flexible benefits plan for State employees. The FBAC shall make recommendations to the State Personnel Director concerning the administration of the Flexible Benefits Plan and the components of the flexible benefits package for State employees.

a. Duties of the FBAC

The FBAC shall be responsible for the following:

- (1) assisting the SEFBP in developing administrative functions;
- (2) reviewing existing flexible benefit programs in State government;
- (3) recommending pre-tax benefits to be included in the SEFBP;
- (4) assisting in reviewing contracts and administering spending accounts; and
- (5) undertaking other functions as necessary.

b. Membership

The membership of the FBAC shall consist of 16 members and one ex-officio member. Members shall be appointed to a three-year staggered term. Members are as follows:

- (1) a representative from the State Controller's Office;
- (2) a representative from the State Treasurer's Office;
- (3) a representative from the State Budget Office;
- (4) a representative from the Attorney General's Office;
- (5) a representative from the State Health Benefits Office;
- (6) a representative from the Administrative Office of the Courts;
- (7) a representative from the Department of Environment and Natural Resources;
- (8) a representative from the University of North Carolina System;
- (9) a representative from the State Employees Association of North Carolina;
- (10) a representative from the Department of Health and Human Services;

- (11) a representative from the Department of Transportation;
- (12) a representative from the Department of Correction;
- (13) a representative from the Department of Public Instruction;
- (14) a representative from the Community College System;
- (15) two representatives of the private sector; and
- (16) the SEFBP Manager, who shall serve as a voting ex officio member and provide support staff as required.

c. Chairperson

The Director of the Office of State Personnel shall appoint a Chair from among the membership for a one-year term.

Section 4. Effect and Duration

This Executive Order replaces Executive Order No. 124 dated September 7, 2007, and is effective immediately. It shall remain in effect until December 14, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or 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 fifteenth day of December 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



EXECUTIVE ORDER NO. 40

REPLACING EXECUTIVE ORDER NO. 133,
JUVENILE JUSTICE PLANNING COMMITTEE

WHEREAS, the Executive Organization Act of 1973 established the Governor's Crime Commission; and,

WHEREAS, North Carolina General Statute § 143B-480, creates the Juvenile Justice Planning Committee as an adjunct committee to advise the Governor's Crime Commission on matters referred to it that are relevant to juvenile justice; and

WHEREAS, pursuant to North Carolina General Statute § 143B-480, the composition of the Juvenile Justice Planning Committee shall be designated by the Governor through executive order; and

WHEREAS, the federal Juvenile Justice and Delinquency Act of 1974, as amended, requires states to establish state advisory groups to administer juvenile justice and delinquency prevention grants from the United States Department of Justice; and

WHEREAS, the Juvenile Justice Planning Committee is ideally suited to serve as such a state advisory group consistent with federal law.

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

Section 1. Membership Composition

The Juvenile Justice Planning Committee shall consist of no less than 15 and no more than 33 members each appointed by the Governor and each having training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice.

The majority of the members, as well as the chair, shall not be full-time employees of federal, state, or local government. At least one-fifth of the members shall be under the age of twenty-

four at the time of appointment and at least three members shall be currently or have been under the jurisdiction of the juvenile justice system.

The Governor shall appoint at least one representative from the following:

1. An elected official representing the state's local governments.
2. A representative of a law enforcement agency and juvenile justice agencies.
3. A juvenile or family district court judge.
4. A juvenile or assistant district attorney.
5. A legal counsel for children and youth.
6. A juvenile court counselor.
7. A probation worker.
8. Representatives of public agencies concerned with delinquency prevention, which may include a social services agency, a mental health agency, a state education agency, a special education program, a recreation program, or a youth services agency.
9. Private non-profit agencies working with children including persons with a special focus on parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children and programs focused on preserving and strengthening families.
10. Volunteers who work with delinquents or potential delinquents.
11. Youth workers in alternative programs including organized recreation programs, vocational programs, or other skill-building programs.
12. Programs providing alternatives to suspension and expulsion, including experience with the prevention of school violence, vandalism, and similar issues.
13. Persons with special experience relating to learning disabilities, emotional difficulties, child abuse and neglect, or youth violence.
14. State or local police departments.
15. Local sheriff's departments.
16. Private non-profit victim's advocacy organizations (guardian ad litem).
17. Non-profit religious or community groups.

Section 2. Terms of Service

The terms of service for the members shall be for two years provided that the Governor may remove any member or the chair at any time for misfeasance, malfeasance, or nonfeasance to ensure continued compliance with federal requirements.

Section 3. Chair

The chair of the Juvenile Justice Planning Committee shall be designated by and shall serve at the pleasure of the Governor.

Section 4. Meetings

The Juvenile Justice Planning Committee shall meet at least quarterly upon the call of the chair or upon written request of one-third of its membership. A majority of the committee shall constitute a quorum for the transaction of business.

Section 5. Administration of Federal Grants

The Juvenile Justice Planning Committee shall serve as North Carolina's advisory board for purposes of administering juvenile justice and delinquency prevention grants from the Department of Justice.

Section 6. Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until December 14, 2011, pursuant to N.C. Gen. Stat. § 147-16.2 or 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 fifteenth day of December 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



EXECUTIVE ORDER NO. 41

REESTABLISHING THE NORTH CAROLINA COMMISSION ON
VOLUNTEERISM AND COMMUNITY SERVICE

WHEREAS, the increasing realization of the importance of volunteerism and civic engagement; the growing recognition of community service as a means of community and state problem-solving; and the revival of national services as an avenue for addressing many of the country's unmet social, environmental, educational, public safety, and homeland security needs have revealed new options for enhancing the quality of life for North Carolinians; and

WHEREAS, promoting the capacity of North Carolina's people, communities, and enterprises to work collaboratively is vital to the long-term prosperity of this State; and

WHEREAS, building and encouraging community services as an integral component of the formula to our growth as a State and as a nation requires cooperative efforts by the public sector, the private sector, the nonprofit sector, and partnerships among these sectors; and

WHEREAS, a State Commission is necessary to assist in the development and implementation of a comprehensive, statewide service plan for promoting and recognizing volunteer involvement and citizen participation in North Carolina.

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

Section 1. Establishment

The North Carolina Commission on Volunteerism and Community Service ("Commission") is hereby established to encourage and recognize community service and volunteer participation as a means of community and state problem-solving; to promote and support voluntary citizen engagement in government and private programs throughout the state; to develop a long-term, comprehensive vision and plan of action for community service initiatives in North Carolina; and to serve as the State's liaison to national and state organizations that support its mission.

Section 2. Membership

- a. All members of the Commission shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Commission shall consist of no fewer than 15, and no more than 25, voting members.
- b. Commission members shall serve terms of three years, except upon establishment of the Commission. Initial appointment terms shall be staggered for one, two, or three years so that approximately one-third of the terms expire each year. Vacancies among the members shall be filled by the Governor to serve for the remainder of the unexpired term.
- c. To the extent practicable, the members of the Commission shall be diverse with respect to ethnicity, age, disability, gender, and race.
- d. Not more than 50 percent of the members of the Commission, plus one member, may be from the same political party.
- e. The number of voting members of the Commission who are officers or employees of the State may not exceed 25 percent (reduced to the nearest whole number) of the total membership of Commission members; although, additional state agency representatives may sit on the Commission as non-voting members.
- f. The Commission shall include the following voting members:
 - 1. An individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth.
 - 2. An individual with experience in promoting the involvement of older adults in service and volunteerism.
 - 3. A representative of a community-based, nonprofit agency or organization within the State.
 - 4. The Superintendent of the Department of Public Instruction, or designee.
 - 5. A representative of the volunteer sector.
 - 6. A representative of the military or veterans.
 - 7. A representative of the faith community.
 - 8. A representative of local governments in the State.
 - 9. A representative of local labor organizations in the State.
 - 10. A representative of business.
 - 11. An individual between the ages of 16 and 25 who is a supervisor or recipient in a volunteer or service program.
 - 12. A representative of a national service program described in Section 122(a) of the United State Public Law (P.L.) 103-82, such as a youth corps program described in Section 122(a)(2).
- g. The Commission also may include the following voting members:
 - 1. Members selected from among local educators.
 - 2. Members selected from among experts in the delivery of human, educational, environmental, homeland security, or public safety services to communities and persons.
 - 3. Representatives of Native American tribes.

4. Members selected from among out-of-school youth or other "at-risk" youth.
 5. Representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 *et seq.*).
- h. The Commission shall include the following non-voting members:
1. A representative of the Corporation for National and Community Service described in Section 122(a) of P.L. 103-82.
 2. A designee from the Governor's Office.
 3. A designee from the Director of the Department of Public Instruction's Learn and Serve School-Based Program.

Section 3. Officers

The Officers of the Commission shall be the Chair and Vice-Chair. All officers shall be elected by the voting Commission members from among their ranks. Officers shall serve for a term of one year. Vacancies in any offices shall be filled with an election by the Commission for the remainder of the unexpired term.

- a. Chair. It shall be the responsibility of the Chair to preside at all meetings of the Commission, to appoint all committee chairs, to assist all committee chairs in the planning of committee plans, to authorize and execute the wishes of the Commission, and to be an ex-officio member of all committees, unless other specific committee responsibilities are assigned to the Chair.
- b. Vice-Chair. The Vice-Chair shall assist the Chair and, in the absence of the Chair, shall perform the duties of the Chair. The Vice-Chair shall accept special assignments from the Chair and shall perform other duties as delegated by the Commission.

Section 4. Committees

a. Standing Committees

Standing committees of the Commission shall include the Executive Committee, the Program Management Committee, and the Nominating Committee. The standing committees shall advise and assist the Commission in carrying out its duties and responsibilities. Committee chairs shall be appointed by the Commission Chair from among Commission members; however, the committee members need not be limited to Commission members. The Commission Chair, in consultation with the committee chairs, shall name committee members.

1. Executive Committee. The Executive Committee shall be comprised of the Chair and Vice-Chair of the Commission, along with the chairs (or co-chairs) of all standing committees, ad hoc committees, and task forces. The Chair of the Commission shall serve as the Chair of the Executive Committee.
2. Program Management Committee. The Program Management Committee shall be comprised of a chair and two voting members of the Commission. The Committee shall review all grant applications submitted to the Commission for funding by the

Corporation for National and Community Service. Committee members shall participate in the peer review processes, make programmatic and funding recommendations to the full Commission, participate in pre-award site visits, and assist staff in addressing any programmatic and funding issues that may occur during the program year.

3. Nominating Committee. The Nominating Committee shall be comprised of a chair and two voting members of the Commission. The Commission Chair shall appoint nominating committee members at the third quarterly meeting of the Commission. The Nominating Committee shall provide a nominating report at the fourth quarterly meeting of the Commission.

b. Ad Hoc Committees

The Commission may establish ad hoc committees or task forces as necessary to carry out the Commission's duties.

Section 5. Meetings

- a. The Commission shall meet at least quarterly. Failure to attend at least 75 percent of called meetings in any calendar year may result in a recommendation to the Governor to remove the member from the Commission. For the purpose of transacting the business of the Commission, a quorum shall consist of a simple majority of voting members.
- b. A voting member of the Commission shall not participate in the administration of a grant program described below in Section 6p (including any discussion or decision regarding the provision of assistance or approved national service positions, or the continuation, suspension, or termination of such assistance or such positions, to any program entity) if (1) a grant application related to the program is pending before the Commission and (2) the application was submitted by a program or entity of which such Commission member is, or in the one-year period before submission of such application was, an officer, director, trustee, full-time volunteer, or employee.

Section 6. Duties

The Commission shall perform the following tasks and functions:

- a. Ensure that its funding decisions meet all federal and state statutory requirements.
- b. Recommend innovative, creative, statewide service programs to increase volunteer participation in all age groups and community-based problem-solving among diverse participants.
- c. Promote strong interagency collaboration as an avenue for maximizing resources and provide that model on the state level.
- d. Provide public recognition and support of individual volunteer efforts, successful or promising initiatives, and public/private partnerships that address community needs.

- e. Stimulate increased community awareness of the impact of volunteer services in North Carolina.
- f. Utilize local, state, and federal resources to reinforce, expand, and initiate quality service programs.
- g. Serve as the State's liaison and voice to appropriate national and state organizations that support its mission.
- h. Prepare a three-year plan for the State, in accordance with state and federal guidelines, that is developed through an open and public process (such as regional forums, hearings, and other means that provide maximum participation and input). Update the three-year plan annually.
- i. Establish a web-based registry that allows organizations to register their volunteer needs and allows individuals to find service opportunities.
- j. Prepare the financial assistance applications of the State under Sections 117B and 130 of P.L. 103-82.
- k. Assist in the preparation of the application of the North Carolina Department of Public Instruction for assistance under Section 113 of P.L. 103-82.
- l. Prepare the State's application under Section 130 of P.L. 103-82 for the approval of service positions, such as the national service educational award described in Subtitle D of P.L. 103-82.
- m. Make technical assistance available to enable applicants for assistance under Section 121 of P.L. 103-82 to plan and implement service programs and to apply for assistance under the federal service laws.
- n. Assist in the provision of health care and child care benefits under Section 140 of P.L. 103-82 to participants in national service programs that receive assistance under Section 121 of P.L. 103-82.
- o. Develop a state system for the recruitment and placement of participants in programs that receive assistance under the national service laws and disseminate information concerning national service programs that receive such assistance or approved national service positions.
- p. Administer the State's grant program in support of national service programs (using assistance provided to the State under Section 121 of P.L. 103-82) including selection, oversight, and evaluation of grant recipients.
- q. Make recommendations to the Corporation for National and Community Service with respect to priorities for programs receiving assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. § 4950 *et seq.*).

- r. Develop projects, training methods, curriculum materials, and other materials and activities related to national service programs that receive assistance directly from the Corporation for National and Community Service or from the State using assistance provided under Section 121 of P.L. 103-82, for use by programs that request such projects, methods, materials, and activities.
- s. Establish a North Carolina Business Volunteer Council to develop employee volunteer programs and volunteerism in the work place and to facilitate partnerships between the business community, nonprofit organizations, volunteer centers, and public agencies to gain a greater understanding of the community and its needs.

Section 7. Administration and Expenses


The Governor's Office shall provide necessary administrative and staff support services to the Commission. The Commission is authorized to accept funds and in-kind services from other state and federal entities, as authorized by the North Carolina State Budget Act. No per diem allowance shall be paid to members of the Commission. Members of the Commission and staff may receive necessary travel and subsistence expenses in accordance with State law. These expenses shall be paid from federal funds where possible. If federal funds are not available, these expenses may be paid only if the Governor's Office has sufficient funds.

Section 8. Duration

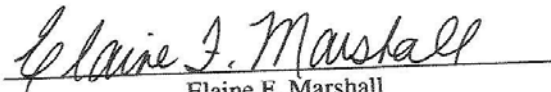
This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 136 issued on February 7, 2008. This Executive Order shall remain in effect until December 16, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or 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 seventeenth day of December 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



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 42

EMERGENCY RELIEF FOR DAMAGE CAUSED BY ICE/SNOW STORM

WHEREAS, I have proclaimed that a State of Emergency and threatened Disaster exists in North Carolina due to the imminent ICE/SNOW STORM thereby, justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. §§ 166A-4 and 166A-6(c)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing UTILITIES to relieve our grief stricken counties must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118; I have further found that citizens in those counties will likely suffer losses and, therefore, invoke an imminent threat of widespread damage within the meaning of N.C.G.S. § 166-A-4(3).

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

Section 1.

The Department of Crime Control & Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties therefore arising under N.C.G.S. §§ 20-116 and 20-118 and certain registration requirements and penalties therefore arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, 105-449.49 for the vehicles transporting UTILITIES along North Carolina roadways to our grief stricken counties.

Section 2.

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

- A. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.

- B. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- C. When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length 75 feet from bumper to bumper.

Section 3.

Vehicles referenced under Section 1 shall be exempt from the following registration requirements:

- A. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.
- B. The registration requirements under N.C.G.S. § 20-382 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.
- C. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 4.

The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 5.

The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations) **does not apply** to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 6.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner, which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 7.

Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts associated with the **WINTER STORM**.

Section 8.

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

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this **eighteenth** day of **December** 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

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 43

TEMPORARY SUSPENISON OF MOTOR VEHLCE REGULATIONS TO ENSURE ADEQUATE FUEL SUPPLIES THROUHOUT THE STATE

WHEREAS, I have determined that a state of emergency exists due to the continued period of cold weather and the after-effects of the winter storm in Western North Carolina, thereby, justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations); and

WHEREAS, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum gas to residential and commercial establishments is essential during wintertime and any interruption in the delivery of those fuels threatens the public welfare; and

WHEREAS, the continued period of cold weather has increased the demand for those heating fuels, and threatens the uninterrupted delivery of those fuels to residential and commercial customers; and

WHEREAS, 49 CFR § 390.23 allows the governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. §§ 166A-4 and 166A-6.03(b) the Governor, may declare that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service for drivers proscribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels.

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

Section 1.

The Department of Crime Control and Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers proscribed by the Department of Crime Control and Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

Notwithstanding the waiver set forth above, size and weight restrictions and penalties are not waived.

Section 3.

The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations) does not apply to the commercial drivers' licenses and insurance requirements.

Section 4.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, and 3 of this Executive Order in a manner which will implement this rule without endangering motorists in North Carolina.

Section 5.

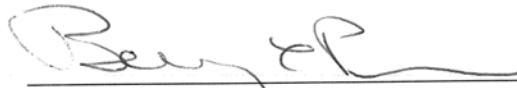
Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with the cold weather and winter storm.

Section 6.

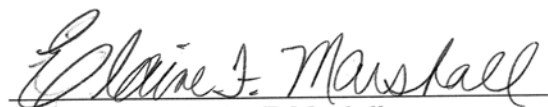
This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

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

**DEPARTMENT OF HEALTH AND HUMAN SERVICES,
DIVISION OF MEDICAL ASSISTANCE**

Public Hearing for Rules 10A NCAC 22N

The Department of Health and Human Services, Division of Medical Assistance has continued the public hearing for ***Medical Assistance Eligibility, Provider Enrollment, Provider Performance Bond*** rules published January 4, 2010 in the North Carolina Register Volume 24, Issue 13, pages 1063-1064. A public hearing will be held 10:00 a.m., Wednesday, February 17, at Dorothea Dix Campus, Kirby Building room 132 (1985 Umstead Drive, Raleigh, NC 27603).

Verbal comments will be accepted for the following rules:

10A NCAC 22N .0401 – Default
10A NCAC 22N .0402 – Requirement for Provider Performance Bonds
10A NCAC 22N .0403 – Definitions

Concerns should be directed to Teresa Smith, DMA Rule-making Coordinator, at Teresa.Smith@dhhs.nc.gov.



U.S. Department of Justice

Civil Rights Division

CC:JER:JDII:par
DJ 166-012-3
2009-1875

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

RECEIVED

AUG 03 2009

July 29, 2009

N.C. BOARD OF ELECTIONS

Don Wright, Esq.
General Counsel
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

Dear Mr. Wright:

This refers to Session Law 2009-47 (H.B. 220) (2009), to the extent it modifies the pledge taken by primary candidates to conform with the requirements of the write-in eligibility statute, for the State of 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 11, 2009.

The Attorney General does not interpose any objection to the specified change. 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 change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41 and 51.43.

Sincerely,

for J. Eric Rich

Christopher Coates
Chief, Voting Section

SEP-18-2009 14:52

P.02/02



U.S. Department of Justice
Civil Rights Division

CC:JER:ZB
DJ 166-012-3
2009-2215

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

SEP 18 2009

Alexander McC. Peters, Esq.
Special Deputy Attorney General
P.O. Box 629
Raleigh, North Carolina 27602-0629

Dear Mr. McC. Peters:

This refers to Session Law 2009-78 (H.B. 1621) (2009), which enacts a limited redistricting plan for the North Carolina House of Representatives, for the State of 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 July 20, 2009.

The Attorney General does not interpose any objection to the specified change. 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 change. 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 "Christopher Coates".

Christopher Coates
Chief, Voting Section

TOTAL P.02



U.S. Department of Justice
Civil Rights Division

CC:JR:JDH:par
DJ 166-012-3
2009-2001

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

August 18, 2009

Don Wright, Esq.
General Counsel
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

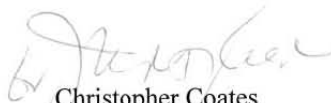
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AUG 24 2009
N.C. BOARD OF ELECTIONS

Dear Mr. Wright:

This refers to Session Law 2009-96 (H.B. 170) (2009), concerning the applicability of dual office holding provisions to the office of presidential elector, including the requirement that the Secretary of State notify candidates for this office of the effect of these provisions, for the State of 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 24, 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,


Christopher Coates
Chief, Voting Section



U.S. Department of Justice
Civil Rights Division

CC:JBG:JDH:par
DJ 166-012-3
2009-2234

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

September 9, 2009

Don Wright, Esq.
General Counsel
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

RECEIVED

SEP 15 2009

N.C. BOARD OF ELECTIONS

Dear Mr. Wright:

This refers to Session Law 2009-277 (S.B. 248) (2009), which makes a technical change to G.S.115C-37.1 to accurately reflect the counties that elect their school boards on a partisan basis, for the State of 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 July 23, 2009.

Our analysis indicates that the submitted change does not affect voting and, therefore, is not subject to the requirements of Section 5. Accordingly, no determination by the Attorney General is required or appropriate under Section 5. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.2, 51.12, 51.13, and 51.35.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Coates".

Christopher Coates
Chief, Voting Section



U.S. Department of Justice
Civil Rights Division

CC:JR:JDH:tst
DJ 166-012-3
2009-3035

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

October 23, 2009

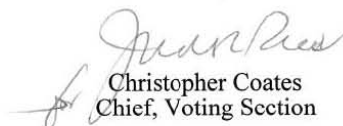
Don Wright, Esq.
General Counsel, State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

Dear Mr. Wright:

This refers to Session Law 2009-414 (S.B. 38) (2009), which makes non-substantive changes to General Statutes Sections 160A-23.1, 163-291(2), and 163-294.2(c), regarding municipal redistricting and related matters for the State of 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 August 28, 2009.

The Attorney General does not interpose any objection to the specified change. 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 change. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,


Christopher Coates
Chief, Voting Section

RECEIVED
NOV 06 2009
N.C. BOARD OF ELECTIONS



U.S. Department of Justice
Civil Rights Division

CC:JBG:JDH:tst
DJ 166-012-3
2009-3046

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

October 23, 2009

Don Wright, Esq.
General Counsel, Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

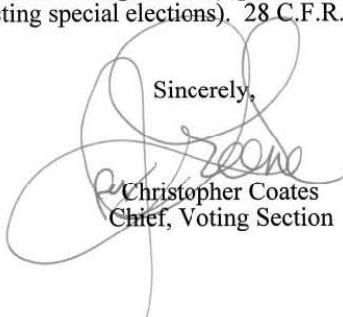
Dear Mr. Wright:

This refers to Session Law 2009-527 (H.B. 148) (2009), which authorizes the creation of special transportation authority districts, including annexation and referendum procedures and provides ballot format for such districts for the State of 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 August 28, 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.

Session Law 2009-527 includes provisions that are enabling in nature. Therefore, local jurisdictions are not relieved of their responsibility to seek Section 5 review of any changes affecting voting that are adopted pursuant to this legislation (*e.g.*, creation of special districts, annexations, and procedures for conducting special elections). 28 C.F.R. 51.15.

Sincerely,


Christopher Coates
Chief, Voting Section

RECEIVED

NOV 06 2009

N.C. BOARD OF ELECTIONS



U.S. Department of Justice
Civil Rights Division

CC:RPL:SMC:par
DJ 166-012-3
2009-3058

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

October 22, 2009

Don Wright, Esq.
General Counsel
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

RECEIVED

OCT 28 2009

N.C. BOARD OF ELECTIONS

Dear Mr. Wright:

This refers to Session Law 2009-537 (S.B. 253) (2009), which includes the following changes related to absentee voting laws for military and overseas voters:

SECTION 1.

1. provides that the State Board of Elections will approve an official register of military absentee ballot applications;

2. requires the State Board of Elections to approve an official register of military absentee ballot applications and ballots issued, and permits the State Board of Elections to provide that the register be kept by electronic data processing equipment with a copy or supplement printed each business day;

3. requires the State Board of Elections and the county boards of elections to have all necessary absentee ballots printed and in the hands of the proper election officials no later than 60 days before the statewide general election in even-numbered years and no later than 50 days before the primary or any other election; and further provides that in the case of municipal elections, absentee ballots are to be made available no later than 30 days before an election;

4. requires that container-return envelopes be printed and available for use no later than 60 days before the statewide general election in even-numbered years and no later than 50 days before the primary or any other election; and further provides that in the case of municipal elections, container-return envelopes be made available no later than 30 days before an election;

5. requires a space on the container-return envelope for the chairman of the county board of elections to designate the precinct where the applicant is registered ;

6. adds "A United States citizen currently outside the United States" to the list of choices to designate when using the "Certificate of Absentee Voter";

-2-

7. changes the requirement that the absentee voting certificate must be witnessed by two qualified persons to one qualified person; and

8. requires that instruction sheets for absentee ballots be printed and available for use no later than the date of ballot availability;

SECTION 2.

1. requires that a board of elections provide absentee ballots of the kinds needed 60 days prior to the statewide general election in even-numbered years and 50 days prior to the date on which any other election is conducted;

SECTION 3.

1. removes the requirement that the reason assigned for requesting absentee ballots be included in the official register of absentee requests maintained by county boards of elections; and

2. requires that the official register be opened for inspection by any registered voter of the county 60 days before and 30 days after an election in which absentee ballots were authorized;

SECTION 4.

1. requires that the county board of elections print a sufficient number of envelopes in which persons casting absentee ballots may transmit their marked ballots to the county board of elections in time for use no later than 60 days before a statewide general election in an even-numbered year, and no later than 50 days before a statewide primary, other general election or county bond election; and further provides that in the case of municipal elections, sufficient container-return envelopes be made available no later than 30 days before an election; and

2. requires that the county board of elections prepare and print a sufficient number of sheets of instructions on how voters are to prepare absentee ballots and return them to the county board of elections in time for use no later than 60 days before a statewide election in an even-numbered year, and no later than 50 days before a statewide primary, other general election or county bond election; and further provides that in the case of municipal elections, instruction sheets shall be made available no later than 30 days before an election;

SECTION 5.

1. provides that the county board of elections may receive written requests for applications at any time prior to an election but cannot not mail applications and ballots to the voter or issue applications and ballots in person earlier than 60 days prior to the statewide general election in an even-numbered year, or earlier than 50 days prior to any other election;

-3-

SECTIONS 6 and 7.

1. changes the requirements that absentee voting and ballot transmission must be done in the presence of two qualified persons to one qualified person;

SECTION 8(a).

1. provides that with regard to the transmission of executed absentee ballots to county boards of election, any ballot received later than 5pm will not be accepted unless (i) federal law so requires, (ii) if ballots issued under Article 20 of this Chapter are postmarked by the date of the statewide primary or general election or county bond election and are received by the county board of elections no later than 3 days after the election by 5pm, or (iii) if ballots issued under Article 21 of this Chapter are received by the county board of elections no later than 3 days after the election by 5pm. Ballots issued under Article 20 of this Chapter not postmarked by the date of the election shall not be accepted by the county board of elections;

SECTION 8(b).

1. adds an entirely new section requiring a certified list of executed absentee ballots received on or after election day, and requires publication of said list;

SECTION (c).

1. adds that with regard to the time to challenge an absentee ballot, an absentee ballot of any voter received by the county board of elections pursuant to G.S. 163-231(b)(ii) or (iii) may be challenged no earlier than noon on the day following the election and no later than 5pm on the next business day following the deadline for receipt of such absentee ballots;

SECTION 8(d).

1. adds language that with regard to counting absentee ballots, only absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) will be counted;

2. adds that with regard to counting absentee ballots, a resolution may be adopted at least two weeks prior to the election to provide for an additional meeting following the day of the election and prior to the day of canvass to county absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii); and

3. adds that the county board of elections will meet after election day and prior to the date of canvass to determine where the container-return envelopes for absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) has been properly executed; the county board of elections will comply with the requirements of G.S. 163-230.1 for approval of applications; any absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) shall be counted by the county board of elections on the day of canvass; the county board of elections is authorized to meet

-4-

following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) upon the adoption of a resolution; and the county board of elections is required to comply with all other requirements of the legislation for the counting of such absentee ballots;

SECTION 9.

1. provides the State Board of Elections with emergency rule-making powers to develop special procedures or requirements to facilitate absentee voting by absentee uniformed service or other overseas voters directly affected by an international, national, or local emergency or other situation which makes substantial compliance with the propose legislation or with UOCAVA impossible or unreasonable; and

SECTION 10.

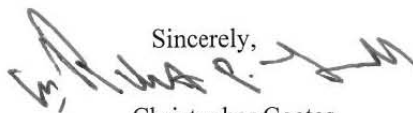
1. provides that the State Board of Elections shall allow counties to mail out absentee ballots as soon as they are available, in those instances where the law requires ballots to be available for mailing 60 days before the general election and they are not ready by that date;

for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 31, 2009; supplemental information was received on October 14, 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. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41 and 51.43.

Session Law 2009-537 includes provisions that are enabling in nature. Therefore, the State is not relieved of its responsibility to seek Section 5 review of any changes affecting voting that are adopted pursuant to this legislation (*e.g.*, any special procedures adopted by the State Board of Elections to facilitate absentee voting by absentee uniformed service or other overseas voters directly affected by an international, national, or local emergency or other situation which makes substantial compliance with the propose legislation or with UOCAVA impossible or unreasonable). 28 C.F.R. 51.15

Sincerely,



Christopher Coates
Chief, Voting Section



U.S. Department of Justice

Civil Rights Division

CC:MSR:KR:tst
DJ 166-012-3
2009-3052

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

October 22, 2009

Don Wright, Esq.
General Counsel, Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

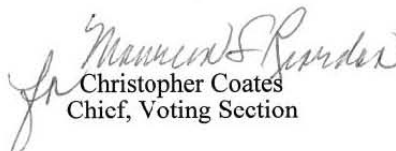
RECEIVED
OCT 28 2009
N.C. BOARD OF ELECTIONS

Dear Mr. Wright:

This refers to Session Law 2009-541 (H.B. 908) (2009), which makes numerous changes to state election law and Session Law 2009-526 (H.B. 191) (2009), which makes a technical amendment to Session Law 2009-541 to ensure the language is gender neutral, for the State of 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 August 31, 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,


Christopher Coates
Chief, Voting Section



U.S. Department of Justice
Civil Rights Division

CC:MSR:JDH:tst
DJ 166-012-3
2009-3060

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

October 26, 2009

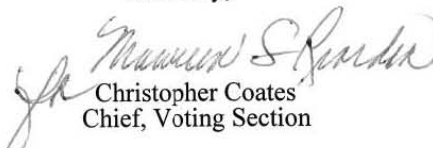
Don Wright, Esq.
General Counsel, State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

Dear Mr. Wright:

This refers to Session Law 2009-543 (H.B. 907) (2009), which amend judicial public campaign finance laws for the State of 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 August 31, 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,


Christopher Coates
Chief, Voting Section



U.S. Department of Justice
Civil Rights Division

CC:JER:SHH:par
DJ 166-012-3
2009-3196

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

November 2, 2009

Don Wright, Esq.
General Counsel
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

RECEIVED
NOV 05 2009
N.C. BOARD OF ELECTIONS

Dear Mr. Wright:

This refers to Section 1 of Session Law 2009-549 (H.B. 817) (2009), insofar as it allows hearings of the Legislative Ethics Committee to be held no earlier than 15 days after notice of the hearing, and amends the language of G.S. 120-103.1(j)(2)(c) relating to referrals from the committee, for the State of 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 September 4, 2009; supplemental information was received on October 29, 2009.

The Attorney General does not interpose any objection to the specified change. 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 change. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

for J. Eric Rich

Christopher Coates
Chief, Voting Section



U.S. Department of Justice
Civil Rights Division

RECEIVED

TCH:RSB:JBG:JR:JDH:tst DEC 28 2009
DJ 166-012-3
2009-3793

N.C. BOARD OF ELECTIONS

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

December 22, 2009

Don Wright, Esq.
General Counsel
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611-7255

Dear Mr. Wright:

This refers to Session Law 2009-570 (S.B. 220) (2009), which revises the title of a campaign finance reporting provision; and Session Law 2009-534 (H.B. 1111) (2009), which amends campaign finance laws with regard to the following: the terms "candidate," "contribution," "expenditure" and "legal expense donation;" limitations on donations allowed each calendar year; expenditures, subject to, and the amount of campaign funds, exempt from, disclosure reporting, and the definitions of electioneering communications and candidate-specific communications; and the residency requirement for campaign treasurers, for the State of 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 November 18, 2009.

With regard to Session Law 2009-570, we understand that the submitted matter does not represent any change from the prior law or practice. Accordingly, no determination by the Attorney General is required or appropriate under Section 5. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.2 and 51.35.

The Attorney General does not interpose any objection to the remaining 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. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. 28 C.F.R. 51.41 and 51.43.

Sincerely,


T. Christian Herren, Jr.
Acting Chief, Voting Section



U.S. Department of Justice

Civil Rights Division

CC:MSR:JDH:tst
DJ 166-012-3
2009-3255

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

November 5, 2009

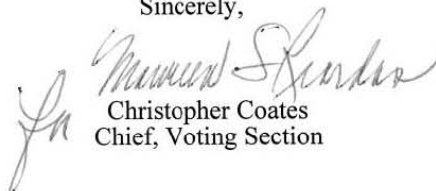
Don Wright, Esq.
General Counsel, State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

Dear Mr. Wright:

This refers to the written statewide Election Information Management System manual utilized for one-stop early voting sites for the State of 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 September 11, 2009; supplemental information was received on November 2, 2009.

The Attorney General does not interpose any objection to the specified change. 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 change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41 and 51.43.

Sincerely,


Christopher Coates
Chief, Voting Section



U.S. Department of Justice
Civil Rights Division

CC:JBG:JDH:tst
DJ 166-012-3
2009-3243

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

November 3, 2009

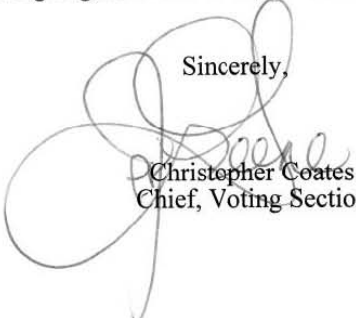
Don Wright, Esq.
General Counsel, State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611

Dear Mr. Wright:

This refers to the guidelines and procedures for counting and auditing post-election results for municipal and special elections for the State of 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 September 9, 2009.

The Attorney General does not interpose any objection to the specified change. 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 change. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,


Christopher Coates
Chief, Voting Section

RECEIVED
NOV 06 2009
N.C. BOARD OF ELECTIONS



U.S. Department of Justice

Civil Rights Division

CC:MSR:ZB:maf
DJ 166-012-3
2009-1346

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

May 28, 2009

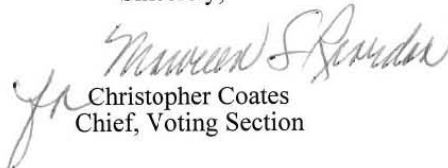
Don Wright, Esq.
General Counsel
P.O. Box 27255
Raleigh, North Carolina 27611-7255

Dear Mr. Wright:

This refers to the voter registration guidelines promulgated by the North Carolina State Board of Elections pertaining to the handling of incomplete voter registration applications, the transmission of improperly directed voter registration applications, the utilization of the National Change of Address Program, and the provision of a default date of birth under specific circumstances for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on April 1, 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 (28 C.F.R. 51.41).

Sincerely,


Christopher Coates
Chief, Voting Section



STATE BOARD OF ELECTIONS

GARY O. BARTLETT
Executive Director

Mailing Address:
P.O. BOX 27255
RALEIGH, NC 27611-7255

December 23, 2009

The Honorable Cary Dale Allred
4307 Sartin Rd.
Burlington, N.C. 27217

Re: Request for Interpretation of N.C. Gen. Stat. § 163-278.16B's Applicability to
Expenditures by the Citizens for Cary Allred Political Committee; Advisory Opinion
Pursuant to N.C. Gen. Stat. § 163-278.23

Dear Rep. Allred:

You have requested authorization to make expenditures to reimburse yourself from the Cary Allred Political Committee for courts costs, a fine, a lawyer's fee and the fee for a limited driving privilege arising from a ticket for speeding on April 27, 2009 as you traveled to Raleigh from Burlington. Under N.C. Gen. Stat. § 163-278.16B, a campaign committee must use contributions only for the listed purposes. Two provisions of the statute identify applicable permissible expenditures:

2) Expenditures resulting from holding public office.

....

(7) Payment of any penalties against the candidate or candidate's campaign committee for violation of this Article [22A of Chapter 163] imposed by a board of elections or a court of competent jurisdiction.

The expenses you identify do not fall within either of these categories.

While travel expenses that result from holding public office would be permissible expenses, these are not such expenses. These are costs associated with a charge for a violation of the law. While it was necessary for you as a legislator to travel to Raleigh from your home, it was not necessary for you to do so in a manner that violated the law. Nor were the fine and court costs penalties assessed for violation of the campaign finance laws such that they would be permissible expenditures under (7) above.

For these reasons, it is my opinion that the reimbursement you request from your political committee is not authorized by N.C. Gen. Stat. § 163-278.16B.

(continued)

LOCATION: 506 NORTH HARRINGTON STREET • RALEIGH, NORTH CAROLINA 27603 • (919) 733-7173

Page 2
Allred Letter
December 23, 2009

This opinion is based upon the information provided in your letter of November 19. If the information should change, you should evaluate whether this opinion is still applicable and binding. Finally, this opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

Sincerely,

Gary O. Bartlett

Gary O. Bartlett
Executive Director

cc: Julian Mann, III, Codifier of Rules

Notice of Application for Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Environment and Natural Resources (DENR) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a wastewater system, component, or device for on-site subsurface use. The following applications have been submitted to DENR:

Application by: Jason Churchill
Orenco Systems, Inc
814 Airway Ave
Sutherlin, OR 97479

For: Innovative Approval for Effluent Pump Packages

DENR Contact: Ted Lyon
1-919-715-3274
Fax: 919-715-3227
ted.lyon@ncmail.net

These applications may be reviewed by contacting the applicant or at 2728 Capital Blvd., Raleigh, NC, On-Site Water Protection Section, Division of Environmental Health. Draft proposed innovative approvals and proposed final action on the application by DENR can be viewed on the On-Site Water Protection Section web site: http://www.deh.enr.state.nc.us/osww_new/new1/index.htm.

Written public comments may be submitted to DENR within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Ted Lyon, Chief, On-site Water Protection Section, 1642 Mail Service Center, Raleigh, NC 27699-1642, or ted.lyon@ncdenr.gov, or fax 919.715.3227. Written comments received by DENR in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

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 15A – DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rule cited as 15A NCAC 07H .0104.

Proposed Effective Date: June 1, 2010

Public Hearing:

Date: March 24, 2010

Time: 5:00 p.m.

Location: Sea Trail Golf Resort and Convention Center, 75A Clubhouse Road, Sunset Beach, NC 28468

Reason for Proposed Action: The Coastal Resources Commission (CRC) is initiating rule making in order to amend its administrative rules governing the application of erosion rates for development adjacent to the oceanfront shoreline. Continued review of the existing language by DCM identified a need to simplify the rule language and clarify its intent.

Procedure by which a person can object to the agency on a proposed rule: Objections may be filed in writing and addressed to the Director, NC Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557.

Comments may be submitted to: James Gregson, Director, 400 Commerce Avenue, Morehead City, NC 28557, phone (252)808-2808

Comment period ends: April 5, 2010

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

Fiscal Impact:

☐

State

☐

Local

☐

Substantial Economic Impact (≥\$3,000,000)

☒

None

CHAPTER 07 - COASTAL MANAGEMENT

**SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS
OF ENVIRONMENTAL CONCERN**

**SECTION .0100 - INTRODUCTION AND GENERAL
COMMENTS**

**15A NCAC 07H .0104 APPLICATION OF EROSION
RATE SETBACK FACTORS**

~~(a) Development on lots created after January 29, 2004 shall comply with the current erosion rates established pursuant to 15A NCAC 07H .0304.~~

~~(b) Development on lots created between June 1, 1979 and January 29, 2004 must comply with the current rates to the maximum extent feasible and have a minimum setback equal to the rates in effect at the time the lots were created, or, those rates in effect at the time of issuance of any active CAMA permit for development on those lots, whichever is more restrictive.~~

(a) Development on lots created on or after June 1, 1979 shall utilize the current erosion rate setback factor in the calculation of the development setback pursuant to 15A NCAC 07H .0304. If application of the current erosion rate setback factor in the calculation of the development setback would preclude the placement of permanent buildings, then the erosion rate in effect at the time that the lot was created may be utilized in the calculation of the development setback, provided that the development:

- (1) shall comply with the current erosion rate setback factor to the maximum extent possible;
- (2) is located at the landward most position of the lot without violating local zoning requirements;
- (3) shall extend no further oceanward than the landward-most adjacent building; and
- (4) shall be no more than 2,000 square feet in total floor area.

~~(e)(b)~~ Development on lots created prior to June 1, 1979 shall comply with the provisions of 15A NCAC 07H .0309(b) and (c).

Authority G.S. 113A-107; 113A-113; 113A-124.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 15A NCAC 18A .2633.

Proposed Effective Date: August 1, 2010

Public Hearing:

Date: February 16, 2010

Time: 10:00 a.m.

Location: 2728 Capital Boulevard, Room 1a201, Raleigh, NC

Reason for Proposed Action: *This rule is proposed to clarify the presence of animals on the premises of a food service establishment. The amendment states that live animals shall not be allowed on the premises of a food service establishment except in specific situations (e.g. patrol dogs, services animals).*

Procedure by which a person can object to the agency on a proposed rule: *Objections to this rule can be mailed, couriered, emailed, faxed or hand delivered to: Larry Michael, DENR Division of Environmental Health, 1632 Mail Service Center, 2728 Capital Boulevard, Raleigh, NC 27699-1632, phone (919)715-0927, email larry.michael@ncdenr.gov.*

Comments may be submitted to: *Larry Michael, 1632 Mail Service Center, Raleigh, NC 27699-1632, phone (919)715-0938, fax (919)715-4739, larry.michael@ncdenr.gov*

Comment period ends: April 5, 2010

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

Fiscal Impact:

- ☐ State
☐ Local
☐ Substantial Economic Impact (≥\$3,000,000)
☒ None

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .2600 – THE SANITATION OF FOOD SERVICE ESTABLISHMENTS

15A NCAC 18A .2633 PREMISES: MISCELLANEOUS: VERMIN CONTROL

(a) None of the operations shall be conducted in any room used for domestic purposes. A domestic kitchen shall not be used in connection with the operation of a food service establishment. When a meat market is located in the same room with a grocery store or other establishment, the area in which the meat, meat food products, poultry, or poultry products are stored, handled, and displayed shall be kept free from other merchandise, and the grocery store or other establishment shall be kept clean and free of vermin.

(b) Soiled linens, coats, and aprons shall be kept in containers provided for this purpose. Laundered table linen and cleaning cloths shall be stored in a clean place until used.

(c) Toxic materials, cleaners, sanitizers, or similar products used in a food service establishment shall be labeled with the common name or manufacturer's label.

(d) A special area for storage of toxic materials shall be provided and marked as toxic materials. This requirement shall not apply to cleaners and sanitizers used frequently in the operation of the food service establishment that are stored for availability and convenience if the materials are stored to prevent the contamination of food, equipment, utensils, linens and single-service items.

(e) Storage shall be provided for mops, brushes, brooms, hoses, and other items in routine use.

(f) Effective measures such as fly repellent fans, self-closing doors, screens, and routine use of approved pesticides shall be taken to keep insects, rodents, animals and other public health pests out of the establishment and to prevent their breeding or presence on the premises.

(g) Except as specified below, live animals shall not be allowed in a food preparation or storage area on the premises of a food service establishment. Live animals ~~shall~~ may be allowed in the following situations if their presence will not result in the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use items:

- (1) fish or crustacea in aquariums or display tanks;
- (2) patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas; and sentry dogs in outside fenced areas;
- (3) service animals accompanying persons with disabilities in areas that are not used for food ~~preparation~~ preparation; and
- (4) pets in outdoor dining areas; provided that pets shall not pass through any indoor areas of the food service establishment and shall not come into contact with employees engaged in the preparation or handling of food, utensils, or other items that may result in contamination of food or food contact surfaces. Nothing in this Rule prohibits a food service establishment from prohibiting pets in outdoor dining areas.

(h) Only those pesticides which have been registered with the U.S. Environmental Protection Agency and with the North Carolina Department of Agriculture and Consumer Services shall be used. Such pesticides shall be used as directed on the label and shall be handled to avoid health hazards.

Authority G.S. 130A-248.

☒ **None**

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 10 - BOARD OF CHIROPRACTIC EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Chiropractic Examiners intends to amend the rule cited as 21 NCAC 10 .0206.

Proposed Effective Date: July 1, 2010

Public Hearing:

Date: March 4, 2010

Time: 10:00 a.m.

Location: Office of the Board of Examiners, 174 Church Street, Concord, NC 28025

Reason for Proposed Action: *The Board is empowered by statute to certify the competency of radiation technologists employed in chiropractic offices. The amendment to Rule 21 NCAC 10 .0206 specifies the manner in which a previously certified technologist whose certificate has lapsed may obtain reinstatement.*

Procedure by which a person can object to the agency on a proposed rule: *Objections may be filed with the Secretary of the Board of Examiners, P.O. Box 312, Concord, NC 28026*

Comments may be submitted to: John A. Webster, DC, Secretary of the Board, P.O. Box 312, Concord, NC 28026

Comment period ends: April 5, 2010

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

Fiscal Impact:

☐

State

☐

Local

☐

Substantial Economic Impact (≥\$3,000,000)

SECTION .0200 - PRACTICE OF CHIROPRACTIC

21 NCAC 10 .0206 CERTIFICATION OF RADIOLOGIC TECHNOLOGISTS

(a) In order to be certified competent pursuant to G.S. 90-143.2, a person employed in a chiropractic office whose duties include the production of x-rays or other diagnostic images must:

- (1) Complete a Board-approved course in radiologic technology at least 50 hours in length and taught by an instructor who is a member of the radiology faculty at a college accredited by the Council on Chiropractic Education; and
- (2) Pass a proficiency examination administered by or under the authority of the Board of Examiners.

(b) Any person registered as "active" with the American Chiropractic Registry of Radiologic Technologists shall be deemed to have satisfied the educational requirements of Paragraph (a) of this Rule.

(c) A certificate of competency issued pursuant to G.S. 90-143.2 shall expire at the end of the calendar year in which it was issued but may be renewed upon a showing that the certificate holder completed six hours of Board-approved continuing education in radiologic technology during the year. Any person whose initial certificate expires less than 12 months after issuance shall not be required to obtain continuing education until entering the second year of certification.

(d) Any person seeking to renew a certificate of competency shall complete and submit the renewal application form provided by the Board of Examiners and pay to the Board a renewal fee in the amount of twenty dollars (\$20.00).

(e) The holder of a certificate issued pursuant to this Rule must display the certificate in the x-ray room of the chiropractic clinic in which the holder is employed in a location where the certificate may be easily viewed by patients.

(f) Other than licensed doctors of chiropractic, only those persons maintaining current certifications of competency in conformity with this Rule may produce x-rays or other diagnostic images in chiropractic offices. A chiropractor who permits the production of x-rays or other diagnostic images by a non-certified employee or an employee whose certification has expired shall be deemed in violation of G.S. 90-154.3.

(g) If a certificate of competency has lapsed due to non-renewal and the lapse does not exceed 12 months, the certificate holder may obtain reinstatement by demonstrating completion of six hours of Board-approved continuing education during or attributed to the preceding calendar year. If the lapse is greater than 12 months, no make-up continuing education shall be required, but the certificate holder shall re-take and pass the proficiency examination described in Paragraph (a)(2) of this Rule. Regardless of the length of lapse, any person seeking reinstatement of a lapsed certificate shall comply with Paragraph (d) of this Rule.

Authority G.S. 90-143.2; 90-154.3.

CHAPTER 46 - BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to adopt the rule cited as 21 NCAC 46 .1418.

Proposed Effective Date: *June 1, 2010*

Public Hearing:

Date: *April 19, 2010*

Time: *5:00 p.m.*

Location: *North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517*

Reason for Proposed Action: *To adopt rules necessary to implement the pharmacy technician provisions of the Pharmacy Practice Act in hospital settings by establishing certain technical validation functions that may be performed by pharmacy technicians with advanced education, training and certification, as a means of facilitating pharmacists' delivery of clinical services.*

Procedure by which a person can object to the agency on a proposed rule: *Any person may object to the proposed amendment by attending the public hearing on April 19, 2010 and/or by submitting a written objection by April 19, 2010 to Jay Campbell, Executive Director, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919)246-1056, email jcampbell@ncbop.org. The North Carolina Board of Pharmacy is interested in all comments pertaining to the proposed rule. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed rule.*

Comments may be submitted to: *Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919)246-1056, email jcampbell.org*

Comment period ends: *April 19, 2010*

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

Fiscal Impact:

- ☐ State
- ☐ Local
- ☐ Substantial Economic Impact (≥\$3,000,000)
- ☒ None

SECTION .1400 - HOSPITALS: OTHER HEALTH FACILITIES

21 NCAC 46 .1418 ADVANCED PHARMACY TECHNICIAN

(a) The purpose of this Section is to set out requirements for the involvement of advanced pharmacy technicians in acute care hospital pharmacy practice settings as a means of facilitating pharmacists' delivery of clinical services.

(b) Advanced Pharmacy Technician. An advanced pharmacy technician is a pharmacy technician who:

- (1) is registered with the Board and trained as specified in G.S. 90-85.15A;
- (2) is a certified technician;
- (3) holds an associate's degree in pharmacy technology conferred by either an institution within the North Carolina Community College System or an institution accredited by the American Society of Health System Pharmacists; and
- (4) assists pharmacists with the preparation, dispensing, and distribution of prescription medications that will be administered by a licensed health care provider to an inpatient in a hospital.

(c) Hospital. For the purposes of this regulation, a hospital is either:

- (1) a hospital licensed by the North Carolina Medical Care Commission; or
- (2) a psychiatric hospital operated by the Secretary of the Department of Health and Human Services.

(d) An advanced pharmacy technician may validate the work of other pharmacy technicians only in connection with registered pharmacy technicians' filling of floor stock and unit dose distribution systems for inpatients in a hospital.

- (1) Advanced pharmacy technicians may validate only the following registered technician functions:
 - (A) stocking of patient care unit medication inventories;
 - (B) stocking of ancillary drug cabinet inventories;
 - (C) stocking of automated dispensing or drug supply devices;
 - (D) stocking of emergency kits; and
 - (E) prepackaging of prescription drugs within the hospital pharmacy.
- (2) With respect to compounded or admixed prescription drugs (whether sterile or non-sterile), an advanced pharmacy technician may validate the filling of floor stock and unit dose distribution systems only after a pharmacist

has verified that the compounded or admixed prescription drugs have been prepared correctly.

- (3) This Rule does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.

(e) The hospital's pharmacist-manager is responsible for the oversight of advanced pharmacy technician practice, and that responsibility may not be delegated pursuant to 21 NCAC 46 .1411. The pharmacist-manager shall develop written policies and procedures that:

- (1) establish the parameters for pharmacist supervision of advanced pharmacy technician validation functions;
- (2) establish facility-specific training for advanced pharmacy technicians;
- (3) establish an ongoing evaluation and assessment program to ensure that advanced pharmacy technician functions are performed safely and accurately; and
- (4) establish a recordkeeping system that shall permit the identification of the advanced pharmacy technician who performs activities authorized by this rule. Readily retrievable records generated by this system shall be maintained for the period of time specified in 21 NCAC 46 .1414(j)(1), unless there has been

notification of a medication error resulting from the administration of an incorrect medication or dose that has been validated by an advanced pharmacy technician, in which case these documents shall be maintained for a period of three years.

(f) Pursuant to G.S. 90-85.15A(c), the Board approves a pharmacist's supervision of more than two pharmacy technicians where the additional technicians are advanced pharmacy technicians. This Rule does not relieve the pharmacist-manager of the obligation to request and receive written Board approval for a pharmacist's supervision of more than two pharmacy technicians where the additional technicians are certified pharmacy technicians but are not advanced pharmacy technicians.

(g) A pharmacy technician performing validation functions described in this rule as part of a Board-approved 21 NCAC 46 .2510 pilot project at Broughton State Hospital or Wake Forest University Baptist Medical Center may continue to perform such functions for a period of three years from this Rule's original effective date, after which time the pharmacy technician must meet all of the requirements specified in Paragraph (b) of this Rule to continue performing such functions.

Authority G.S. 90-85.6; 90-85.15A; 90-85.21; 90-85.26; 90-85.32; 90-85.33; 90-85.34.

**TITLE 09 – OFFICES OF THE GOVERNOR AND
LIEUTENANT GOVERNOR**

Note: *These emergency rules were adopted under the procedure set out in G.S. 150B-21.1B. Adoption of rules to implement the American Recovery and Reinvestment Act.*

Rule-making Agency: *Office of Economic Recovery and Investment*

Rule Citation: 09 NCAC 07 .0101-.0102, .0201-.0204, .0301-.0302, .0401-.0403, .0501-.0504, .0601-.0602, .0701-.0702

Effective Date: *January 19, 2010*

Findings Reviewed and Approved by the Codifier: *January 8, 2010*

Reason for Action: *The American Recovery and Reinvestment Act (enacted Feb. 17, 2009) Title XII, Transportation and Housing and Urban Development and Related Agencies, H.R. 1-107 sets forth parameters and \$1.5 billion for a homelessness prevention and rapid re-housing program to be administered by states. If such funds are not expended within the short timelines set forth in the ARRA, the funds will be lost. As a newly created, federal program with these parameters issued in the ARRA, OERI, must enact rules to enable the expenditure of these funds in accordance with federal guidance or the opportunity will be lost.*

**CHAPTER 07 – OFFICE OF ECONOMIC RECOVERY
AND INVESTMENT**

SECTION .0100 – GENERAL PROVISIONS

**09 NCAC 07 .0101 FUNCTIONS AND
RESPONSIBILITIES**

The functions and responsibilities of the Office of Economic Recovery and Investment, hereinafter referred to as OERI, include:

- (1) to coordinate and monitor North Carolina's use of the federal stimulus funds under the ARRA;
- (2) to help ensure that the funds will be put to use quickly and efficiently, and with the transparency and accountability that North Carolinians expect;
- (3) to provide accountability for the use of the stimulus funds;
- (4) to track all federal dollars flowing into state and local governments as well as to private businesses and non-profit organizations;
- (5) to maximize the state's use of available federal stimulus funds;
- (6) to identify the most rapid ways to move the stimulus money into the economy and remove regulatory and other impediments;
- (7) to establish open and effective lines of communication with federal and state agencies, local governments and North

Carolina's Congressional delegation to assist in efforts to effectively and rapidly use the federal stimulus funds;

- (8) to develop a communications network, using a variety of tools including the Internet, to keep the public informed about the status and progress of the recovery effort, along with funding opportunities;
- (9) to report to the General Assembly and the citizens on a regular basis about the status of the use of the stimulus funds, including federal, state and other non-federal money;
- (10) to measure progress of the recovery effort by tracking the state's economic condition.

*History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;
Emergency Adoption Eff. January 19, 2010.*

09 NCAC 07 .0102 HOW TO CONTACT OERI

The mailing address of OERI is:

Office of Economic Recovery and Investment
Office of the Governor
221 East Lane Street
Raleigh, North Carolina 27603

*History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;
Emergency Adoption Eff. January 19, 2010.*

**SECTION .0200 – HOMELESSNESS PREVENTION AND
RAPID RE-HOUSING PROGRAM**

09 NCAC 07 .0201 PURPOSE AND OBJECTIVES

The purpose of the North Carolina Homelessness Prevention and Rapid Re-Housing Program (hereinafter referred to as "HPRP") is to provide "short-term or medium-term rental assistance; housing relocation and stabilization services including housing search, mediation or outreach to property owners, credit repair, security or utility deposits, utility payments, rental assistance for a final month at a location, moving cost assistance, and case management; or other appropriate activities for homelessness prevention and rapid re-housing of persons who have become homeless. Consistent with this purpose, HPRP funds will assist private nonprofit organizations in improving the quality and availability of short-term housing and assist with housing relocation and stabilization for the homeless in their community.

*History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;
Emergency Adoption Eff. January 19, 2010.*

09 NCAC 07 .0202 DEFINITIONS

The following terms shall apply to the rules of this Chapter:

- (1) "ARRA" means the American Recovery and Reinvestment Act signed into law by the President on February 17, 2009.
- (2) "Applicant" means a private nonprofit organization or local government entity which

makes an application pursuant to the provisions of this Chapter.

- (3) "HUD" means the North Carolina Department of Housing and Urban Development.
- (4) "Recipient" means a non-profit or local government that has been awarded an HPRP grant and has executed a Grant Agreement with OERI.
- (5) "State" means the state of North Carolina.
- (6) "Obligated" means the recipient has submitted requisitions for reimbursement of expenses, incurred costs, or performed similar transactions that require payment from the HPRP grant amount.
- (7) "Expended" means purchases have been made and deliveries received for goods and services to be paid with HPRP funds.
- (8) "Homeless" - shall be defined as by Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).
- (9) "OERI" means the North Carolina Office of Economic Recovery and Investment.
- (10) "Private nonprofit organization" means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1988 which:
 - (a) is exempt from taxation under Subtitle A of the Code;
 - (b) has an accounting system and a voluntary board; and
 - (c) practices nondiscrimination in the provision of assistance.

*History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;
Emergency Adoption Eff. January 19, 2010.*

09 NCAC 07 .0203 ELIGIBLE RECIPIENTS

(a) Direct Awards:

- (1) Required Services: The state reserves the right to directly contract for any federally required services or activities that can not be obtained through a competitive process. Such services include, but are not be limited to, the requirement for Homeless Management Information Services (HMIS).
- (2) Cost Effective Statewide Coverage: The state reserves the right to directly contract for any eligible activities that cannot be obtained through a competitive process that would benefit the entire state and/or effectively prevent duplication among funded applicants in the competitive process.
- (3) Existing Services: The state reserves the right to directly contract with previously existing programs providing housing stability services as part of the Mental Health Initiative funded by the Mental Health Trust Fund. Existing

funding for these Housing Support Teams ended in June 2009.

- (b) Competitive Awards: The remainder of funds will be administered through a competitive process.

*History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;
Emergency Adoption Eff. January 19, 2010.*

09 NCAC 07 .0204 ELIGIBLE APPLICANTS

- (a) Units of general local government in the state, which may include metropolitan cities and urban counties that receive grant amounts directly from HUD, but may not include public housing authorities.
- (b) Private non-profit organizations. If the non-profit is located in an entitlement area not covered by the state's Consolidated Plan, the local government for the area in which the office of the non-profit organization is physically located must certify in writing to OERI that it approves of the program.

*History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;
Emergency Adoption Eff. January 19, 2010.*

SECTION .0300 - ELIGIBLE AND INELIGIBLE ACTIVITIES

09 NCAC 07 .0301 ELIGIBLE ACTIVITIES

This Chapter, in accordance with the ARRA, adopts by reference as eligible activities those Operations/Services activities described as such in the ARRA. Copies of these sections of federal law are available for public distribution from OERI.

*History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;
Emergency Adoption Eff. January 19, 2010.*

09 NCAC 07 .0302 INELIGIBLE ACTIVITIES

This Chapter, in accordance with the ARRA, adopts by reference as ineligible activities those Operations/Services activities described as such in the ARRA. Copies of these sections of federal law are available for public distribution from OERI.

*History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;
Emergency Adoption Eff. January 19, 2010.*

SECTION .0400 - GENERAL REQUIREMENTS

09 NCAC 07 .0401 APPLICATION REQUIREMENTS

- (a) Private nonprofit organizations and units of local governments are required to submit applications in a manner prescribed by OERI in order to be considered for funding. Selection of applications for funding will be based on information contained in the application.
- (b) OERI shall designate specific dates for submission of HPRP grant applications. Grant application submission dates will be

announced by OERI a minimum of 20 days before the date applications are due.

(c) Applications must be received by OERI in Raleigh before 5:00 p.m. on the submission date.

(d) The applicant shall certify to OERI that it will comply with all applicable federal and state laws, regulations, rules and executive orders. Copies of these federal and state documents are available for public distribution from OERI.

(e) Applicants must comply with the ARRA, all applicable federal and state laws, regulations, rules, executive orders and guidance, as well as all directives and guidelines issued by OERI.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

09 NCAC 07 .0402 SIZE OF GRANTS

(a) The maximum amount which may be applied for shall be determined by OERI in accordance with the provisions of the ARRA.

(b) The minimum grant which may be applied for shall be determined by the OERI.

(c) OERI reserves the right to award grants for less than the requested amount in the event that the total amount of funds requested exceeds the total amount of funds available; OERI also reserves the right to award grants exceeding the amount requested if the total amount of funds requested is less than the total amount of funds available.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

09 NCAC 07 .0403 OPERATIONS/SERVICE S/HOMELESS PREVENTION

Applications for HPRP funds must be complete and show that:

- (1) The application was duly authorized by the local governing body, or that such authorization is imminent.
- (2) Grant funds will be expended pursuant to the rules of this Chapter.
- (3) Funds will be expended within three years of the date of the grant award.
- (4) All federal and state requirements and guidance, the provisions of the ARRA and the provisions of OERI Management Directives will be met. Furthermore, Recipients will comply with any future changes to the program or its administration.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

SECTION .0500 - GRANT ADMINISTRATION

09 NCAC 07 .0501 GRANT AGREEMENT

(a) Upon approval of the application by OERI, a written grant agreement will be executed between the recipient and OERI. The rules in this Chapter, application guidelines, subsequent guidelines prepared by OERI, the approved application, and any subsequent amendments to the approved application shall become a part of the grant agreement.

(b) A copy of the grant agreement in its original form along with any and all modifications thereto shall be kept on file in the office of the recipient.

(c) HPRP Program amendments. Recipients shall request prior OERI approval for all amendments to the grant agreement.

(d) OERI reserves the right to disallow any proposed amendment to the grant agreement.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

09 NCAC 07 .0502 METHOD OF ADMINISTRATION

(a) Recipients have the responsibility of undertaking or carrying out HPRP activities. This does not prohibit the designation of an administering agency.

(b) OERI shall make payments of HPRP funds to recipients on a cost-reimbursement or cost-incurred basis. Recipients shall request payment of HPRP funds in a manner prescribed by OERI and in accordance with the ARRA.

(c) All payments of HPRP funds to recipients must be for costs incurred during the period of the grant. Recipients will not receive payment for costs incurred before the execution of the Grant Agreement unless specified in the grant agreement.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

09 NCAC 07 .0503 RECORDKEEPING

(a) OERI, Office of State Budget and Management (OSBM), Government Accountability Office (GAO), the Inspector General, Comptroller General and any other duly authorized state or federal representatives, shall have access to any and all records or may interview any employee, staff or officers working on these contracts. These officials have the authority to examine any record and interview any employee, staff or officer of the contractor, its subcontractors or other firms working on this contract. Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of OERI, OSBM, GAO, the Inspector General, Comptroller General and any other duly authorized state or federal representatives.

(b) Financial records, supporting documents and all other reports and records required under this Chapter, and all other audits and records pertinent to the HPRP shall be retained by the recipient for a period of at least three years from the date of the closeout of the program, except that records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(c) All records shall be sufficient to determine compliance with the requirements and primary objectives of the HPRP Program

and all other applicable laws and regulations. All accounting records shall be supported by source documentation.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

09 NCAC 07 .0504 GRANT CLOSEOUTS

HPRP grants will be closed out by OERI in the following circumstances:

- (1) OERI will initiate closeout procedures after OERI determines, in consultation with the recipient, that there are no impediments to closeout and that all HPRP funds have been expended or returned to OERI.
- (2) Termination of grant for mutual convenience. Grant assistance provided under this Chapter may be cancelled, in whole or in part, by OERI or the recipient, prior to the completion of the approved HPRP, when both parties agree that the continuation of the program no longer is feasible or would not produce beneficial results commensurate with the further expenditure of funds. Termination of grant shall be in writing.
- (3) Termination for cause. OERI may terminate the recipient's entire grant, or the remaining balance thereof, in accordance with Rule .0603 of this Chapter.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

SECTION .0600 - COMPLIANCE AND REPORTING REQUIREMENTS

09 NCAC 07 .0601 COMPLIANCE

Recipients shall have responsibility for ensuring that HPRP funds are expended as stated in their grant agreement and in conformance with all applicable federal and state laws, regulations, directives and guidelines. OERI may prescribe procedures for ensuring compliance with the provisions of this Rule.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

09 NCAC 07 .0602 REPORTING

OERI shall require recipients to provide interim performance reports in a form prescribed by OERI and in compliance with the ARRA. Recipients are responsible for compliance with all reporting deadlines.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

SECTION .0700 - REMEDIES

09 NCAC 07 .0701 REMEDIES/COURSES OF ACTION

When OERI determines on the basis of a review of a recipient's performance that the objectives of an HPRP program described in the grant agreement have not been met, OERI may take one or more of the following actions as OERI deems appropriate:

- (1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;
- (2) Require successful corrective action and any specific monitoring conditions for continuation of this or any future grant;
- (3) Direct the recipient to cease the expenditure of all grant funds, stop the incurring any costs or obligations with respect to HPRP;
- (4) Require that some or all of the grant amounts be remitted to OERI;
- (5) Reduce the level of funds the recipient would otherwise be entitled to receive; or
- (6) Bar the recipient from participation in future grant proposals. Elect not to provide future grant funds to the recipient until appropriate actions are taken to ensure compliance.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

09 NCAC 07 .0702 OTHER REMEDIES

Nothing in this Section on remedies shall limit the rights of the grantor from any other relief in law or equity.

History Note: Authority S.L. 2009-475; P.L. 111-5; Title XII, H.R. 1-107;

Emergency Adoption Eff. January 19, 2010.

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on December 17, 2009.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

MEDICAL CARE COMMISSION

<u>Definitions</u>	10A NCAC 13J .0901*	23:10 NCR
<u>Personnel</u>	10A NCAC 13J .1003*	23:10 NCR
<u>In-Home Aide Services</u>	10A NCAC 13J .1107*	23:10 NCR
<u>Definitions</u>	10A NCAC 13J .1501*	24:01 NCR
<u>Scope of Services</u>	10A NCAC 13J .1502	24:01 NCR
<u>Agency Management and Supervision</u>	10A NCAC 13J .1503*	24:01 NCR
<u>Supervision and Competency of Companion, Sitter, and Resp...</u>	10A NCAC 13J .1504	24:01 NCR
<u>Additional Staffing Requirement for Hospice Inpatient Units</u>	10A NCAC 13K .1202	24:04 NCR

PUBLIC HEALTH, COMMISSION FOR

<u>General Provisions</u>	10A NCAC 39C .0101	24:03 NCR
<u>Exemption of Cigar Bars</u>	10A NCAC 39C .0102	24:03 NCR
<u>Posting Signs</u>	10A NCAC 39C .0103	24:03 NCR

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Background Investigation</u>	12 NCAC 10B .0305*	24:04 NCR
<u>Basic Law Enforcement Training Course for Deputies</u>	12 NCAC 10B .0502*	24:04 NCR
<u>Minimum Training Requirements</u>	12 NCAC 10B .2005*	24:04 NCR
<u>In-Service Training Program Specifications</u>	12 NCAC 10B .2006	24:04 NCR
<u>Sheriff/Agency Head Responsibilities</u>	12 NCAC 10B .2007*	24:04 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Lead</u>	15A NCAC 02D .0408*	24:04 NCR
<u>Toxic Air Pollutant Guidelines</u>	15A NCAC 02D .1104*	24:04 NCR
<u>Applicability</u>	15A NCAC 02D .1402*	24:04 NCR
<u>Emission Rates Requiring a Permit</u>	15A NCAC 02Q .0711*	24:04 NCR

COASTAL RESOURCES COMMISSION

<u>AECS Within Ocean Hazard Areas</u>	15A NCAC 07H .0304	n/a G.S. 150B-21.5(3)
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ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS FOR

<u>Scope of SP-FA/LV License</u>	21 NCAC 18B .0804*	24:04 NCR
<u>Exemption of Certain Low Voltage Wiring Systems</u>	21 NCAC 18B .0805*	24:04 NCR
<u>Continuing Education Requirements: Listed Qualified</u>	21 NCAC 18B .1101*	24:04 NCR

Indiv...

<u>Minimum Requirements for Course Sponsor Approval</u>	21	NCAC	18B	.1102*	24:04 NCR
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LICENSED PROFESSIONAL COUNSELORS, BOARD OF

<u>Professional Ethics</u>	21	NCAC	53	.0102	24:06 NCR
<u>Professional Disclosure Statement</u>	21	NCAC	53	.0204*	24:06 NCR
<u>Counseling Experience</u>	21	NCAC	53	.0205*	24:06 NCR
<u>Graduate Counseling Experience</u>	21	NCAC	53	.0206*	24:06 NCR
<u>Supervised Professional Practice</u>	21	NCAC	53	.0208*	24:06 NCR
<u>Qualified Clinical Supervisor</u>	21	NCAC	53	.0209*	24:06 NCR
<u>Individual Clinical Supervision</u>	21	NCAC	53	.0210	24:06 NCR
<u>Group Clinical Supervision</u>	21	NCAC	53	.0211*	24:06 NCR
<u>Face to Face Supervision Defined</u>	21	NCAC	53	.0212*	24:06 NCR
<u>Mental Health Professional</u>	21	NCAC	53	.0213*	24:06 NCR
<u>Applications</u>	21	NCAC	53	.0301	24:06 NCR
<u>Transcripts</u>	21	NCAC	53	.0302*	24:06 NCR
<u>Examination</u>	21	NCAC	53	.0305*	24:06 NCR
<u>Reporting of Scores</u>	21	NCAC	53	.0306	24:06 NCR
<u>Receipt of Applications</u>	21	NCAC	53	.0308*	24:06 NCR
<u>Agreement to Abide by NCBLPC Ethical Standards</u>	21	NCAC	53	.0309	24:06 NCR
<u>Rule of Procedure</u>	21	NCAC	53	.0401	24:06 NCR
<u>Alleged Violations</u>	21	NCAC	53	.0403*	24:06 NCR
<u>Formal Complaints</u>	21	NCAC	53	.0404	24:06 NCR
<u>Disciplinary Actions</u>	21	NCAC	53	.0405	24:06 NCR
<u>Application Fee</u>	21	NCAC	53	.0501*	24:06 NCR
<u>Examination Fee</u>	21	NCAC	53	.0502	24:06 NCR
<u>Fund Suspension</u>	21	NCAC	53	.0504	24:06 NCR
<u>Failure to Secure Sufficient Continuing Education/Renewal...</u>	21	NCAC	53	.0604*	24:06 NCR
<u>Licensed Professional Counselor Associate</u>	21	NCAC	53	.0701*	24:06 NCR
<u>Supervised Practice for Licensed Professional Counselor A...</u>	21	NCAC	53	.0702*	24:06 NCR
<u>Licensed Professional Counselor Supervisor</u>	21	NCAC	53	.0801*	24:06 NCR

SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

<u>Registration Process for Board Credential</u>	21	NCAC	68	.0202*	24:05 NCR
<u>Supervised Practicum for Certified Substance Abuse Counse...</u>	21	NCAC	68	.0204*	24:05 NCR
<u>Certified Substance Abuse Counselor Certification</u>	21	NCAC	68	.0205	24:05 NCR
<u>Certification or Licensure Period</u>	21	NCAC	68	.0207	24:05 NCR
<u>Continuing Education Required for Counselor, Criminal Jus...</u>	21	NCAC	68	.0208*	24:05 NCR
<u>Conversion</u>	21	NCAC	68	.0210	24:05 NCR
<u>Process for Clinical Supervisor Certification</u>	21	NCAC	68	.0211*	24:05 NCR
<u>Process for Residential Facility Director Certification</u>	21	NCAC	68	.0212*	24:05 NCR
<u>Continuing Education Approval Policy</u>	21	NCAC	68	.0213*	24:05 NCR
<u>University Substance Abuse Specialty Curricula</u>	21	NCAC	68	.0214	24:05 NCR

APPROVED RULES

<u>Verification</u>	21	NCAC	68	.0215	24:05 NCR
<u>Background Investigation</u>	21	NCAC	68	.0216*	24:05 NCR
<u>Supervised Practicum for Criminal Justice Addictions Prof...</u>	21	NCAC	68	.0217	24:05 NCR
<u>Notice to Applicant of Failure to Satisfy Board</u>	21	NCAC	68	.0220	24:05 NCR
<u>Applicant Hearing</u>	21	NCAC	68	.0221*	24:05 NCR
<u>Ethics Inquiry</u>	21	NCAC	68	.0222*	24:05 NCR
<u>Standards Committee Action</u>	21	NCAC	68	.0223	24:05 NCR
<u>Credentialing Status Denied if Serving Sentence</u>	21	NCAC	68	.0224	24:05 NCR
<u>Purpose and Scope</u>	21	NCAC	68	.0501*	24:05 NCR
<u>Competence</u>	21	NCAC	68	.0503*	24:05 NCR
<u>Legal Standards and Ethical Standards</u>	21	NCAC	68	.0504	24:05 NCR
<u>Education and Training Standards</u>	21	NCAC	68	.0505*	24:05 NCR
<u>Client Welfare</u>	21	NCAC	68	.0507*	24:05 NCR
<u>Confidentiality</u>	21	NCAC	68	.0508*	24:05 NCR
<u>Responsibility of Supervisor to Supervisee</u>	21	NCAC	68	.0512*	24:05 NCR

This rule is subject to the next Legislative Session. (See G.S. 150B-21.3.)

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Particulates from Fugitive Dust Emission Sources</u>	15A	NCAC	02D	.0540*	24:04 NCR
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TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**10A NCAC 13J .0901 DEFINITIONS**

Terms used in this Subchapter have the meanings as defined in G.S. 131E-136 and as follows:

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| <p>(1) "Activities of Daily Living" (ADL) means mobility, eating, bathing, dressing, toileting, and continence.</p> <p>(2) "Agency" means a home care agency.</p> <p>(3) "Agency director" means the person having administrative responsibility for the operation of the agency.</p> <p>(4) "Allied health personnel" means licensed practical nurses, physical therapy assistants, occupational therapy assistants or other health professionals as defined in occupational licensure laws that are subject to supervision by a health professional.</p> <p>(5) "Appropriate professional" means a licensed health care professional or a person with a baccalaureate degree in social work or an individual who meets the job specifications established for a social worker by the Office of State Personnel.</p> <p>(6) "Client" means a home care client.</p> <p>(7) "Clinical respiratory services" means the provision of respiratory equipment and services that involve the assessment of a client's pulmonary status, monitoring of a</p> | <p>(8)</p> <p>(9)</p>

<p>(10)</p> | <p>client's response to therapy and reporting to the client's physician. Procedures include: oximetry, blood gases, delivery of medication via aerosolization, management of ventilatory support equipment, pulmonary function testing and infant monitoring.</p> <p>"Department" means the North Carolina Department of Health and Human Services.</p> <p>"Extensive Assistance" means a client is totally dependent or requires weight-bearing support more than half the time while performing part of an activity, such as guiding or maneuvering of limbs, and meets one of the following criteria:</p> <p>(a) Requires extensive assistance in more than two activities of daily living (ADLs), as defined in Item (1) of this Rule; or</p> <p>(b) Needs an in-home aide to perform at least one task at the nurse aide II level; or</p> <p>(c) Requires extensive assistance in more than one ADL and has a medical or cognitive impairment as defined in Item (19) of this Rule.</p> <p>"Follow-up care" means services provided to a licensed hospital's discharged clients in their homes by a hospital's employees. No services except pulmonary care, pulmonary rehabilitation or ventilator services shall</p> |
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- exceed three visits in any two month period and shall not extend beyond a 12 month period following discharge.
- (11) "Governing body" means the person or group of persons having legal authority for the operation of the agency.
 - (12) "Hands-on care" means any home care service which involves touching the patient in order to implement the patient's plan of care.
 - (13) "Infusion nursing services" means those services related to the administration of pharmaceutical agents directly into a body organ or cavity. Routes of administration include but are not limited to sub-cutaneous intravenous, intraspinal, epidural or intrathecal infusion. Administration shall be by or under the supervision of a registered nurse in accordance with their legal scope of practice.
 - (14) "In-home aide" means an individual who provides hands-on care to home care clients.
 - (15) "In-home aide services" are hands-on paraprofessional services which assist individuals, their family or both with home management tasks, personal care tasks, or supervision of the client's activities, or all of the above, to enable the individual, their family or both, to remain and function effectively at home as long as possible.
 - (16) "In-home care provider" means any individual who provides home care services as enumerated in G.S. 131E-136.
 - (17) "Licensed practical nurse" means a person licensed as such, pursuant to G.S. 90-171.30.
 - (18) "Limited Assistance" means care to a client who requires hands-on care involving guided maneuvering of limbs with eating, toileting, bathing, dressing, personal hygiene, self monitoring of medications or other tasks assigned that require weight bearing assistance half the time or less during the activity and does not meet the definition of extensive assistance in Item (9) of this Rule.
 - (19) "Medical or cognitive impairment" means a diagnosis and client assessment that documents at least one of the following:
 - (a) Pain that is present more than half the time that interferes with an individual's activity or movement.
 - (b) Dyspneic or noticeably short of breath with minimal exertion during the performance of ADLs and requires continuous use of oxygen.
 - (c) Individual is not alert and oriented or is unable to shift attention and recall directions more than half the time.
 - (20) "Medical social services" means those professional services provided to individuals in their homes by a medical social worker, or by a medical social worker assistant under the supervision of a medical social worker, when provided by an agency in conjunction with other nursing or therapy services provided by the same agency.
 - (21) "Medical social worker" means a person with a masters degree from a school of social work approved by the Council on Social Work Education who is eligible for certification by the North Carolina Social Work Certification Licensure Board as a Certified Master Social Worker.
 - (22) "Medical social worker assistant" means a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work, and has had at least one year of social work experience.
 - (23) "Nursing registry" means a person or organization that maintains a list of nurses or in-home aides or both that is made available to persons seeking nursing care or in-home aide services but does not collect a placement fee from the worker or client, coordinate the delivery of services or supervise or control the provision of services.
 - (24) "Nursing services" means professional services provided by a registered nurse or a licensed practical nurse under the supervision of a registered nurse.
 - (25) "Occupational therapist" means a person licensed as such, pursuant to G.S. 90-270.70.
 - (26) "Occupational therapist assistant" means a person licensed as such, pursuant to G.S. 90-270.70.
 - (27) "Occupational therapy services" means professional services provided by a licensed occupational therapist or a licensed occupational therapist assistant under the supervision of a licensed occupational therapist.
 - (28) "Paraprofessional" means an in-home care provider who does not hold a professional license or professional certification and through the nature of their duties assists a professional.
 - (29) "On-call services" means unscheduled home care services made available to clients on a 24-hour basis.
 - (30) "Personal care" includes tasks that range from assistance to an individual with basic personal hygiene, grooming, feeding and ambulation to medical monitoring and other health care related tasks.
 - (31) "Physical therapist" means a person licensed as such, pursuant to G.S. 90-270.29.
 - (32) "Physical therapist assistant" means a person licensed as such pursuant to G.S. 90-270.29.
 - (33) "Physical therapy services" means professional services provided by a licensed physical therapist or a licensed physical therapist

- assistant under the supervision of a licensed physical therapist.
- (34) "Physician" means a person licensed as such, pursuant to G.S. 90-15.
 - (35) "Plan of care" means the written description of the authorized home care services and tasks to be provided to a client.
 - (36) "Premises" means the location or licensed site from which the agency provides home care services or maintains client service records or advertises itself as a home care agency.
 - (37) "Qualified" means suitable for employment as a consequence of having met the standards of education, experience, licensure or certification established in the applicable job description created and adopted by the agency.
 - (38) "Registered nurse" means a person licensed as such, pursuant to G.S. 90-171.30.
 - (39) "Respiratory therapist" means a person who is credentialed by the National Board for Respiratory Care.
 - (40) "Respiratory practitioner" means those persons licensed in the state of North Carolina who provide clinical respiratory services in a client's home.
 - (41) "Scope of services" means those specific services provided by a licensed agency as listed on their home care license.
 - (42) "Survey" means an inspection by the Division of Health Service Regulation in order to assess the compliance of agencies with the home care licensure rules.
 - (43) "Social worker" means a person who meets the qualifications of the North Carolina Office of State Personnel for social workers.
 - (44) "Speech and language pathologist" means a person licensed as such, pursuant to G.S. 90-294.
 - (45) "Speech therapy" means professional services provided by a licensed speech and language pathologist.
 - (46) "Skilled Services" means all home care services enumerated in G.S. 131E-136(3) with the exception of in-home aide services.

*History Note: Authority G.S. 131E-136; 131E-140; Eff. July 1, 1992;
RRC Objection due to lack of statutory authority Eff. November 16, 1995;
Amended Eff. January 1, 2010; February 1, 1996.*

10A NCAC 13J .1003 PERSONNEL

(a) Written policies shall be established and implemented by the agency regarding infection control and exposure to communicable diseases consistent with Subchapter 19A of Title 15A, North Carolina Administrative Code. These policies shall include provisions for compliance with 29 CFR 1910 (Occupational Safety and Health Standards) which is incorporated by reference including subsequent amendments.

Copies of Title 29 Part 1910 can be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 or by calling Washington, D.C. (202) 512-1800. The cost is twenty-one dollars (\$21.00) and may be purchased with a credit card.

(b) Hands-on care employees must have a baseline skin test for TB. Individuals who test positive must demonstrate noninfectious status prior to assignment in a client's home. Individuals who have previously tested positive to the TB skin test shall obtain a baseline and subsequent annual verification that they are free of TB symptoms. This verification shall be obtained from the local health department, a private physician or health nurse employed by the agency. The Tuberculosis Control Branch of the North Carolina Department of Health and Human Services, Division of Public Health, 1902 Mail Service Center, Raleigh, NC 27699-1902 shall provide, free of charge, guidelines for conducting verification and Form DHHS 3405 (Record of Tuberculosis Screening). Employees identified by agency risk assessment, to be at risk for exposure shall be subsequently tested at intervals prescribed by OSHA standards.

(c) The agency shall not hire any individual either directly or by contract who has a substantiated finding on the North Carolina Health Care Personnel Registry in accordance with G.S. 131E-256(a)(1).

(d) Written policies shall be established and implemented which include personnel record content, orientation and in-service education. Records on the subject of in-service education and attendance shall be maintained by the agency and retained as set out in Paragraph (f) of this Rule.

(e) Job descriptions for every position shall be established in writing which include qualifications and specific responsibilities. Individuals shall be assigned only to duties for which they are trained and competent to perform and when applicable for which they are licensed.

(f) Personnel records shall be established and maintained for each home care employee. When requested, the records shall be available on the agency premises for inspection by the Department. These records shall be maintained for at least one year after termination from agency employment. The records shall include the following:

- (1) an application or resume which lists education, training and previous employment that can be verified, including job title;
- (2) a job description with record of acknowledgment by the employee;
- (3) reference checks or verification of previous employment;
- (4) records of tuberculosis screening for employees for whom the test is necessary as described in Paragraph (a) of this Rule;
- (5) documentation of Hepatitis B immunization or declination for hands-on care employees in accordance with the agency's exposure control plan;
- (6) airborne and bloodborne pathogen training for hands on care employees, including annual updates, in compliance with 29 CFR 1910 and in accordance with the agency's exposure control plan;

- (7) performance evaluations according to agency policy and at least annually. These evaluations may be confidential pursuant to Rule .0905 of this Subchapter;
- (8) verification of employees' credentials as applicable; and
- (9) records of the verification of competencies by agency supervisory personnel of all skills required of home care services personnel to carry out client care tasks to which the employee is assigned. The method of verification shall be defined in agency policy.

(g) For in-home aides not listed on the nurse aide registry, personnel records shall include verification of core competencies by a registered nurse that includes the following core personal care skills for in-home aides hired after April 1, 2009:

- (1) Assisting with Mobility including ambulation, transfers and bed mobility;
- (2) Assisting with Bath/Shower;
- (3) Assisting with Toileting;
- (4) Assisting with Dressing;
- (5) Assisting with Eating; and
- (6) Assisting with continence needs.

History Note: Authority G.S. 131E-140; Eff. July 1, 1992; Amended Eff. February 1, 1996; June 1, 1994; Temporary Amendment Eff. April 1, 2006; Amended Eff. January 1, 2010; October 1, 2006.

10A NCAC 13J .1107 IN-HOME AIDE SERVICES

(a) If an agency provides in-home aide services, the services shall be provided in accordance with the client's plan of care. Agencies participating in the Home and Community Care Block Grant or Social Services Block Grant through the Division of Aging and Adult Services shall comply, for those clients, with the in-home aide service level rules contained in 10A NCAC 06A and 10A NCAC 06X which are hereby incorporated by reference with all subsequent amendments. All other agencies providing in-home aide services shall comply with the provisions in Paragraphs (b) and (c) of this Rule.

(b) If the client's plan of care requires the in-home aide to provide extensive assistance as defined in Rule .0901(9) of this Subchapter the in-home aide shall be listed on the Nurse Aide Registry pursuant to G.S. 131E-255. However, if the client's plan of care requires the in-home aide to provide only limited assistance as defined in Rule .0901(18) of this Subchapter the in-home aide is not required to be listed on the Nurse Aide Registry.

(c) In-home aides shall follow instructions for client care written by the health care practitioner required for the services provided. In-home aide duties may include the following:

- (1) help with prescribed exercises which the client and in-home aides have been taught by a health care practitioner licensed pursuant to G.S. 90;
- (2) provide or assist with personal care (i.e., bathing, care of mouth, skin and hair);
- (3) assist with ambulation;

- (4) assist client with self-administration of medications which are ordered by a physician or other person authorized by state law to prescribe;
- (5) perform incidental household services which are essential to the client's care at home; and
- (6) record and report changes in the client's condition, family situation or needs to an appropriate health care practitioner.

History Note: Authority G.S. 131E-140; Eff. July 1, 1992; Amended Eff. January 1, 2010; October 1, 2007; October 1, 2006; February 1, 1996.

10A NCAC 13J .1501 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Companion, sitter, or respite services personnel" means an individual as used in G.S. 131E-136, who spends time with or provides non-hands-on care services for clients.
- (2) "Non-Hands-on Care Services" means basic home management tasks, shopping, meal preparation, transportation, companion services, socialization, medication reminders, and other services that do not require the service provider to use "hands-on care" as defined in Rule .0901 of this Subchapter and which do not require training or verification of skills by a Registered Nurse.
- (3) "Respite Care" means planned or emergency care provided to an individual in order to provide temporary relief to the family caregiver.

History Note: Authority G.S. 131E-140; Eff. January 1, 2010.

10A NCAC 13J .1502 SCOPE OF SERVICES

(a) If an agency provides In-home companion, sitter, or respite services, the services shall be provided in accordance with the client's plan of care. Agencies participating in the Home and Community Care Block Grant or Social Services Block Grant through the Division of Aging and Adult Services shall comply, for those clients, with the companion or sitter service level rules contained in 10A NCAC 06A and 10A NCAC 06X which are hereby incorporated by reference with all subsequent amendments. All other agencies providing companion and sitter services shall comply with the provisions of the rules in this Section unless exempt from these rules.

(b) Companion, sitter, or respite services personnel shall follow the service plan written by personnel required by agency policy for the services provided.

History Note: Authority G.S. 131E-140; Eff. January 1, 2010.

10A NCAC 13J .1503 AGENCY MANAGEMENT AND SUPERVISION

Notwithstanding the requirements in Rule .1001 of this Subchapter, the agency shall meet the following requirements:

- (1) The agency shall designate an individual to serve as agency director. The agency director shall have the authority and responsibility for administrative direction of the agency. The agency director shall be a high school graduate, or be certified under the G.E.D. Program, and shall meet one or more of the following qualifications:
 - (a) shall be a health care practitioner as defined in G.S. 90-640(a); or
 - (b) shall have one year experience in home care, companion, sitter, or respite services, or any other provider licensed pursuant to G.S. 131E or G.S. 122C.
- (2) The agency shall designate a person responsible for supervising non-hands-on care services that is provided by the agency either directly or by contract. This individual may be the supervisor for the companion, sitter, or respite services and may also serve as the agency director.

History Note: Authority G.S. 131E-140;
Eff. January 1, 2010.

10A NCAC 13J .1504 SUPERVISION AND COMPETENCY OF COMPANION, SITTER, AND RESPITE SERVICES

In addition to the requirements in Rule .1110 of this Subchapter, an agency providing In-home companion, sitter, or respite care services shall meet the following requirements:

- (1) Each agency shall have documentation that its companion and sitters are competent to perform client care tasks or activities to which they are assigned. Such individuals shall perform delegated activities under the supervision of a supervisor designated by agency policy for the services assigned.
- (2) The agency designated supervisor shall supervise the companion and sitter staff by contacting the client receiving care every three months and by making a supervisory visit to each client's place of residence at least every six months, with or without the companion and sitter's presence, and at least annually, while the companion or sitter is in the home providing services to the client.
- (3) The supervisory visit shall include a review of the client's general condition, monitoring progress and response to the services provided by the companion or sitter, and updates to the plan of care as needed.

- (4) Documentation of supervisory visits shall be maintained in the agency's records and shall contain the following:
 - (a) date of visit;
 - (b) findings of visit; and
 - (c) signature of person performing the visit.
- (5) The agency designated supervisor conducting a supervisory contact for a companion, sitter, or respite provider may simultaneously conduct the quarterly case review as required in Rule .1202 of this Subchapter.
- (6) The agency directed supervisor shall be available for supervision, on-site where services are provided when necessary, during the hours that companion, sitter, or respite services are provided.

History Note: Authority G.S. 131E-140;
Eff. January 1, 2010.

10A NCAC 13K .1202 ADDITIONAL STAFFING REQUIREMENTS FOR HOSPICE INPATIENT UNITS

- (a) All nursing services shall be provided under the supervision of a registered nurse.
- (b) A facility providing respite care must provide 24-hour nursing services that meet the nursing needs of all patients and are furnished in accordance with each patient's plan of care. Each patient must receive all nursing services as prescribed by the physician and must be kept comfortable, clean, well-groomed and protected from accident, injury and infection. The presence of a Registered Nurse (RN) to provide direct care on all shifts is not required for patients receiving general inpatient care for respite unless specific nursing needs are in an individual patient's plan of care. If a patient in an inpatient facility is receiving general inpatient care for symptom management, then the 24-hour patient care RN staff must be available.
- (c) Considerations for determining sufficiency of nursing personnel include:
 - (1) number of patients;
 - (2) specific patient care requirements;
 - (3) family care needs; and
 - (4) availability of support from other interdisciplinary team members.
- (d) Hospice caregivers shall only provide care to patients in licensed hospice residential beds in a combined hospice inpatient and residential facility.

History Note: Authority G.S. 131E-202;
Eff. June 1, 1991;
Amended Eff. January 1, 2010; February 1, 1996.

10A NCAC 39C .0101 GENERAL PROVISIONS

- (a) The purpose of the rules in this subchapter is to implement Part 1C of Article 23 of Chapter 130A of the General Statutes.
- (b) The definitions in G.S.130A-492 apply throughout this Subchapter. In addition, throughout this Subchapter, "Division"

means North Carolina Department of Health and Human Services, Division of Public Health.

History Note: Authority G.S. 130A-497(f);
Eff. January 2, 2010.

10A NCAC 39C .0102 EXEMPTION OF CIGAR BARS

(a) Cigar bars shall file an affidavit with the Division within thirty days after the end of each quarter stating the establishment meets the statutory requirements set forth for cigar bars by G.S. 130A-492 and G.S. 130A-496. Affidavits shall be sent to the:

Chief, Regulatory and Legal Affairs
N. C. Department of Health and Human Services
Division of Public Health
1931 Mail Service Center
Raleigh, NC 27699-1931.

(b) Affidavits submitted in 2010 and each year thereafter shall be post-marked:

- (1) By January 31st for the quarter ending December 31st.
- (2) By April 30th for the quarter ending March 31st.
- (3) By July 31st for the quarter ending June 30th.
- (4) By October 31st for the quarter ending September 30th.

(c) Within 60 days after receiving the affidavit the Division shall provide written documentation to the cigar bar on its exemption status under G.S. 130A-496.

History Note: Authority G.S. 130A-492; 130A-496; 130A-497(f);
Eff. January 2, 2010.

10A NCAC 39C .0103 POSTING SIGNS

The signs required to be posted in restaurants and bars by G.S. 130A-497 shall:

- (1) Be posted at each public entrance at a height and location easily seen.
- (2) Be at least 24 square inches in size (for example, 4 by 6 inches).
- (3) Be in legible font type.
- (4) Display:
 - (a) The Division's toll-free complaint line telephone number.
 - (b) "G.S.130A-497".
 - (c) " www.smokefree.nc.gov".

History Note: Authority G.S. 130A-497(f);
Eff. January 2, 2010.

Commission's Personal History Statement (F-3) to provide a basis for the investigation. The Personal History Statement (F-3) submitted to the Division shall be completed no more than 120 days prior to the applicant's date of appointment.

(b) If the Personal History Statement (F-3) was completed more than 120 days prior to the applicant's date of appointment, the Personal History Statement (F-3) shall be updated by the applicant who shall initial and date all changes or a new Personal History Statement (F-3) must be completed.

(c) The employing agency shall ensure the proper dates, signatures, and notarizations are affixed to the Personal History Statement (F-3); and shall also certify that the results of the background investigation are consistent with the information provided by the applicant on the Personal History Statement (F-3), and if not, provide the applicant the opportunity to update the F-3 prior to submission to the Division.

(d) The employing agency, prior to employment, shall examine the applicant's character traits and habits relevant to his/her performance as a justice officer and shall determine whether the applicant is of good moral character as defined in Rule .0301(a)(8). The investigator shall summarize the results of the investigation on the Commission-mandated Background Investigation Form (F-8) which shall be signed and dated by the investigator.

(e) The Background Investigation Form (F-8) shall include records checks from:

- (1) a state-wide search of the Administrative Office of the Courts (AOC) computerized system;
- (2) the national criminal record database accessible through the Division of Criminal Information (DCI) network;
- (3) the North Carolina Division of Motor Vehicles, if the applicant has ever possessed a driver's license issued in North Carolina; and
- (4) out-of-state motor vehicles check obtained through the Division of Criminal Information or obtained through the any other state's Division of Motor Vehicles if the applicant held a license in that State(s) within the 10 year period prior to the date of appointment.

(f) The Background Investigation must also include records checks from jurisdictions in which the applicant resided within the 10 year period prior to the date of appointment and where the applicant attended high school, as follows:

- (1) Where the applicant resided in jurisdictions in North Carolina, Clerk of Court records checks are acceptable;
- (2) Where the applicant resided in another country, an Interpol records check is acceptable provided the country is a member of Interpol; or if the applicant was in the United States military, a military records check is acceptable; or if neither, efforts shall be made and documented to attempt to obtain a records check from the country and submitted if available; and
- (3) Where the applicant resided in a State other than North Carolina, a records check through

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 10B .0305 BACKGROUND INVESTIGATION

(a) Prior to the background investigation conducted by the employing agency to determine the applicant's suitability to perform essential job functions, the applicant shall complete the

the Division of Criminal Information using the IQ inquiry is acceptable provided the State will respond to that type of inquiry; or if not, then either a records check response from both the municipality, city or town where the applicant resided and the county-wide Sheriff's Office or Police Department obtained through traditional correspondence; or a records check from the appropriate county-wide or state-wide record holding agency is acceptable.

(g) If the applicant had prior military service, the Background Investigation must also include a copy of the applicant's DD214 which shows the characterization of discharge for each discharge which occurred and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then a military records check is also required.

(h) All records checks shall be performed on each name by which the applicant for certification has ever been known since the age of 12. If the applicant has had an official name change which occurred after the applicant had reached the age of 12 years of age, then documentation of that name change is required.

(i) The employing agency shall forward to the Division certified copies of any criminal charge(s) and disposition(s) known to the agency or listed on the applicant's Personal History Statement (F-3). The employing agency shall explain to the satisfaction of Division staff that charges or other violations which may result from the records checks required in Paragraph (e) of this Section do not pertain to the applicant for certification. This documentation shall be included with all other documentation required in 12 NCAC 10B .0408.

(j) The employing agency shall include a signed and notarized Release Authorization Form which authorizes the Division staff to obtain documents and records pertaining to the applicant for certification which may be required in order to determine whether certification may be granted.

History Note: Authority G.S. 17E-7;

Eff. January 1, 1989;

Amended Eff. January 1, 2010; January 1, 2009; January 1, 2007; August 1, 2002; January 1, 1994; January 1, 1993; January 1, 1992; January 1, 1990.

12 NCAC 10B .0502 BASIC LAW ENFORCEMENT TRAINING COURSE FOR DEPUTIES

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

(b) The course entitled "Basic Law Enforcement Training" shall consist of a minimum of 618 hours of instruction and shall include the following identified topical areas and minimum instructional hours for each:

(1) LEGAL UNIT

- | | | |
|-----|---|----------|
| (A) | Motor Vehicle Laws | 20 hours |
| (B) | Preparing for Court and Testifying in Court | 12 hours |
| (C) | Elements of Criminal Law | 24 hours |

- | | | |
|-----|---|-----------------|
| (D) | Juvenile Laws and Procedures | 10 hours |
| (E) | Arrest, Search and Seizure/Constitutional Law | 28 hours |
| (F) | ABC Laws and Procedures | 4 hours |
| | UNIT TOTAL | 98 hours |

(2) PATROL DUTIES UNIT

- | | | |
|-----|---|------------------|
| (A) | Techniques of Traffic Law Enforcement | 24 hours |
| (B) | Explosives and Hazardous Materials Emergencies | 12 hours |
| (C) | Traffic Accident Investigation | 20 hours |
| (D) | In-Custody Transportation | 8 hours |
| (E) | Crowd Management | 12 hours |
| (F) | Patrol Techniques | 26 hours |
| (G) | Law Enforcement Communication and Information Systems | 8 hours |
| (H) | Anti-Terrorism | 4 hours |
| (I) | Rapid Deployment | 8 hours |
| | UNIT TOTAL | 122 hours |

(3) LAW ENFORCEMENT COMMUNICATION UNIT

- | | | |
|-----|--|-----------------|
| (A) | Dealing with Victims and the Public | 10 hours |
| (B) | Domestic Violence Response | 12 hours |
| (C) | Ethics for Professional Law Enforcement | 4 hours |
| (D) | Individuals with Mental Illness and Mental Retardation | 8 hours |
| (E) | Crime Prevention Techniques | 6 hours |
| (F) | Communication Skills for Law Enforcement Officers | 8 hours |
| | UNIT TOTAL | 48 hours |

(4) INVESTIGATION UNIT

- | | | |
|-----|---|-----------------|
| (A) | Fingerprinting and Photographing Arrestee | 6 hours |
| (B) | Field Note-taking and Report Writing | 12 hours |
| (C) | Criminal Investigation | 34 hours |
| (D) | Interviews: Field and In-Custody | 16 hours |
| (E) | Controlled Substances | 12 hours |
| | UNIT TOTAL | 80 hours |

(5) PRACTICAL APPLICATION UNIT

- | | | |
|-----|------------------------------------|------------------|
| (A) | First Responder | 32 hours |
| (B) | Firearms | 48 hours |
| (C) | Law Enforcement Driver Training | 40 hours |
| (D) | Physical Fitness | 8 hours |
| | (i) Fitness Assessment and Testing | 12 hours |
| | (ii) 1 hour - 3 days a week | 34 hours |
| (E) | Subject Control Arrest Techniques | 40 hours |
| | UNIT TOTAL | 216 hours |

- (6) SHERIFF-SPECIFIC UNIT
 - (A) Civil Process 24 hours
 - (B) Sheriffs' Responsibilities: Detention Duties 4 hours
 - (C) Sheriffs' Responsibilities: Court Duties 6 hours
 - UNIT TOTAL 34 hours
- (7) COURSE ORIENTATION 2 hours
- (8) TESTING 20 hours
- TOTAL COURSE HOURS 618 HOURS

(c) The "Basic Law Enforcement Training Manual" as published by the North Carolina Justice Academy shall be used as the as basic curriculum for this Basic Law Enforcement Training Course. Copies of this manual may be obtained at cost by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099.

(d) The Commission shall designate the developer of the Basic Law Enforcement Training Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Basic Law Enforcement Training Courses. Individuals who successfully complete such a pilot Basic Law Enforcement Training Course offering shall be deemed to have successfully complied with and satisfied the minimum training requirement.

(e) The rules governing Minimum Standards for Completion of Training, codified as Title 12, Subchapter 09B, Section .0400 of the North Carolina Administrative Code, and previously adopted by the North Carolina Criminal Justice Education and Training Standards Commission, are hereby incorporated by reference, and shall, automatically include any later amendments and editions of the incorporated matter to apply to actions of the North Carolina Sheriffs' Education and Training Standards Commission. Copies of the incorporated materials may be obtained at no cost from the Criminal Justice Standards Division, North Carolina Department of Justice, 114 West Edenton Street, Post Office Drawer 149, Raleigh, North Carolina 27602.

History Note: Authority G.S. 17E-4(a); Eff. January 1, 1989;

Amended Eff. January 1, 2010; January 1, 2006; August 1, 2000; January 1, 1996; January 1, 1995; February 1, 1991; January 1, 1990.

12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS

(a) A Sheriff or Department Head may use a lesson plan developed by the North Carolina Justice Academy, or may use a lesson plan for any of the topical areas developed by another entity. The Sheriff or Department Head may also use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training in 12 NCAC 09B .0209.

(b) The 2009 Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Career Survival: Training & Standards Issues;

- (3) Juvenile Minority Sensitivity Training: Juvenile Law;
- (4) Domestic Violence;
- (5) Drug Diversion for Patrol Officers;
- (6) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and

(7) Any topic areas of the Sheriff's choosing.

(c) The 2009 Detention Officer In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Career Survival for Detention Officers;
- (2) Recognition of Mental Illnesses and Suicide Identifiers;
- (3) Detention Officer Legal Update; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(d) The 2009 Telecommunicator In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Professionalism in Emergency Services;
- (2) Dealing with the Mentally Ill;
- (3) Community, School and Campus Safety Issues for Telecommunicators; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(e) The 2010 Law Enforcement In-Service Training Program requires 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Juvenile Minority Sensitivity Training: Race Matters;
- (3) Career Survival: Positive Ways to be Successful;
- (4) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (5) Any topic areas of the Sheriff's choosing.

(f) The 2010 Detention Officer In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Cryptology and Contraband via Mail;
- (2) Legal Update for Detention Officers;
- (3) Career Survival for Detention Officers; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(g) The 2010 Telecommunicator In-Service Training Program requires 16 hours of training in the following topical areas:

- (1) Amber and Silver Alerts;
- (2) Call Taking Procedures in Emergency Services;
- (3) Critical Incident Stress Management; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 2007;

Amended Eff. January 1, 2010; January 1, 2009; January 1, 2008.

12 NCAC 10B .2006 IN-SERVICE TRAINING PROGRAM SPECIFICATIONS

Justice officers who have been active as a deputy sheriff, detention officer, or telecommunicator between January and June of each calendar year must complete the respective In-Service Training Program(s) established by 12 NCAC 10B .2002 by December of each calendar year. For each justice officer holding multiple certifications from the Commission, the Sheriff shall designate the officer's primary duties for the purpose of selecting which one of the in-service training programs the officer must complete for a calendar year. A justice officer who fails to complete in-service training as required, but is either separated or made inactive prior to the end of the calendar year, may be re-activated after completing the in-service training program prescribed for the year immediately preceding the year in which the officer is being activated.

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 2007;
Amended Eff. January 1, 2010.*

12 NCAC 10B .2007 SHERIFF/AGENCY HEAD RESPONSIBILITIES

Each Sheriff or Department Head shall ensure that the respectively required In-Service Training Program established by this Section is conducted. In addition, the Sheriff or Department Head shall:

- (1) report to the Division those deputy sheriffs, detention officers and telecommunicators who are inactive;
- (2) maintain a roster of each deputy sheriff, detention officer and telecommunicator who successfully completes the respectively required In-Service Training Program;
- (3) report to the Division by January 15th, 2009:
 - (a) those active telecommunicators who fail to complete the 2008 Telecommunicator Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (b) those active detention officers who fail to complete the 2008 Detention Officer In-Service Training Program in accordance with 12 NCAC 10B .2005; and
 - (c) those active deputy sheriffs who fail to complete the 2008 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005. The reporting shall be on a Commission form;
- (4) report to the Division by January 15th, 2010:
 - (a) those active telecommunicators who fail to complete the 2009 Telecommunicator Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (b) those active detention officers who fail to complete the 2009 Detention

Officer In-Service Training Program in accordance with 12 NCAC 10B .2005; and

- (c) those active deputy sheriffs who fail to complete the 2009 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005. The reporting shall be on a Commission form;
- (5) report to the Division by January 15th, 2011:
 - (a) those active telecommunicators who fail to complete the 2010 Telecommunicator Officer In-Service Training Program in accordance with 12 NCAC 10B .2005;
 - (b) those active detention officers who fail to complete the 2010 Detention Officer In-Service Training Program in accordance with 12 NCAC 10B .2005; and
 - (c) those active deputy sheriffs who fail to complete the 2010 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005. The reporting shall be on a Commission form.

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 2007;
Amended Eff. January 1, 2010; January 1, 2009; January 1, 2008.*

TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02D .0408 LEAD

The ambient air quality standard for lead and its compounds, measured as elemental lead by a reference method based on Appendix G of 40 CFR Part 50 or by an equivalent method established under 40 CFR Part 53, is 0.15 micrograms per cubic meter. The standard is met when the maximum arithmetic three month mean concentration for a three year period, as determined in accordance with Appendix R of 40 CFR Part 50, is less than or equal to 0.15 micrograms per cubic meter.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);
Eff. June 1, 1980;
Amended Eff. January 1, 2010; July 1, 1984.*

15A NCAC 02D .0540 PARTICULATES FROM FUGITIVE DUST EMISSION SOURCES

- (a) For the purpose of this Rule the following definitions apply:
- (1) "Excess fugitive dust emissions" means:
 - (A) Fugitive dust is visible extending beyond the facility's property line, or

- (B) Upon inspection of settled dust on adjacent property, the Division finds that the dust came from the adjacent facility.
 - (2) "Fugitive dust emissions" means particulate matter that does not pass through a process stack or vent and that is generated within plant property boundaries from activities such as unloading and loading areas, process areas, stockpiles, stock pile working, plant parking lots, and plant roads (including access roads and haul roads).
 - (3) "Production of crops" means:
 - (A) cultivation of land for crop planting;
 - (B) crop irrigation;
 - (C) harvesting;
 - (D) on site curing, storage, or preparation of crops; or
 - (E) protecting them from damage or disease conducted according to practices acceptable to the North Carolina Department of Agriculture and Consumer Services.
 - (4) "Public parking" means an area dedicated to or maintained for the parking of vehicles by the general public.
 - (5) "Public road" means any road that is part of the State highway system or any road, street, or right-of-way dedicated or maintained for public use.
 - (6) "Substantive complaints" means complaints that are verified with physical evidence.
- (b) This Rule does not apply to:
- (1) abrasive blasting covered under Rule .0541 of this Section;
 - (2) cotton ginning operations covered under Rule .0542 of this Section;
 - (3) non-production military base operations;
 - (4) land disturbing activities, such as clearing, grading, or digging, and related activities such as hauling fill and cut material, building material, or equipment; or
 - (5) public roads, public parking, timber harvesting, or production of crops.
- (c) The owner or operator of a facility required to have a permit under 15A NCAC 02Q or of a source subject to a requirement under 15A NCAC 02D shall not cause or allow fugitive dust emissions to cause or contribute to substantive complaints, or visible emissions in excess of that allowed under Paragraph (e) of this Rule.
- (d) If fugitive dust emissions from a facility required to comply with this Rule cause or contribute to substantive complaints, the owner or operator of the facility shall:
- (1) within 30 days upon receipt of written notification from the Director of a second substantive complaint in a 12-month period, submit to the Director a written report that includes the identification of the probable source(s) of the fugitive dust emissions causing complaints and what measures can be made to abate the fugitive emissions;
- (2) within 60 days of the initial report submitted under Subparagraph (1) of this Paragraph, submit to the Director a control plan as described in Paragraph (f) of this Rule; and
 - (3) within 30 days after the Director approves the plan, be in compliance with the plan.
- (e) If there is sufficient environmental benefit to justify a fugitive dust control plan, the Director shall require that the owner or operator of a facility covered by Paragraph (c) of this Rule develop and submit a fugitive dust control plan as described in Paragraph (f) of this Rule if:
- (1) ambient air quality measurements or dispersion modeling as provided in 15A NCAC 02D .1106(e) show violation or a potential for a violation of an ambient air quality standard for particulates in 15A NCAC 02D .0400; or
 - (2) the Division observes excessive fugitive dust emissions from the facility beyond the property boundaries for six minutes in any one hour using Reference Method 22 in 40 CFR 60, Appendix A.
- (f) The fugitive dust control plan shall:
- (1) identify the sources of fugitive dust emissions within the facility;
 - (2) describe how fugitive dust will be controlled from each identified source;
 - (3) contain a schedule by which the plan will be implemented;
 - (4) describe how the plan will be implemented, including training of facility personnel; and
 - (5) describe methods to verify compliance with the plan.
- (g) The Director shall approve the plan if he finds that:
- (1) the plan contains all required elements in Paragraph (f) of this Rule;
 - (2) the proposed schedule contained in the plan will reduce fugitive dust emissions in a timely manner;
 - (3) the methods used to control fugitive dust emissions are sufficient to prevent fugitive dust emissions from causing or contributing to a violation of the ambient air quality standards for particulates; and
 - (4) the described compliance verification methods are sufficient to verify compliance with the plan.
- If the Director finds that the proposed plan does not meet the requirements of this Paragraph he shall notify the owner or operator of the facility of any deficiencies in the proposed plan. The owner or operator shall have 30 days after receiving written notification from the Director to correct the deficiencies or submit a schedule describing actions to be taken and the time by which they will be implemented.
- (h) If after a plan has been implemented, the Director finds that the plan inadequately controls fugitive dust emissions, he shall require the owner or operator of the facility to correct the

deficiencies in the plan. Within 90 days after receiving written notification from the Director identifying the deficiency, the owner or operator of the facility shall submit a revision to his plan to correct the deficiencies.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.108(c)(7); Eff. July 1, 1998; Amended Eff. August 1, 2007; Amended Eff. Pending Legislative Review.

15A NCAC 02D .1104 TOXIC AIR POLLUTANT GUIDELINES

A facility shall not emit any of the following toxic air pollutants in such quantities that may cause or contribute beyond the premises (adjacent property boundary) to any significant ambient air concentration that may adversely affect human health. In determining these significant ambient air concentrations, the Division shall be guided by the following list of acceptable ambient levels in milligrams per cubic meter at 77°F (25°C) and 29.92 inches (760 mm) of mercury pressure (except for asbestos):

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
acetaldehyde (75-07-0)				27
acetic acid (64-19-7)				3.7
acrolein (107-02-8)				0.08
acrylonitrile (107-13-1)	1.5×10^{-4}	0.03	1	
ammonia (7664-41-7)				2.7
aniline (62-53-3)			1	
arsenic and inorganic arsenic compounds	2.3×10^{-7}			
asbestos (1332-21-4)	2.8×10^{-11} fibers/ml			
aziridine (151-56-4)		0.006		
benzene (71-43-2)	1.2×10^{-4}			
benzidine and salts (92-87-5)	1.5×10^{-8}			
benzo(a)pyrene (50-32-8)	3.3×10^{-5}			
benzyl chloride (100-44-7)			0.5	
beryllium (7440-41-7)	4.1×10^{-6}			
beryllium chloride (7787-47-5)	4.1×10^{-6}			
beryllium fluoride (7787-49-7)	4.1×10^{-6}			
beryllium nitrate (13597-99-4)	4.1×10^{-6}			
bioavailable chromate pigments, as chromium (VI) equivalent	8.3×10^{-8}			
bis-chloromethyl ether (542-88-1)	3.7×10^{-7}			
bromine (7726-95-6)				0.2
1,3-butadiene (106-99-0)	4.4×10^{-4}			
cadmium (7440-43-9)	5.5×10^{-6}			
cadmium acetate (543-90-8)	5.5×10^{-6}			
cadmium bromide (7789-42-6)	5.5×10^{-6}			
carbon disulfide (75-15-0)		0.186		
carbon tetrachloride (56-23-5)	6.7×10^{-3}			
chlorine (7782-50-5)		0.0375		0.9
chlorobenzene (108-90-7)		2.2		
chloroform (67-66-3)	4.3×10^{-3}			
chloroprene (126-99-8)		0.44	3.5	
cresol (1319-77-3)			2.2	
p-dichlorobenzene (106-46-7)				66
dichlorodifluoromethane (75-71-8)		248		
dichlorofluoromethane (75-43-4)		0.5		
di(2-ethylhexyl)phthalate (117-81-7)		0.03		
dimethyl sulfate (77-78-1)		0.003		
1,4-dioxane (123-91-1)		0.56		

APPROVED RULES

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
epichlorohydrin (106-89-8)	8.3×10^{-2}			
ethyl acetate (141-78-6)			140	
ethylenediamine (107-15-3)		0.3	2.5	
ethylene dibromide (106-93-4)	4.0×10^{-4}			
ethylene dichloride (107-06-2)	3.8×10^{-3}			
ethylene glycol monoethyl ether (110-80-5)		0.12	1.9	
ethylene oxide (75-21-8)	2.7×10^{-5}			
ethyl mercaptan (75-08-1)			0.1	
fluorides		0.016	0.25	
formaldehyde (50-00-0)				0.15
hexachlorocyclopentadiene (77-47-4)		0.0006	0.01	
hexachlorodibenzo-p-dioxin (57653-85-7)	7.6×10^{-8}			
n-hexane (110-54-3)		1.1		
hexane isomers except n-hexane				360
hydrazine (302-01-2)		0.0006		
hydrogen chloride (7647-01-0)				0.7
hydrogen cyanide (74-90-8)		0.14	1.1	
hydrogen fluoride (7664-39-3)		0.03		0.25
hydrogen sulfide (7783-06-4)		0.12		
maleic anhydride (108-31-6)		0.012	0.1	
manganese and compounds		0.031		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.0006		
manganese tetroxide (1317-35-7)		0.0062		
mercury, alkyl		0.00006		
mercury, aryl and inorganic compounds		0.0006		
mercury, vapor (7439-97-6)		0.0006		
methyl chloroform (71-55-6)		12		245
methylene chloride (75-09-2)	2.4×10^{-2}		1.7	
methyl ethyl ketone (78-93-3)		3.7		88.5
methyl isobutyl ketone (108-10-1)		2.56		30
methyl mercaptan (74-93-1)			0.05	
nickel carbonyl (13463-39-3)		0.0006		
nickel metal (7440-02-0)		0.006		
nickel, soluble compounds, as nickel		0.0006		
nickel subsulfide (12035-72-2)	2.1×10^{-6}			
nitric acid (7697-37-2)				1
nitrobenzene (98-95-3)		0.06	0.5	
n-nitrosodimethylamine (62-75-9)	5.0×10^{-5}			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	8.3×10^{-8}			
pentachlorophenol (87-86-5)		0.003	0.025	
perchloroethylene (127-18-4)	1.9×10^{-1}			
phenol (108-95-2)			0.95	
phosgene (75-44-5)		0.0025		
phosphine (7803-51-2)				0.13
polychlorinated biphenyls (1336-36-3)	8.3×10^{-5}			
soluble chromate compounds, as		6.2×10^{-4}		

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
chromium (VI) equivalent				
styrene (100-42-5)			10.6	
sulfuric acid (7664-93-9)		0.012	0.1	
tetrachlorodibenzo-p-dioxin (1746-01-6)	3.0×10^{-9}			
1,1,1,2-tetrachloro-2,2,- difluoroethane (76-11-9)		52		
1,1,2,2-tetrachloro-1,2- difluoroethane (76-12-0)		52		
1,1,2,2-tetrachloroethane (79-34-5)	6.3×10^{-3}			
toluene (108-88-3)		4.7		56
toluene diisocyanate, 2,4- (584-84-9) and 2,6- (91-08-7) isomers		0.0002		
trichloroethylene (79-01-6)	5.9×10^{-2}			
trichlorofluoromethane (75-69-4)			560	
1,1,2-trichloro-1,2,2- trifluoroethane (76-13-1)				950
vinyl chloride (75-01-4)	3.8×10^{-4}			
vinylidene chloride (75-35-4)		0.12		
xylene (1330-20-7)		2.7		65

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 143B-282; S.L. 1989, c. 168, s. 45; Eff. May 1, 1990;

Amended Eff. September 1, 1992; March 1, 1992;

Temporary Amendment Eff. July 20, 1997;

Amended Eff. January 1, 2010; June 1, 2008; April 1, 2005; April 1, 2001; July 1, 1998.

15A NCAC 02D .1402 APPLICABILITY

(a) The rules in this Section do not apply except as specifically set out in this Rule. Section .2400 of this Subchapter applies rather than the nitrogen oxide (NOx) state implementation plan (SIP) call (40 CFR 51.121) provisions of Rules .1402(c) and (h), .1403(a) and (d) through (e), .1404(a), (b), and (d) through (j), .1409(c), (d), and (h), and .1416 through .1423 of this Subchapter.

(b) The requirements of this Section apply to all sources May 1 through September 30 of each year.

(c) Rules .1409(c) and .1416 through .1423 of this Section apply statewide.

(d) Rules .1407 through .1409(b) and .1413 of this Section apply to facilities with potential emissions of nitrogen oxides equal to or greater than 100 tons per year or 560 pounds per calendar day beginning May 1 through September 30 of any year in the following areas:

- (1) Cabarrus County;
- (2) Gaston County;
- (3) Lincoln County;
- (4) Mecklenburg County;
- (5) Rowan County;
- (6) Union County; and
- (7) Davidson Township and Coddle Creek Township in Iredell County.

(e) If a violation of the ambient air quality standard for ozone is measured according to 40 CFR 50.9 in Davidson, Forsyth, or Guilford County or that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River, the Director shall initiate analysis to determine the control measures needed to attain and maintain the ambient air quality standard for ozone. By the following May 1, the Director shall implement the specific stationary source control measures contained in this Section that are required as part of the control strategy necessary to bring the area into compliance and to maintain compliance with the ambient air quality standard for ozone. The Director shall implement the rules in this Section identified as necessary by the analysis by notice in the North Carolina Register. The notice shall identify the rules that are to be implemented and shall identify whether the rules implemented are to apply in Davidson, Forsyth, or Guilford County or that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River or any combination thereof. At least one week before the scheduled publication date of the North Carolina Register containing the Director's notice implementing rules in this Section, the Director shall send written notification to all permitted facilities within the county in which the rules are being implemented that are or may be subject to the requirements of this Section informing them that they are or may be subject to the requirements of this Section. (For Forsyth

County, "Director" means for the purpose of notifying permitted facilities in Forsyth County, the Director of the Forsyth County local air pollution control program.) Compliance shall be according to Rule .1403 of this Section.

(f) If a violation of the ambient air quality standard for ozone is measured according to 40 CFR 50.9 in Durham or Wake County or Dutchville Township in Granville County, the Director shall initiate analysis to determine the control measures needed to attain and maintain the ambient air quality standard for ozone. By the following May 1, the Director shall implement the specific stationary source control measures contained in this Section that are required as part of the control strategy necessary to bring the area into compliance and to maintain compliance with the ambient air quality standard for ozone. The Director shall implement the rules in this Section identified as necessary by the analysis by notice in the North Carolina Register. The notice shall identify the rules that are to be implemented and shall identify whether the rules implemented are to apply in Durham or Wake County or Dutchville Township in Granville County or any combination thereof. At least one week before the scheduled publication date of the North Carolina Register containing the Director's notice implementing Rules .1407 through .1409(b) and .1413 of this Section, the Director shall send written notification to all permitted facilities within the county in which the rules are being implemented that are or may be subject to the requirements of this Section informing them that they are or may be subject to the requirements of this Section. Compliance shall be in according to Rule .1403 of this Section.

(g) If the State nonattainment plan for ozone has failed to attain the ambient air quality standard for ozone and does not qualify for an extension of the attainment date in the Charlotte-Gastonia-Rock Hill ozone nonattainment area, the rules in this Section shall apply to facilities in Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties and Davidson and Coddle Creek townships in Iredell County with the potential to emit at least 50 tons of nitrogen oxides per year. Once the nonattainment plan for ozone has failed and the area does not qualify for an extension of the attainment date, the Director shall notice the applicability of these rules to these sources in the North Carolina Register and shall send written notification to all

permitted facilities within the counties in which the rules are being implemented that are or may be subject to the requirements of this Section informing them that they are or may be subject to the requirements of this Section. (For Mecklenburg County, "Director" means for the purpose of notifying permitted facilities in Mecklenburg County, the Director of the Mecklenburg County local air pollution control program.) Compliance shall be according to Rule .1403 of this Section.

(h) Regardless of any other statement of applicability of this Section, this Section does not apply to any:

- (1) source not required to obtain an air permit under 15A NCAC 02Q .0102 or is an insignificant activity as defined at 15A NCAC 02Q .0103(19);
- (2) incinerator or thermal or catalytic oxidizer used primarily for the control of air pollution;
- (3) emergency generator;
- (4) emergency use internal combustion engine;
- (5) stationary internal combustion engine less than 2400 brake horsepower that operates no more than the following hours between May 1 and September 30:
 - (A) for diesel engines:
 $t = 833,333 / \text{ES}$
 - (B) for natural gas-fired engines:
 $t = 700,280 / \text{ES}$
 where t equals time in hours and ES equals engine size in horsepower.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (7), (10); Eff. April 1, 1995; Amended Eff. April 1, 1997; July 1, 1995; April 1, 1995; Temporary Amendment Eff. November 1, 2000; Amended Eff. April 1, 2001; Temporary Amendment Eff. August 1, 2001; Amended Eff. June 1, 2008; July 1, 2007; March 1, 2007; July 18, 2002; Temporary Amendment Eff. December 31, 2008; Temporary Amendment expired September 29, 2009; Amended Eff. January 1, 2010.

15A NCAC 02Q .0711 EMISSION RATES REQUIRING A PERMIT

(a) A permit to emit toxic air pollutants is required for any facility whose actual (or permitted if higher) rate of emissions from all sources are greater than any one of the following toxic air pollutant permitting emissions rates:

Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
acetaldehyde (75-07-0)				6.8
acetic acid (64-19-7)				0.96
acrolein (107-02-8)				0.02
acrylonitrile (107-13-1)		0.4	0.22	
ammonia (7664-41-7)				0.68
aniline (62-53-3)			0.25	
arsenic and inorganic arsenic compounds	0.016			
asbestos (1332-21-4)	1.9×10^{-6}			

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aziridine (151-56-4)		0.13		
benzene (71-43-2)	8.1			
benzidine and salts (92-87-5)	0.0010			
benzo(a)pyrene (50-32-8)	2.2			
benzyl chloride (100-44-7)			0.13	
beryllium (7440-41-7)	0.28			
beryllium chloride (7787-47-5)	0.28			
beryllium fluoride (7787-49-7)	0.28			
beryllium nitrate (13597-99-4)	0.28			
bioavailable chromate pigments, as chromium (VI) equivalent	0.0056			
bis-chloromethyl ether (542-88-1)	0.025			
bromine (7726-95-6)				0.052
1,3-butadiene (106-99-0)	11			
cadmium (7440-43-9)	0.37			
cadmium acetate (543-90-8)	0.37			
cadmium bromide (7789-42-6)	0.37			
carbon disulfide (75-15-0)		3.9		
carbon tetrachloride (56-23-5)	460			
chlorine (7782-50-5)		0.79		0.23
chlorobenzene (108-90-7)		46		
chloroform (67-66-3)	290			
chloroprene (126-99-8)		9.2	0.89	
cresol (1319-77-3)			0.56	
p-dichlorobenzene (106-46-7)				16.8
dichlorodifluoromethane (75-71-8)		5200		
dichlorofluoromethane (75-43-4)		10		
di(2-ethylhexyl)phthalate (117-81-7)		0.63		
dimethyl sulfate (77-78-1)		0.063		
1,4-dioxane (123-91-1)		12		
epichlorohydrin (106-89-8)	5600			
ethyl acetate (141-78-6)			36	
ethylenediamine (107-15-3)		6.3	0.64	
ethylene dibromide (106-93-4)	27			
ethylene dichloride (107-06-2)	260			
ethylene glycol monoethyl ether (110-80-5)		2.5	0.48	
ethylene oxide (75-21-8)	1.8			
ethyl mercaptan (75-08-1)			0.025	
fluorides		0.34	0.064	
formaldehyde (50-00-0)				0.04
hexachlorocyclopentadiene (77-47-4)		0.013	0.0025	
hexachlorodibenzo-p-dioxin (57653- 85-7)	0.0051			
n-hexane (110-54-3)		23		
hexane isomers except n-hexane				92
hydrazine (302-01-2)		0.013		
hydrogen chloride (7647-01-0)				0.18
hydrogen cyanide (74-90-8)		2.9	0.28	
hydrogen fluoride (7664-39-3)		0.63		0.064
hydrogen sulfide (7783-06-4)		1.7		
maleic anhydride (108-31-6)		0.25	0.025	
manganese and compounds		0.63		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.013		
manganese tetroxide (1317-35-7)		0.13		
mercury, alkyl		0.0013		

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mercury, aryl and inorganic compounds		0.013		
mercury, vapor (7439-97-6)		0.013		
methyl chloroform (71-55-6)		250		64
methylene chloride (75-09-2)	1600		0.39	
methyl ethyl ketone (78-93-3)		78		22.4
methyl isobutyl ketone (108-10-1)		52		7.6
methyl mercaptan (74-93-1)			0.013	
nickel carbonyl (13463-39-3)		0.013		
nickel metal (7440-02-0)		0.13		
nickel, soluble compounds, as nickel		0.013		
nickel subsulfide (12035-72-2)	0.14			
nitric acid (7697-37-2)				0.256
nitrobenzene (98-95-3)		1.3	0.13	
n-nitrosodimethylamine (62-75-9)	3.4			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	0.0056			
pentachlorophenol (87-86-5)		0.063	0.0064	
perchloroethylene (127-18-4)	13000			
phenol (108-95-2)			0.24	
phosgene (75-44-5)		0.052		
phosphine (7803-51-2)				0.032
polychlorinated biphenyls (1336-36-3)	5.6			
soluble chromate compounds, as chromium (VI) equivalent		0.013		
styrene (100-42-5)			2.7	
sulfuric acid (7664-93-9)		0.25	0.025	
tetrachlorodibenzo-p-dioxin (1746-01-6)	0.00020			
1,1,1,2-tetrachloro-2,2,-difluoroethane (76-11-9)		1100		
1,1,2,2-tetrachloro-1,2,-difluoroethane (76-12-0)		1100		
1,1,2,2-tetrachloroethane (79-34-5)	430			
toluene (108-88-3)		98		14.4
toluene diisocyanate, 2,4-(584-84-9) and 2,6-(91-08-7) isomers		0.003		
trichloroethylene (79-01-6)	4000			
trichlorofluoromethane (75-69-4)			140	
1,1,2-trichloro-1,2,2-trifluoroethane (76-13-1)				240
vinyl chloride (75-01-4)	26			
vinylidene chloride (75-35-4)		2.5		
xylene (1330-20-7)		57		16.4

(b) For the following pollutants, the highest emissions occurring for any 15-minute period shall be multiplied by four and the product shall be compared to the value in Paragraph (a). These pollutants are:

- (1) acetaldehyde (75-07-0);
- (2) acetic acid (64-19-7);
- (3) acrolein (107-02-8);
- (4) ammonia (7664-41-7);
- (5) bromine (7726-95-6);
- (6) chlorine (7782-50-5);
- (7) formaldehyde (50-00-0);
- (8) hydrogen chloride (7647-01-0);
- (9) hydrogen fluoride (7664-39-3); and

(10) nitric acid (7697-37-2).

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282; S L. 1989, c. 168, s. 45;
Rule originally codified as part of 15A NCAC 02H .0610;
Eff. July 1, 1998;
Amended Eff. January 1, 2010; June 1, 2008; April 1, 2005;
February 1, 2005; April 1, 2001.

15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS

The ocean hazard system of AECs contains all of the following areas:

- (1) Ocean Erodible Area. This is the area in which there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The seaward boundary of this area is the mean low water line. The landward extent of this area is determined as follows:
 - (a) a distance landward from the first line of stable natural vegetation to the recession line that would be established by multiplying the long-term annual erosion rate times 60, provided that, where there has been no long-term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "Long Term Annual Shoreline Change Rates updated through 1998" and approved by the Coastal Resources Commission on January 29, 2004 (except as such rates may be varied in individual contested cases, declaratory or interpretive rulings). The maps are available without cost from any local permit officer or the Division of Coastal Management; and
 - (b) a distance landward from the recession line established in Sub-Item (1)(a) of this Rule to the recession line that would be generated by a storm having a one percent chance of being equaled or exceeded in any given year.
- (2) The High Hazard Flood Area. This is the area subject to high velocity waters (including hurricane wave wash) in a storm having a one percent chance of being equaled or exceeded in any given year, as identified as zone V1-30 on the flood insurance rate maps of the Federal Insurance Administration, U.S. Department of Housing and Urban Development.
- (3) Inlet Hazard Area. The inlet hazard areas are natural-hazard areas that are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area shall extend landward from the normal low water line a distance sufficient
 - (4) Unvegetated Beach Area. Beach areas within the Ocean Hazard Area where no stable natural vegetation is present may be designated as an unvegetated beach area on either a permanent or temporary basis:
 - (a) An area appropriate for permanent designation as an unvegetated beach area is a dynamic area that is subject to rapid unpredictable landform change from wind and wave action. The areas in this category shall be designated following studies by the Coastal Resources Commission. These areas shall be designated on maps approved by the Commission and available without cost from any local permit officer or the Division of Coastal Management.
 - (b) An area that is suddenly unvegetated as a result of a hurricane or other major storm event may be designated as an unvegetated beach area for a specific period of time. At the expiration of the time specified by the Commission, the area shall return to its pre-storm designation. Areas appropriate for such designation are those in which vegetation has been lost over such a large land area that extrapolation of the vegetation line under the procedure set out in Rule .0305(a) of this Section is inappropriate.

to encompass that area within which the inlet shall, based on statistical analysis, migrate, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet and external influences such as jetties and channelization. The areas identified as suggested Inlet Hazard Areas included in the report entitled INLET HAZARD AREAS, The Final Report and Recommendations to the Coastal Resources Commission, 1978, as amended in 1981, by Loie J. Priddy and Rick Carraway are incorporated by reference without future changes and are hereby designated as Inlet Hazard Areas except that the Cape Fear Inlet Hazard Area as shown on said map shall not extend northeast of the Baldhead Island marina entrance channel. These areas shall be extensions of the adjacent ocean erodible areas and the width of the inlet hazard area shall not be less than the width of the adjacent ocean erodible area. This report is available for inspection at the Department of Environment and Natural Resources, Division of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina. Photo copies are available at no charge.

The Commission designates as temporary unvegetated beach areas those oceanfront areas on Hatteras Island west of the new inlet breach in Dare County in which the vegetation line as shown on Dare County orthophotographs dated 4 February 2002 through 10 February 2002 was destroyed as a result of Hurricane Isabel on September 18, 2003 and the remnants of which were subsequently buried by the construction of an emergency berm. This designation shall continue until such time as stable, natural vegetation has reestablished or until the area is permanently designated as an unvegetated beach area pursuant to Sub-Item (4)(a) of this Rule.

History Note: Authority G.S. 113A-107; 113A-113; 113A-124;
Eff. September 9, 1977;
Amended Eff. December 1, 1993; November 1, 1988; September 1, 1986; December 1, 1985;
Temporary Amendment Eff. October 10, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. October 10, 1996 Expired on July 29, 1997;
Temporary Amendment Eff. October 22, 1997;
Amended Eff. January 1, 2010; February 1, 2006; October 1, 2004; April 1, 2004; August 1, 1998.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 18 – BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

21 NCAC 18B .0804 SCOPE OF SP-FA/LV LICENSE

(a) Definition. As used in this Chapter, fire alarm, burglar alarm and low voltage wiring systems are defined as:

- (1) wiring systems of 50 volts or less and control circuits directly associated therewith;
- (2) wiring systems that have a voltage in excess of 50 volts and consist solely of power limited circuits meeting the definition of a Class II or Class III wiring system in the National Electrical Code;
- (3) line voltage wiring that has a voltage not in excess of 300 volts to ground and is installed from the load-side terminals of a disconnecting means or from a junction box, either of which has been installed by others, for the specific purpose of supplying the low voltage wiring system involved. Some low voltage wiring systems that meet this definition are exempt under Rule .0805;
- (4) interconnected components wired to a common control panel either as a standalone

fire alarm system or as part of a combination burglar/fire system to monitor and annunciate the status of evidence of flame, heat, smoke or water flow within a building or structure in accordance with the requirements of the N.C. State Building Code and NFPA 72; or

- (5) alarm systems or devices used to detect burglary or theft as defined in G.S. 74D-2(a).

(b) Scope. A special restricted fire alarm/low voltage electrical contracting license authorizes the licensee to install, maintain, or repair only low voltage wiring and directly related wiring. Wiring is directed related if it:

- (1) originates at the load-side terminals of a disconnecting means or junction box that:
 - (A) has been installed, complete with line-side connections, by others for the purpose of supplying the low voltage wiring system involved; and
 - (B) is permanently and legibly marked to identify the low voltage wiring system supplied; and
- (2) is not installed in a location considered as hazardous under the National Electrical Code.

History Note: Authority G.S. 87-42; 87-43.3;
Eff. October 1, 1988;
Amended Eff. January 1, 2010.

21 NCAC 18B .0805 EXEMPTION OF CERTAIN LOW VOLTAGE WIRING SYSTEMS

Exemption. Except a fire alarm, burglar alarm or low voltage wiring system as defined in Rule .0804, the installation, maintenance, or repair of low voltage wiring systems may be performed by those not licensed by the Board if all of the following conditions are met:

- (1) the system is not required by the N.C. State Building Code;
- (2) the low voltage control circuit and power supply is a Class II or Class III system as defined in the National Electrical Code other than that described in Rule .0804;
- (3) the system operates at a voltage not in excess of 50 volts or meets the provisions for sound-recording and similar equipment in the National Electrical Code;
- (4) no part of the system is installed in an area considered as hazardous under the National Electrical Code;
- (5) the system is current limited or protected by a circuit breaker, fuse, or other current limiting device; and
- (6) a failure in the system would not, in the opinion of the electrical inspector having jurisdiction, create a shock or fire hazard to persons or property.

History Note: Authority G.S. 87-42; 87-43.3;
Eff. October 1, 1988;
Amended Eff. January 1, 2010.

21 NCAC 18B .1101 CONTINUING EDUCATION REQUIREMENTS: LISTED QUALIFIED INDIVIDUALS

(a) Every listed qualified individual, including listed qualified individuals pursuant to G.S. 87-50, shall complete continuing education for each annual license period to renew the license on which the qualified individual is currently listed, for the next annual license period, except as follows:

- (1) individuals becoming qualified by examination during the 12 month period immediately preceding the license renewal date;
- (2) qualified individuals unable to fulfill the required number of hours as the result of illness as certified in writing by the attending physician; or
- (3) persons presenting approved courses of continuing education.

(b) The number of required contact hours for every listed qualified individual shall be determined by the classification of license on which the qualified individual is currently listed as follows:

- (1) qualified individuals currently listed on a license in the limited, intermediate, unlimited and special restricted single family dwelling classifications shall complete at least eight hours of approved continuing education for license renewal, and
- (2) qualified individuals currently listed on a license in the special restricted fire alarm/low voltage (SP-FA/LV), special restricted elevator (SP-EL), special restricted plumbing and heating (SP-PH), special restricted ground water pump (SP-WP), special restricted electric sign (SP-ES) and special restricted swimming pool (SP-SP) classifications shall complete at least four hours of approved continuing education for license renewal.

(c) The Board, pursuant to Rules .1102 and .1103 of the Section, approves courses. Because of differences in the electrical contracting industry and individual needs of listed qualified individuals, each qualified individual must exercise judgment in selecting courses for which continuing education is claimed and in choosing only those courses that will advance the individual's knowledge.

(d) Course sponsors may be colleges or universities, community colleges, trade associations, providers of self-study programs, employers, third party professional examination companies, private instructors and the like.

(e) North Carolina listed qualified individuals residing within the state must obtain the required continuing education hours by taking a course provided by an approved sponsor.

(f) North Carolina listed qualified individuals residing outside of North Carolina, including listed qualified individuals pursuant to G.S. 87-50, may obtain credit for courses offered in North Carolina. They may also obtain credit for courses offered in their state, province or country of residence provided the Board subsequently approves the courses taken, pursuant to Rule .1102(b) of this Section.

(g) Effective for renewals on or after July 1, 2008, all persons seeking to renew qualification must demonstrate that a minimum

of one-half the continuing education hours for each annual license period were obtained by in-person classroom or seminar attendance.

History Note: Authority G.S. 87-42; 87-44.1;

Eff. October 1, 1990;

Amended Eff. January 1, 2010; January 1, 2006; March 1, 1999.

21 NCAC 18B .1102 MINIMUM REQUIREMENTS FOR COURSE SPONSOR APPROVAL

(a) Each course sponsor shall submit an application for continuing education course sponsor approval to the Board on a form provided by the Board by March 1 prior to the fiscal year (July 1 - June 30) in which the course will be offered. The application shall include:

- (1) the name of the sponsor;
- (2) sponsor contact person, address and telephone number;
- (3) course title and outline;
- (4) course contact hours;
- (5) schedule of courses, if established, including dates, time and locations;
- (6) course fee; and
- (7) names and credentials of each instructor.

(b) To qualify as an approved continuing education course sponsor:

- (1) all courses offered by the sponsor shall last no fewer than two contact hours required for the license classification pursuant to Rule .1101(b) of this Section; and
- (2) all courses offered by the sponsor shall cover articles of the current National Electrical Code; NFPA 72 and reference materials for Fire Alarm Systems; G.S. 87, Article 4; 21 NCAC 18B; or other subject matter satisfying the requirements in G.S. 87-44.1 as approved by the Board.

(c) The course sponsor or instructor shall provide the Board with a certified class roster of all attending qualified individuals within 30 days after the completion of each course.

(d) The course sponsor or instructor shall provide each attending qualified individual with a certificate of completion within 30 days after completion of each course.

(e) The Board shall approve or deny applications at its April meeting.

(f) Upon approval of the application, each approved sponsor shall agree to conduct courses in accordance with this Section and the application and shall indicate its agreement by signing a continuing education sponsor agreement form provided by the Board.

History Note: Authority G.S. 87-42; 87-44.1;

Eff. October 1, 1990;

Amended Eff. January 1, 2010; January 1, 2006; March 1, 1999.

CHAPTER 53 – BOARD OF LICENSED PROFESSIONAL COUNSELORS

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, 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.

History Note: Authority G.S. 90-334(h);
Temporary Rule Eff. February 21, 1984, for a Period of 120 Days to Expire on June 19, 1984;
Eff. July 1, 1984;
Amended Eff. January 1, 2010; July 1, 2006; July 1, 1994.

21 NCAC 53 .0204 PROFESSIONAL DISCLOSURE STATEMENT

A professional disclosure statement is a printed document that includes the following information:

- (1) name of licensee;
- (2) the licensee's highest relevant degree, year degree received, and name of institution granting the degree;
- (3) names and numbers of all relevant credentials (licenses, certificates, registrations);
- (4) number of years of counseling experience;
- (5) description of services offered and clientele (populations) served;
- (6) 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;
- (7) an explanation of confidentiality, including responsibilities and exceptions;
- (8) a statement of procedure for registering complaints, including the full name and address of the Board; and
- (9) signature and date spaces for both client and licensee.

A current copy of this statement shall be provided to each client prior to the performance of professional counseling services. An updated professional disclosure statement shall be submitted to the Board office at the time of renewal. The counselor shall retain a file copy of the disclosure statement signed by each client.

History Note: Authority G.S. 90-334; 90-343;
Eff. July 1, 1994;
Amended Eff. January 1, 2010; July 1, 1995.

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 3000 hours of supervised professional practice after the graduate degree in counseling or counseling related field has been conferred. 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 through b. To be applicable, experience shall be gained at a rate of not less than eight hours per week but no more than 40 hours per week. At least 100 hours of clinical supervision, as defined in Rule .0210 and Rule .0211 of this Section, shall be documented during the minimum of 3000 hours of supervised professional practice, as defined in Rule .0208 of this Section. No less than three-quarters of the hours of clinical supervision shall be individual clinical supervision.

History Note: Authority G.S. 90-334(i); 90-336(c);
Eff. July 1, 1995;
Amended Eff. January 1, 2010; July 1, 2006.

21 NCAC 53 .0206 GRADUATE COUNSELING EXPERIENCE

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 Chapter. At least 60 percent of this counseling experience shall be direct graduate counseling experience as defined in Rule .0205 of this Section.

History Note: Authority G.S. 90-332.1(a)(3); 90-334(i); 90-336(b)(1);
Eff. July 1, 1995;
Amended Eff. January 1, 2010.

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 who wish to counsel as supervised counselors in supervised professional settings, as defined in Rule .0207 of the Section, shall apply to become a Licensed

Professional Counselor Associate as defined in Section .0700. 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.

History Note: Authority G.S. 90-334(i); 90-336(c)(2);
Eff. July 1, 1995;
Amended Eff. January 1, 2010; July 1, 2006.

21 NCAC 53 .0209 QUALIFIED CLINICAL SUPERVISOR

(a) A qualified clinical supervisor is:

- (1) 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, and a minimum of five years of post-graduate counseling experience with a minimum of two years post licensure experience, or
- (2) Other equivalently licensed and experienced mental health professional.

As of July 1, 2014, all qualified clinical supervisors must hold the credential of Licensed Professional Counselor Supervisor or be another equivalently licensed and experienced mental health professional.

(b) All supervision arrangements for which a Verification of Arrangement for Clinical Supervision were approved by the Board prior to October 1, 2009 shall be honored by the Board.

(c) Supervisors who received Board approval to provide clinical supervision for any applicant prior to October 1, 2009 have until the following deadlines to complete the educational requirements listed:

- (1) December 31, 2010 to acquire the equivalent of one semester graduate credit in clinical supervision from a regionally accredited institution of higher education as documented by an official transcript or 15 contact hours of continuing education, as defined by Rule .0603(c) in this Chapter, in clinical supervision;
- (2) December 31, 2011 to acquire the equivalent of two semester graduate credits in clinical supervision from a regionally accredited institution of higher education as documented by an official transcript or 30 contact hours of continuing education, as defined by Rule .0603(c) in this Chapter, in clinical supervision; and

- (3) December 31, 2012 to acquire 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.

(d) Equivalently licensed and experienced means that the mental health professional has:

- (1) at least a master's degree as defined in G.S. 90-336(b)(1);
- (2) an active and unrestricted license;
- (3) 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 Section, in clinical supervision; and
- (4) a minimum of five years post-graduate counseling experience, with a minimum of two years post licensure experience.

History Note: Authority G.S. 90-330(a)(4); 90-334(i); 90-336(d);
Eff. July 1, 1995;
Amended Eff. January 1, 2010; July 1, 2006.

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.

History Note: Authority G.S. 90-334(i); 90-336(c)(2);
Eff. July 1, 1995;
Amended Eff. January 1, 2010.

21 NCAC 53 .0211 GROUP CLINICAL SUPERVISION

Group clinical supervision consists of face-to-face scheduled supervision between groups of supervisees, not to exceed 12 supervisees per group, and 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.

History Note: Authority G.S. 90-334(i); 90-336(c)(2);
Eff. July 1, 1995;
Amended Eff. January 1, 2010.

**21 NCAC 53 .0212 FACE TO FACE SUPERVISION
DEFINED**

For the purposes of this Chapter, face-to-face clinical supervision means supervision that is live, interactive, and visual. Video 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.

*History Note: Authority G.S. 90-334(h);
Eff. July 1, 2006;
Amended Eff. January 1, 2010.*

**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; and
- (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).

*History Note: Authority G.S. 90-334(h); 90-334(i);
Eff. January 1, 2010.*

21 NCAC 53 .0301 APPLICATIONS

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

*History Note: Authority G.S. 90-334; 90-336(a);
Temporary Rule Eff. February 21, 1984, for a Period of 120 Days to Expire on June 19, 1984;
Eff. July 1, 1984;
Amended Eff. January 1, 2010; July 1, 1995; July 1, 1994; April 1, 1989.*

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 convey the pertinent content of the courses, the board shall require additional documentation from the applicant.

*History Note: Authority G.S. 90-334; 90-336;
Temporary Rule Eff. February 21, 1984, for a Period of 120 Days to Expire on June 19, 1984;
Eff. July 1, 1984;
Amended Eff. January 1, 2010.*

21 NCAC 53 .0305 EXAMINATION

The National Counseling Examination (NCE), the National Clinical Mental Health Counselor Examination (NCMHCE), or the Counselor Rehabilitation Certification Examination (CRC) may be taken to complete the examination requirement for Licensed Professional Counselor Associate (LPCA) and Licensed Professional Counselor (LPC) licensure. 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 levels for counselors. Beginning July 1, 2011, completion of a no fail jurisprudence exam, as selected by the Board, is 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.

*History Note: Authority G.S. 90-334(g); 90-336(b)(3); 90-337;
Eff. July 1, 1995;
Amended Eff. January 1, 2010; July 1, 2006.*

21 NCAC 53 .0306 REPORTING OF SCORES

*History Note: Authority G.S. 90-334(g); 90-336(b)(3);
Eff. July 1, 1995;
Repealed Eff. January 1, 2010.*

21 NCAC 53 .0308 RECEIPT OF APPLICATION

The application period of applications received by the Board is no more than two years from date of receipt. If all requirements for an application have not been met by this date, the application shall be denied by the Board. The applicant may reapply for licensure.

*History Note: Authority G.S. 90-336(a);
Eff. July 1, 1995;
Amended Eff. January 1, 2010; July 1, 2006.*

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

Upon application for 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.

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

Eff. July 1, 1995;
Amended Eff. January 1, 2010.

21 NCAC 53 .0401 RULE OF PROCEDURE

History Note: Authority G.S. 90-331; 90-334; 90-341;
Temporary Rule Eff. February 21, 1984, for a Period of 120
Days to Expire on June 19, 1984;
Eff. July 1, 1984;
Amended Eff. July 1, 2006; July 1, 1994; April 1, 1989;
Repealed Eff. January 1, 2010.

21 NCAC 53 .0403 ALLEGED VIOLATIONS

All complaints of alleged violations shall be in writing and shall be signed by the complainant(s). 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:

- (1) the complainant's signature;
- (2) include the complainant's address and telephone number, date and location of the alleged violation(s);
- (3) a description of the incident(s); and
- (4) signed releases.

Complaints shall be submitted on forms provided by the Board.

History Note: Authority G.S. 90-334;
Eff. July 1, 1995;
Amended Eff. January 1, 2010.

21 NCAC 53 .0404 FORMAL COMPLAINTS

History Note: Authority G.S. 90-334;
Eff. July 1, 1995;
Repealed Eff. January 1, 2010.

21 NCAC 53 .0405 DISCIPLINARY ACTIONS

History Note: Authority G.S. 90-334;
Eff. July 1, 1995;
Repealed Eff. January 1, 2010.

21 NCAC 53 .0501 APPLICATION FEE

Each applicant shall pay a fee for processing each application as follows:

- (1) Licensed Professional Counselor Associate Application – \$100.00;
- (2) Licensed Professional Counselor Application – \$100.00; and
- (3) Licensed Professional Counselor Supervisor Application – \$100.00.

History Note: Authority G.S. 90-334;
Filed as a Temporary Rule Eff. February 21, 1984, for a Period
of 120 Days to Expire on June 19, 1984;
Eff. July 1, 1984;
Amended Eff. January 1, 2010; July 1, 1994.

21 NCAC 53 .0502 EXAMINATION FEE

History Note: Authority G.S. 90-334;
Temporary Rule Eff. February 21, 1984, for a Period of 120
Days to Expire on June 19, 1984;
Eff. July 1, 1984;
Amended Eff. July 1, 2006; July 1, 1994;
Repealed Eff. January 1, 2010.

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.

History Note: Authority G.S. 93B-2(d);
Eff. January 1, 2010.

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

Licensed Professional Counselor Associates, Licensed Professional Counselors, and Licensed Professional Counselor Supervisors who fail to document sufficient continuing education activities to renew their licenses by the expiration date shall be notified in writing by the Board Office of the deficiencies. Licensed Professional Counselor Associates, Licensed Professional Counselors, and Licensed Professional Counselor Supervisors who are unable to provide documentation of sufficient continuing education activities to renew their licenses have the following options:

- (1) Within one 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 shall be reinstated.
- (2) Request an extension in writing to the Board. Requests shall be received by the board no later than June 1st of the year of expiration. An extension shall be granted for:
 - (a) military deployment;
 - (b) major illness lasting longer than three months of self, partner or child; or
 - (c) death of partner or child.
 Extensions shall be granted for a period of up to one year. If approved, all continuing education acquired during the extension shall not be utilized for future renewal purposes. Once these requirements have been met, the license shall be reinstated.

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

*History Note: Authority G.S. 90-334(g); 90-339;
Eff. July 1, 1995;
Amended Eff. January 1, 2010.*

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 including the study of basic counseling theories and providing 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 shall 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 shall include crisis intervention and suicide prevention models, including the use of psychological first aid strategies.
 - (B) Practicum and Internship experience 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 providing 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 shall highlight the importance of social justice and advocacy. Finally, this course shall 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 providing 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 shall highlight the effects of crises, disasters, and other trauma-causing events on persons of all ages. Finally, the coursework shall include a general framework for understanding exceptional abilities

- and strategies for differentiated interventions.
- (E) Coursework in social and cultural foundations in counseling providing 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 shall 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 including 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 including 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 shall provide career, avocational, educational, occupational and labor market information resources. The coursework shall 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 shall prepare students for career development program planning, organization, implementation, administration, and evaluation. The coursework shall 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 including 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 shall develop 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 including 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 program evaluation studies. In addition, the coursework shall 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; 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 of their Licensed Professional Counselor Associate license to allow for administrative processing and Board action.

History Note: Authority G.S. 90-334(h); 90-336(a); 90-336(b);
Eff. January 1, 2010.

21 NCAC 53 .0702 SUPERVISED PRACTICE FOR LICENSED PROFESSIONAL COUNSELOR ASSOCIATE

A Licensed Professional Counselor Associate may not practice unless the following requirements have been met:

- (1) The Licensed Professional Counselor Associate shall submit a completed supervision contract, on forms provided by the Board. A supervision contract form shall document:
 - (a) the name of the qualified clinical supervisor;
 - (b) contact information for the qualified clinical supervisor;
 - (c) 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;
 - (d) the frequency of supervision; and
 - (e) 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, the Licensed Professional Counselor Associate shall 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.

History Note: Authority G.S. 90-334(h); 90-336(c);
Eff. January 1, 2010.

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:

- (1) business address and telephone number of the LPCS;
- (2) the listing of degrees, credentials, and licenses held by the LPCS;
- (3) general areas of competence in mental health practice for which the LPCS can provide supervision (e.g. addictions counseling, school counseling, career counseling);
- (4) a statement documenting training in supervision and experience in providing supervision;
- (5) 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);
- (6) a description of the evaluation procedures used in the supervisory relationship;
- (7) a statement defining the limits and scope of confidentiality and privileged communication within the supervisory relationship;
- (8) a fee schedule, if applicable;
- (9) the emergency contact information for the LPCS; and
- (10) 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:

- (1) the name of the qualified clinical supervisor;
- (2) contact information for the qualified clinical supervisor;
- (3) 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;
- (4) the frequency of supervision; and

(5) 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, shall maintain a log of clinical supervision hours that includes:

- (1) the date;
- (2) supervision start and stop times;
- (3) 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; and
- (4) 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.

*History Note: Authority G.S. 90-334(h); 90-336(a); 90-336(d);
Eff. January 1, 2010.*

CHAPTER 68 – SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

21 NCAC 68 .0202 REGISTRATION PROCESS FOR BOARD CREDENTIAL

(a) Individuals shall register with the Board prior to providing professional services. This allows the Board to review the applicant's materials including education, training, experience and supervision contracts and provide the applicant with an understanding of his or her standing in the credentialing process.

(b) To register, the applicant shall send the following to the Board:

- (1) Completed registration form provided by the Board;
- (2) Documentation of the degree required for a credential;
- (3) A signed supervision contract on a form provided by the Board documenting the proposed supervision process by an applicant supervisor;
- (4) A signed form attesting to the applicant's promise to adhere to the ethical standards of the Board;
- (5) Documentation of three hours of educational training in ethics;
- (6) Completed criminal history record check;
- (7) Job description evidencing applicant is practicing under the scope of practice for the credential sought;
- (8) Current resume;
- (9) Completed special needs statement revealing special testing needs on a form provided by the Board if applicable; and
- (10) A check or money order in the amount as set in Rule .0205 that is non-refundable and made payable to the Board.

(c) Once the materials are determined by the Board to be in order the applicant shall be granted registration status.

(d) Registration with the Board shall be for a period as set out in G.S. 90-113.40A.

(e) An applicant shall become a Registrant upon receipt of written notification from the Board.

*History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.39; 90-113.40; 90-113.40A; 90-113.46A;
Eff. August 1, 1996;
Amended Eff. January 1, 2010; April 1, 2003; August 1, 2002.*

21 NCAC 68 .0204 SUPERVISED PRACTICUM FOR CERTIFIED SUBSTANCE ABUSE COUNSELOR AND LICENSED CLINICAL ADDICTIONS SPECIALIST

(a) All applicants for the Certified Substance Abuse Counselor credential or the Licensed Clinical Addictions Specialist credential awarded pursuant to Criteria A as set out in G.S. 90-113.40(c)(1) shall complete a 300 hour practicum supervised by an applicant supervisor and the practicum shall cover all twelve core functions of Counseling. Verification of at least ten hours of this supervised practicum shall be made in each of the core functions of this Rule. These 120 hours of the supervised practicum shall be divided into one hour of supervision for every 10 hours of practice in each one of the 12 core functions. These core functions are:

- (1) Screening to determine a client is appropriate and eligible for admission to a particular program;
- (2) Intake to provide the administrative and initial assessment procedures for admission to a program;
- (3) Orientation of the client to the general nature and goals of the program, rules governing client conduct, notice of the hours during which services are available, treatment costs to be borne by the client, if any, and client's rights;
- (4) An assessment to identify and evaluate for the purpose of the development of a treatment plan an individual's strengths, weaknesses, problems and needs;
- (5) The treatment planning process whereby the counselor and client identify and rank problems needing resolution, establish agreed upon immediate and long term goals, and decide on a treatment process and the resources to be utilized;
- (6) Counseling to assist individuals, families, or groups in achieving objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, consideration of alternative solutions, and making decisions;
- (7) Case management activities which bring services, agencies, resources or people together within a planned framework of action toward the achievement of established goals;

- (8) Providing those crisis intervention services which respond to an alcohol or other drug abuser's needs during acute emotional and physical distress;
- (9) Provision of client education information to individuals and groups describing alcohol and other drug abuse and the available services and resources;
- (10) Referring the client whose needs cannot be met by the counselor or agency to other support systems and community resources available;
- (11) Charting the results of the assessment and treatment plan while writing reports, progress notes, discharge summaries and other client-related data necessary for the compilation of necessary reports and recordkeeping; and
- (12) Consultation with substance abuse and other professionals to assure comprehensive, quality care for the client.

(b) The remaining 180 hours of this supervised practicum shall be in the core function areas.

(c) Upon completion of the 300 hours, the supervisor shall complete an evaluation form reviewing the Substance Abuse Counselor's or Clinical Addictions Specialist's professional development and provide it to the Board, documenting the 300 hours of practice, including 30 hours of supervision on a form provided by the Board.

(d) Pursuant to G.S. 90-113.40(a)(7), this supervised practicum may be completed as part of an academic course of study in a regionally accredited college or university or it may be developed in the work setting as long as it is supervised by an applicant supervisor.

(e) Pursuant to G.S. 90-113.40(c)(1), the 300 hours of supervised practical training provided by an applicant supervisor shall be completed as part of the required two years postgraduate supervised substance abuse counseling experience.

History Note: Authority G.S. 90-113.30; 90-113.31; 90-113.33; 90-113.34; 90-113.39; 90-113.40;

Eff. August 1, 1996;

Amended Eff. January 1, 2010; August 1, 2002.

21 NCAC 68 .0205 CERTIFIED SUBSTANCE ABUSE COUNSELOR CERTIFICATION

Requirements for certification as a Certified Substance Abuse Counselor shall be as follows:

- (1) Successful completion of paid or volunteer supervised experience earned in not less than three years, as set out in G.S. 90-113.40(a). If the work setting is not exclusively substance abuse focused, the applicant may accumulate experience proportional to the substance abuse services performed;
- (2) Board approved education and training of at least 270 clock hours as follows:
 - (a) Substance Abuse Specific (SAS) education and training in the amount of at least 190 hours;

(b) Up to 80 hours may be directed toward general professional skill building to enhance counselor development;

(c) No more than 25% of the 270 hours (67.5) hours may be inservice education received within the applicant's organization by staff of the same organization;

(d) The 190 Substance Abuse Specific clock hours needed for initial certification must be in the core competencies. Core competencies are listed as follow:

- (i) Basic alcoholism and drug addiction knowledge;
- (ii) Screening, intake, orientation and assessment;
- (iii) Individual, group and family counseling and intervention techniques;
- (iv) Case management, treatment planning, reporting and record keeping;
- (v) Crisis intervention skills;
- (vi) Prevention and education;
- (vii) Consultation, referral and networking that utilizes community resources;
- (viii) Ethics, legal issues, and confidentiality;
- (ix) Special populations which include but are not limited to individuals or groups with specific ethnic, cultural, sexual orientation, and gender characteristics as well as persons dealing with HIV, co-occurring disabilities, persons with criminal justice related issues and perinatal issues;
- (x) Physiology and pharmacology of alcohol and other drugs that include the licit and illicit drugs, inhalants and nicotine;
- (xi) Psychological, emotional, personality and developmental issues; and
- (xii) Traditions and philosophies of 12-step and other recovery support groups;

(e) Of the 270 clock hours, applicants for certification as a Substance Abuse Professional must document six hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, six hours professional ethics education,

- and six hours of education to be selected from the following:
 - (i) Nicotine Dependence;
 - (ii) Psychopathology;
 - (iii) Evidence-Based Treatment Approaches;
 - (iv) Substance Abuse Issues In Older Adults; and
 - (v) Substance Abuse Issues Affecting Veterans;
- (3) A one hundred twenty-five dollar (\$125.00) written exam fee and a one hundred twenty-five dollar (\$125.00) non-refundable registration fee, unless previously paid. The applicant may request a reexamination and pay a non-refundable reexamination fee as set out in G.S. 90-113.38(c) for the written exam if a passing score is not achieved and at least three months have passed from the date of failed test;
- (4) Successful completion of the IC&RC/AODA, Inc. or its successor organization written exam;
- (5) Completed evaluation forms and contracts for supervision. These forms must be mailed directly to the Board by three references: a supervisor, co-worker, and colleague;
- (6) A signed form attesting to the applicant's adherence to the Ethical Standards of the Board;
- (7) Documentation of high school graduation, completion of GED, baccalaureate or advanced degree;
- (8) Completed registration forms;
- (9) Resume; and
- (10) Job description that verifies job function.

History Note: Authority G.S. 90-113.30; 90-113.31; 90-113.33; 90-113.36; 90-113.39; 90-113.40;
Eff. August 1, 1996;
Amended Eff. January 1, 2010; August 1, 2002; August 1, 2000.

21 NCAC 68 .0207 CERTIFICATION OR LICENSURE PERIOD

Certification or licensure is for a period of two years after which re-credentialing is necessary.

History Note: Authority G.S. 90-113.30; 90-113.37; 90-113.33;
Eff. August 1, 1996;
Amended Eff. January 1, 2010.

21 NCAC 68 .0208 CONTINUING EDUCATION REQUIRED FOR COUNSELOR, CRIMINAL JUSTICE ADDICTIONS PROFESSIONAL AND PREVENTION CONSULTANT RE-CREDENTIALING

- (a) In order to be re-credentialed, a substance abuse professional shall:
 - (1) Comply with the following:

- (A) No more than 25 percent may be in-service education, received within your organization by staff of the same employment.
- (B) No more than 25 percent of workshop presentation with one hour of presentation translating to one hour of education. Workshop presentation shall be a part of an event pre-approved by the Board as set out in these Rules.
- (C) An applicant shall include documentation of each event submitted.
- (D) All applicants shall include three hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, three hours of professional ethics training and education and three hours of nicotine dependence training and education for each re-credentialing to be selected from the list appearing in Rule 21 NCAC 68 .0205(2)(e)(i) through (v).
- (E) No more than 50 percent self study, approved by the Board as set out in these Rules.
- (2) Submit the following:
 - (A) A completed application form with continuing education documented;
 - (B) A non-refundable one hundred twenty-five dollar (\$125.00) recertification fee; and
 - (C) A signed and dated statement that the applicant will follow the substance abuse professional's code of conduct.

(b) Each credentialed Counselor, Criminal Justice Addictions Professional and Prevention Consultant shall receive 60 hours of Board approved, as set out in these Rules, education during the current re-credentialing period that shall be documented. No more than 25 percent may be in-service education. A minimum of 30 hours shall be substance abuse specific (SAS). The education may include a combination of hours including attending and conducting workshops.

(c) To be re-credentialed, a Criminal Justice Addictions Professional and a Certified Substance Abuse Counselor shall submit a post-certification supervision contract signed by a Practice Supervisor and supervisee.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.37; 90-113.38; 90-113.39;
Eff. August 1, 1996;
Amended Eff. January 1, 2010; April 1, 2003; August 1, 2002; August 1, 2000.

21 NCAC 68 .0210 CONVERSION

History Note: Authority G.S. 90-113.30; 90-113.33;

*Eff. August 1, 1996;
Repealed Eff. January 1, 2010.*

21 NCAC 68 .0211 PROCESS FOR CLINICAL SUPERVISOR CERTIFICATION

In order to be certified as a Clinical Supervisor an applicant shall:

- (1) Obtain and maintain a license as a Clinical Addictions Specialist to be eligible for Clinical Supervisor Certification;
- (2) Hold a master's or higher degree in a human services field with a clinical application from a regionally accredited college or university;
- (3) Submit documentation signed by the Certified Clinical Supervisor of 4000 hours or two years full-time experience as a Substance Abuse Clinical Supervisor, supervised in a ratio of one hour supervision for every 80 hours of practice in the field of alcohol and other drug abuse;
- (4) Submit documentation of 30 hours of clinical supervision specific education for initial certification and 15 hours of clinical supervision specific education for re-certification (which will occur every two years). These hours shall be reflective of clinical supervision or clinical supervision of the twelve core functions or performance domains in their clinical application and practice and may also be used as re-credentialing hours for Clinical Addictions Specialist. For the purpose of re-certification as a Clinical Supervisor, 25 percent of the required total hours may be obtained by providing supervision of a Criminal Justice Addictions Professional, Prevention Consultant, Substance Abuse Counselor or Clinical Addictions Specialist;
- (5) Submit three letters of reference. One from a substance abuse professional who can attest to supervisory competence and two from either substance abuse counselors who have been supervised by the candidate or substance abuse professionals who can attest to the applicant's competence;
- (6) Successfully complete an IC&RC/AODA, Inc. or its successor organization's written examination;
- (7) Pay all application fees. A fee of twenty-five dollars (\$25.00) shall be submitted to the Board with a letter of intent in order to receive the application packet. Also, an applicant shall submit with a completed registration packet a registration fee of one hundred twenty-five dollars (\$125.00) and a written examination fee of one hundred twenty-five dollars (\$125.00);

- (8) Submit a fee of one hundred twenty-five dollars (\$125.00) required as a recertification fee.

*History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.38; 90-113.40; 90-113.41; 90-114.41A;
Eff. August 1, 1996;
Amended Eff. January 1, 2010; August 1, 2002; August 1, 2000.*

21 NCAC 68 .0212 PROCESS FOR RESIDENTIAL FACILITY DIRECTOR CERTIFICATION

(a) Residential facility director certification may be obtained and continued by any person credentialed as a Substance Abuse Counselor or Clinical Addictions Specialist.

(b) Requirements for certification shall be as follows:

- (1) 50 hours of academic and didactic management specific training;
- (2) Recommendation of applicant's current supervisor;
- (3) Recommendation of a colleague and co-worker of the applicant; and
- (4) An application packet fee of twenty-five dollars (\$25.00), a registration fee of one hundred twenty-five dollars (\$125.00), and a certification fee of one hundred twenty-five dollars (\$125.00).

(c) In addition to meeting the continuing education requirements to practice as a Certified Counselor or Clinical Addictions Specialist, in order to maintain certification as a Residential Facility Director, the applicant shall take 40 hours of continuing education every two years and maintain documentation of such training. Anyone allowing certification to lapse beyond three months of the re-certification due date shall reapply as a new applicant.

*History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.35; 90-113.38; 90-113.39; 90-113.40;
Eff. August 1, 1996;
Amended Eff. January 1, 2010; August 1, 2002; August 1, 2000.*

21 NCAC 68 .0213 CONTINUING EDUCATION APPROVAL POLICY

(a) The Board shall approve educational events for professional credentialing. One certified hour is defined as one contact hour of participation in an organized continuing education experience. Continuing education used to meet the credentialing requirements shall be reviewed and approved according to these Rules. If the sponsor does not obtain approval from the Board, the individual participants shall be responsible for supplying all of the required information for each continuing education session at the time of request for credentialing or re-credentialing. Upon request, the Standards Committee shall review requests quarterly. Submission of approval requests shall be received 45 days prior to opening day of the event.

(b) Any applicant for training approval shall submit a training approval request form including:

- (1) Title of course, date, location, individual or organization sponsor, whether it will be held only once or recurring.

- (2) Presenter(s) who shall attach a resume outlining expertise in the subject area and content of the session.
- (3) A description of the contents of a track, course, seminar, and the type of credit hours being requested to indicate if it is substance abuse specific, general skill building, or required training pursuant to other specialized credentials including Criminal Justice Addictions Professionals, Clinical Supervisors, Residential Facility Directors, or Prevention Consultants.
- (4) Agenda, to include the breakdown of time including a 15 minute break for every two hours of education and amount of time allowed for meals.
- (5) The sponsor or individual seeking approval shall pay an annual fee as follows:
 - (A) \$25.00 for up to 10 hours;
 - (B) \$50.00 for more than 10 hours and up to 20 hours;
 - (C) \$75.00 for more than 20 hours and up to 30 hours;
 - (D) \$100.00 for more than 30 hours and up to 40 hours;
 - (E) \$125.00 for more than 40 hours.

(c) Training approved by IC&RC/AODA, Inc. or its successor organization member boards and organizations granted deemed status shall be accepted with documentation of completion.

(d) In-service training shall meet the same requirements as set out in Paragraphs (b) and (c) of this Rule. However, if persons who are non-employees of the sponsoring and presenting agency are invited to participate, then it is not considered in-service and Board pre-approval shall be required. Education received within the organization by outside trainers is not considered inservice.

(e) Presenters shall be given one hour of credit for every one hour presented. However, if the original presentation is repeated, hours can only be credited for the original presentation.

(f) The Board may revise or rescind credit hours if information is received documenting that a previously approved event was not presented as it was approved.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.39; 90-113.40; 90-113.37A; Eff. August 1, 1996; Amended Eff. January 1, 2010; August 1, 2000.

21 NCAC 68 .0214 UNIVERSITY SUBSTANCE ABUSE SPECIALTY CURRICULA

(a) The Standards Committee shall be notified by a school of its intent to provide a "Substance Abuse Specialty" curricula.

(b) Upon notification of the school's intent to provide a substance abuse specialty curriculum, the Board shall inform the school that the following information shall be needed from the applicant school:

- (1) Curricula description including number of hours of substance abuse specific credits;
- (2) Information as to how the educational requirements for substance abuse specialty

shall be met within the curricula pursuant to G.S. 90-113.41A(a)(2) a.-k.;

- (3) The names and resume of any faculty who shall be teaching the substance abuse curricula;
- (4) The name of the school in which the substance abuse curricula shall be housed and organizational contact information; and
- (5) Specific guidelines and information on the field experience that shall be required of students including current substance abuse specific field placements and supervision.

(c) The Standards Committee shall review curricula to determine if the proposal meets educational, hour, substance abuse specific and supervised experience qualifications.

(d) The Curricula Review Subcommittee of the Standards Committee shall present recommendations to the Board.

(e) The Board shall notify the school of the status of its request and any recommendation.

(f) The curricula shall be submitted for review every three years. Application for extension of the curricula shall be made 90 days prior to the current expiration date.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; Eff. August 1, 2002; Amended Eff. January 1, 2010.

21 NCAC 68 .0215 VERIFICATION

(a) Application for verification of credential shall be made to the Board.

(b) A request for verification shall be made in writing and submitted with a check or money order in the amount of twenty-five dollars (\$25.00).

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.40; Eff. August 1, 2002; Amended Eff. January 1, 2010.

21 NCAC 68 .0216 BACKGROUND INVESTIGATION

(a) Every applicant for an initial credential issued pursuant to Article 5C of Chapter 90 of the General Statutes shall provide, at her or his expense, a completed fingerprint card and accompanying release of information form, provided by the Board, meeting the standards set by the State Bureau of Investigation and obtained within 60 days of the date the applicant submits all the prerequisites for his or her credential.

(b) The applicant shall provide any additional information regarding any pending charge or conviction as requested by the Board.

(c) An applicant shall submit a verified statement listing all criminal convictions received by the applicant, subsequent to the date of the application. Failure to make full and accurate disclosure shall be grounds for immediate application denial or other disciplinary action applicable to registration, certification, or licensure pursuant to G.S. 90-113.44.

(d) Criminal histories from any jurisdiction shall be categorized as defined by North Carolina law.

(e) The categories of crimes (committed as separate incidents) are as follows:

- (1) Category I. The following crimes:
 - (A) Murder, attempted murder, or manslaughter of a child 16 or under; or
 - (B) Sexual assault, including attempted sexual assault, rape, indecent liberties with a child, molestation, or sexual assault of a child, or the attempt to commit any of the aforementioned crimes.
- (2) Category II. Crimes that primarily result in bodily or emotional harm to others, including:
 - (A) Manslaughter of a person over 16 years of age;
 - (B) Kidnapping or attempted kidnapping;
 - (C) Arson of an occupied dwelling;
 - (D) Robbery with a dangerous weapon or attempted robbery with a dangerous weapon;
 - (E) Felony assault other than a sexual assault;
 - (F) First degree burglary;
 - (G) Trafficking in controlled substances as it is defined in Article 5 of Chapter 90 of the General Statutes; or
 - (H) Any other felony that results in bodily or emotional harm to another.
- (3) Category III. The following misdemeanors and felonies that do not primarily result in bodily or emotional harm to others:
 - (A) Three or more DWIs within the most recent seven years;
 - (B) Assault (misdemeanor);
 - (C) Felony larceny;
 - (D) Fraud, obtaining property by false pretenses, financial transaction card theft;
 - (E) Unauthorized use of an aircraft;
 - (F) Unlawfully carrying a weapon;
 - (G) Theft of a vehicle;
 - (H) Falsification of government documentation (felony);
 - (I) Arson of an unoccupied dwelling or other building within the curtilage;
 - (J) Burglary other than in the first degree;
 - (K) Sale and delivery violations of the North Carolina Controlled Substances Act resulting in a felony conviction;
 - (L) Embezzlement;
 - (M) Forgery;
 - (N) Any burning of property prosecuted as a felony;
 - (O) Robbery not with a dangerous weapon;

- (P) Perjury;
- (Q) Felony receiving and possessing stolen goods;
- (R) Breaking and entering; or
- (S) Any other felony not otherwise categorized.

- (4) Category IV. The following misdemeanors:
 - (A) Any combination of three or more Category V offenses, except offenses occurring within the same incident shall be considered a single offense;
 - (B) Two DWIs within the most recent seven years;
 - (C) Possession of a controlled substance;
 - (D) Injury or damage to property;
 - (E) Resisting arrest;
 - (F) Larceny;
 - (G) Prostitution;
 - (H) Criminal mischief;
 - (I) Driving while license suspended or revoked;
 - (J) Falsification of government documents;
 - (K) Any misdemeanor burning; or
 - (L) Any other misdemeanor not otherwise categorized.
- (5) Category V. Category V offenses are:
 - (A) One DWI within the most recent seven years;
 - (B) Disorderly conduct;
 - (C) Intoxicated and disruptive in public;
 - (D) Three or more incidents resulting in worthless check convictions; or
 - (E) Shoplifting or concealment.

(f) The following sanctions have been established by the Board according to the categories of crimes:

- (1) An applicant with a Category I conviction shall have at least 15 years elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category I conviction to be eligible for registration, certification, or licensure.
- (2) An applicant with a Category II conviction shall have at least 10 years elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category II conviction to be eligible for certification or licensure. Notwithstanding a Category II conviction, an applicant may be registered no sooner than five years following the date the applicant has completed all aspects of his or her sentence.
- (3) An applicant with a Category III conviction shall have at least five years elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category III conviction to be eligible for certification or licensure. Notwithstanding a Category III conviction, an applicant may be

registered immediately following the date the applicant has completed all aspects of his or her sentence.

- (4) An applicant with a Category IV conviction shall have at least three years elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category IV conviction to be eligible for certification or licensure. Notwithstanding a Category IV conviction, an applicant may register immediately following the date the applicant has completed all aspects of his or her sentence.
- (5) An applicant with a Category V conviction shall have at least one year elapsed since the applicant has completed all aspects of his or her sentence received as a result of the last Category V conviction to be eligible for certification or licensure. Notwithstanding a Category V conviction, an applicant may register immediately following the date the applicant has completed all aspects of his or her sentence.

(g) If a waiting period prior to licensure as a driver of a motor vehicle results from a conviction for a DWI offense, this waiting period shall not be considered an aspect of an applicant's sentence required to be completed prior to the awarding of a credential.

(h) An individual whose application is denied or whose registration is suspended or revoked may request a hearing under the procedure established in Article 5C of Chapter 90 and Chapter 150B of the North Carolina General Statutes and the North Carolina Administrative Code.

History Note: Authority G.S. 90-113.30; 90-113.31; 90-113.33; 90-113.40; 90-113.41A; 90-113.44; Temporary Adoption Eff. May 15, 2002; Temporary Adoption Eff. July 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2010.

21 NCAC 68 .0217 SUPERVISED PRACTICUM FOR CRIMINAL JUSTICE ADDICTIONS PROFESSIONAL CERTIFICATION

(a) All applicants for the Criminal Justice Addictions Professional Certification shall complete 300 hours supervised practicum. The applicant supervisor shall;

- (1) Train the Criminal Justice Addictions Professional and cover all criminal justice performance domains as set out in G.S. 90-113.31(B)(6);
- (2) Submit verification that at least 10 hours of supervised practice was provided in each of the performance domains; and
- (3) Provide verification of at least one hour of supervision for every 10 hours of practice in each one of the performance domains on a supervisor evaluation form provided by the Board.

(b) The remaining hours of the supervised practicum shall be in any of the performance domains.

(c) Upon completion of 300 hours, the applicant supervisor shall:

- (1) Complete an evaluation form reviewing Criminal Justice Addictions Professional's development as a professional;
- (2) Document the 300 hours of practice to include 30 hours of supervision by the applicant supervisor; and
- (3) Submit this information to the Board on a form provided by the Board.

(d) The supervised practicum may be completed as part of an academic course of study in a regionally accredited college or university or it may be developed in the work setting as long as it is supervised by an applicant supervisor. The supervised practicum shall take place within a criminal justice addiction professional setting to include a workplace for law enforcement, the judiciary, or corrections.

History Note: Authority G.S. 90-113.31A; 90-113.31B(6); 90-113.40; 90-113.40B; Eff. January 1, 2010.

21 NCAC 68 .0220 NOTICE TO APPLICANT OF FAILURE TO SATISFY BOARD

Whenever the Board has determined that an application is deficient, the Board shall notify the applicant of its decision and indicate in what respect the applicant has failed to satisfy the Board. The applicant may inquire with the Board if more information is needed to clarify the nature of the deficiency.

History Note: Authority G.S. 90-113.33; 90-113.39; 90-113.40; Eff. April 1, 2001; Amended Eff. January 1, 2010.

21 NCAC 68 .0221 APPLICANT HEARING

Upon denial, suspension or revocation of a credential, an applicant may request a hearing upon submission of a written statement detailing the reason for the request. The applicant shall be given a formal hearing before the Board. Notice of the time and place of the public hearing shall be provided to the applicant. The burden of satisfying the Board of the applicant's qualifications for a credential shall be upon the applicant. Following the hearing, the Board shall determine whether he or she is qualified to be examined or is entitled to be credentialed, whichever is the next appropriate step in the process.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; Eff. April 1, 2001; Amended Eff. January 1, 2010.

21 NCAC 68 .0222 ETHICS INQUIRY

(a) Information that is the basis for an inquiry into the issue of whether the applicant meets the ethical standards of the Board may be referred to the Chairperson of the Standards Committee for review and further investigation. The Chairperson may

pursue the investigation of this matter pursuant to the procedures used to investigate ethics complaints.

(b) Information that is the basis for an inquiry into the issue of whether the credentialed professional meets the ethical standards of the Board may be referred to the Chairperson of the Ethics Committee for review and further investigation. The Chairperson may pursue the investigation of this matter pursuant to the procedures used to investigate ethics complaints.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; 90-113.44;
Eff. April 1, 2001;
Amended Eff. January 1, 2010.

21 NCAC 68 .0223 STANDARDS COMMITTEE ACTION

The Standards Committee may take any of the following actions:

- (1) Review applications for credentialing and re-credentialing;
- (2) Recommend or deny candidates for credentialing and re-credentialing;
- (3) Review curricula requirements for Board approved training events;
- (4) Review curricula requirements for Board approval of college or university courses; and
- (5) Investigate complaints of illegal practice.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40;
Eff. April 1, 2001;
Amended Eff. January 1, 2010.

21 NCAC 68 .0224 CREDENTIALING STATUS DENIED IF SERVING SENTENCE

An individual making application for a credential who is serving any part of a court-ordered sentence, including community service, supervised or unsupervised probation, or making restitution, shall be removed from the credentialing process. If any person is serving or begins serving such sentence during the course of the credentialing process, this person shall notify the Board. If a driver license revocation or suspension period results from a conviction for a DWI offense or refusal to submit to breathalyzer or blood testing, this period shall not be considered an aspect of an applicant's sentence required to be completed prior to the awarding of a credential.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; 90-113.44;
Eff. April 1, 2001;
Amended Eff. January 1, 2010.

21 NCAC 68 .0501 PURPOSE AND SCOPE

(a) The ethical principles governing the credentialed substance abuse professional are established to protect the public health, safety and welfare.

(b) The primary goal of this code is to set forth principles to guide the conduct of the substance abuse professional. The Board may deem violation of these standards malpractice,

negligence, incompetence, or engaging in conduct that could result in harm or injury to the public.

(c) Ethical principles shall provide a standard for the substance abuse professional in his or her professional roles, relationships and responsibilities.

(d) Upon submission of an application for a credential, each applicant shall review the ethical standards in these Rules, sign the "Applicant's Code of Ethical Conduct" form, and return it to the Board agreeing to uphold the ethical principles of conduct.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40;
Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. February 1, 1996;
Amended Eff. January 1, 2010.

21 NCAC 68 .0503 COMPETENCE

(a) The substance abuse professional shall employ the requisite knowledge, skill and proficiencies of a substance abuse practitioner competently providing services within his or her scope of practice.

(b) The substance abuse professional shall strive to learn about cultural and ethnic values in order to provide the highest level of care for a client who possesses a diverse or unfamiliar cultural or ethnic background.

(c) The substance abuse professional shall provide the necessary interpretive services to any client or refer the person for necessary services.

(d) The substance abuse professional shall assist in eliminating prevention, intervention, treatment, and supervision practices by persons unqualified or unauthorized to practice in the field.

(e) The substance abuse professional who knows of unethical conduct or of unprofessional practices by a substance abuse professional shall report such violations to the Board.

(f) The substance abuse professional shall recognize boundaries and limitations of his or her competencies and not offer services or use techniques outside of his or her professional competencies and scope of practice.

(g) The substance abuse professional who identifies a need for services outside his or her skill, training or experience shall refer the client to an appropriate professional or shall seek supervision and training to provide the required services for the individual.

(h) The substance abuse professional shall complete reports and record keeping functions in a manner that supports the client's treatment experience and welfare.

(i) The substance abuse professional shall recognize the negative impact impairment has on his or her functioning in public and professional performance and shall seek an assessment by a Board-approved provider and follow the recommendations.

(j) No applicant shall be credentialed as a substance abuse professional who is serving any part of a court-ordered sentence as specifically prohibited by 21 NCAC 68 .0224.

History Note: Authority G.S. 90-113.30; 90-113.34; 90-113.36; 90-113.37; 90-113.39; 90-113.40; 90-113.41; 90-113.43; 90-113.44;

Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1996;

Amended Eff. January 1, 2010; April 1, 2001; August 1, 2000.

21 NCAC 68 .0504 LEGAL STANDARDS AND ETHICAL STANDARDS

(a) The substance abuse professional shall not claim or imply educational, experiential or professional qualifications or affiliations that the substance abuse professional does not possess.

(b) The substance abuse professional shall not use membership on the North Carolina Substance Abuse Professional Practice Board for purposes that are not consistent with these Rules. No Board member shall advertise, promise, or provide special treatment to any individual because of membership on the North Carolina Substance Abuse Professional Practice Board or its committees.

(c) The substance abuse professional shall not lend his or her name to or participate in any professional or business relationship that may knowingly mislead the public.

(d) The substance abuse professional shall follow established guidelines on research with human subjects when he or she engages in such research.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.43; 90-113.44; 90-113.45;

Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1996;

Amended Eff. January 1, 2010; April 1, 2001.

21 NCAC 68 .0505 EDUCATION AND TRAINING STANDARDS

(a) The substance abuse professional shall be prepared to provide the source for any materials or techniques used when making either public statements or providing education and training.

(b) The substance abuse professional shall not knowingly make false, deceptive, or fraudulent statements concerning his or her:

- (1) Training, experience, or competence;
- (2) Academic degrees;
- (3) Credentials;
- (4) Institutional or association affiliations;
- (5) Services;
- (6) Fees;
- (7) Publications or research findings; and
- (8) Scientific or clinical basis for, or results or degree of success of his or her services.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.44;

Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1996;

Amended Eff. January 1, 2010; April 1, 2001.

21 NCAC 68 .0507 CLIENT WELFARE

(a) The substance abuse professional shall protect the safety and welfare of the client.

(b) The substance abuse professional shall inform clients of the nature and direction of loyalties and responsibilities and keep all parties participating in the client's care informed of these commitments.

(c) The substance abuse professional, in the presence of professional conflict, shall be concerned primarily with the welfare of the client.

(d) The substance abuse professional shall withdraw services only after giving consideration to all factors in the situation and taking care to minimize adverse actual or possible effects.

(e) The substance abuse professional shall, after minimizing any adverse impact, end a counseling or consulting relationship when the professional knows or should know that the client is not benefiting from services.

(f) The substance abuse professional who anticipates the cessation or interruption of service to a client shall notify the client promptly and seek the cessation, transfer, referral, or continuation of service in relation to the client's needs and preferences.

(g) The substance abuse professional shall not use a client in a demonstration where such participation would foreseeably harm the client.

(h) The substance abuse professional shall deliver services in a setting that respects client privacy and confidentiality.

(i) The substance abuse professional shall collaborate with other health care professionals providing treatment or support services to a client.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; 90-113.43; 90-113.44;

Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1996;

Amended Eff. January 1, 2010; April 1, 2001; August 1, 2000.

21 NCAC 68 .0508 CONFIDENTIALITY

(a) The substance abuse professional shall protect the privacy of current and former clients and shall not disclose confidential information without prior consent.

(b) The substance abuse professional shall inform the client and obtain written permission for the use of interview material for training purposes and observation of an interview.

(c) The substance abuse professional shall make provisions for the maintenance of confidentiality and the ultimate disposition of confidential records. These provisions shall be consistent with the prohibition against disclosure of records or other information concerning any client in a federally-assisted alcohol or drug abuse program as it appears in 42 C.F.R., Part 2, 42 U.S.C. 290ee-3, the HIPAA Privacy Rule appearing in 45 CFR Sections 160 and 164 and State law.

(d) The substance abuse professional shall disclose confidential information only:

- (1) when there is clear and imminent danger to the client or to other persons or a medical

- (2) emergency and then only to the appropriate professional worker or public authorities;
- (3) when compelled by law to provide such information;
- (4) with a proper consent form in writing issued pursuant to 42 C.F.R., Part 2, 42 U.S.C. 290ee-3; or
- (5) for internal program communications and communications that do not disclose patient-identifying information.

(e) With prior written consent the substance abuse professional shall discuss the information obtained in a clinical or consulting relationship only in a professional setting and only for a professional purpose concerned with the case. Written and oral reports shall present only data germane to the purpose of the evaluation.

(f) The substance abuse professional shall use material in classroom teaching and writing only when the identity of the person involved is disguised adequately to prevent disclosure or documented permission is given by the party or the information is in the public domain.

History Note: Authority G.S. 90-113.30; 90-113.43; 90-113.44;

Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Eff. February 1, 1996;

Amended Eff. January 1, 2010; April 1, 2001.

21 NCAC 68 .0512 RESPONSIBILITY OF SUPERVISOR TO SUPERVISEE

A professional who has received a credential from the Board and who is serving as a clinical or practice supervisor shall:

- (1) Be aware of his or her influential position with respect to supervisees and therefore not exploit the trust and reliance of such persons.
- (2) Avoid dual relationships that could impair professional judgment, increase the risk of exploitation, or cause harm to the supervisee. To implement this standard the supervisor shall not:
 - (A) Instruct or supervise family members who are related by blood to the second degree or marriage or a person living in the supervisor's household;
 - (B) Provide therapy or therapeutic counseling services to supervisees; or
 - (C) Solicit or engage in sexual activity or contact with supervisees during the period of supervision.
- (3) Be trained in and knowledgeable about supervision methods and techniques.

- (4) Supervise or consult only within his or her knowledge, training, and competency.
- (5) Guide his or her supervisee to perform services responsibly, competently, and ethically. As authorized by the supervisee's employer, the supervisor shall assign to his or her supervisees only those tasks or duties that these individuals can be expected to perform competently, based on the supervisee's education, experience, or training, either independently or with the level of supervision being provided.
- (6) Not disclose the confidential information provided by a supervisee except:
 - (A) As mandated by law;
 - (B) To prevent harm to a client or other person involved with the supervision;
 - (C) In educational or training settings where there are multiple supervisors, and then only to other professional colleagues who share responsibility for the performance or training of the supervisee; or
 - (D) If consent is obtained.
- (7) Establish and facilitate a process for providing evaluation of performance and feedback to a supervisee. To implement this process the supervisee shall be informed of the timing of evaluations, methods, and levels of competency expected. Supervision documentation shall be signed by the supervisor and supervisee and include the date, time, duration, method, and topic of the supervision session.
- (8) Not endorse supervisees for credentialing, employment, or completion of an academic training program if they believe the supervisees are not qualified for the endorsement. A supervisor shall develop a plan to assist a supervisee who is not qualified for endorsement to become qualified.
- (9) Make financial arrangements for any remuneration with supervisees and organizations only if these arrangements are clear and in writing. All fees shall be disclosed to the supervisee prior to the beginning of supervision if practicable.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.39; 90-113.40;

Eff. April 1, 2003;

Amended Eff. January 1, 2010.

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>
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A list of Child Support Decisions may be obtained by accessing the OAH Website: <http://www.ncoah.com/hearings/decisions/>

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Danny Earl Keel v. NC Criminal Justice Education and Training Standards Commission	07	DOJ 1711	Cella	07/30/09	
Tamika Richardson v. North Carolina Sheriff's Education and Training Standards Commission	08	DOJ 2403	Elkins	05/07/09	24:07 NCR 437
Bruce A. White v. NC Sheriffs' Education and Training Standards Commission	08	DOJ 2490	Brooks	08/14/09	
Weston Samuels v. NC Dept. of Justice, Campus Police Program	08	DOJ 3312	Elkins	08/24/09	
Jackie Marie Daniels v. N.C. Criminal Justice Education and Training Standards Commission	09	DOJ 0218	Elkins	07/24/09	
Darlene Fure v. NC Criminal Justice Education and Training Standards Commission	09	DOJ 0466	Lassiter	07/22/09	
Tyrone Scott v. North Carolina Private Protective Services Board	09	DOJ 0658	Gray	05/28/09	
Ronald Wynn v. NC Criminal Justice Education and Training Standards Commission	09	DOJ 0949	Overby	07/15/09	
Donald Koons, Jr. v. NC Criminal Justice Education and Training Standards Commission	09	DOJ 0956	Gray	07/27/09	
Peggy Sue Shipp v. NC Criminal Justice Education and Training Standards Commission	09	DOJ 1782	Webster	08/28/09	
Jaime Patrick Clayborne v. Department of Justice Company Police Program	09	DOJ 1949	Webster	05/27/09	
Ross Patton Gilmore v. NC Alarm Systems Licensing Board	09	DOJ 2452	Morrison	06/04/09	
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	
William Marquis Davis v. NC Private Protective Services Board	09	DOJ 2506	Morrison	06/04/09	
John D. Dykes v. NC Dept. of Justice Company Police Program	09	DOJ 2639	May	06/18/09	
Jimmie Ray Edmondson, Jr. v. NC Criminal Justice Education and Training Standards Commission	09	DOJ 2823	Lassiter	08/04/09	
Edward A. Patterson v. Attorney General Office	09	DOJ 2840	Webster	07/17/09	
Shonda Lavette Higgins v. NC Private Protective Services Board	09	DOJ 3009	Overby	08/13/09	
Bobby Brown v. NC Private Protective Services Board	09	DOJ 3028	Webster	11/19/09	
Timothy Mark Masters v. NC Alarm Systems Licensing Board	09	DOJ 3037	Morrison	09/14/09	
Nighee Von Superville v. NC Criminal Justice Education and Training Standards Commission	09	DOJ 3073	Gray	08/10/09	
Elizabeth Marie Lancaster v. NC Private Protective Services Board	09	DOJ 3189	Webster	11/13/09	
Kenneth Gray Forcum v. NC Alarm Systems Licensing Board	09	DOJ 3300	Webster	11/12/09	
Heath Dwayne Kinney v. NC Alarm Systems Licensing Board	09	DOJ 3301	Webster	11/12/09	
Richard Lee Powers, Sr. and Richard Lee Powers, Jr. v. Private Protective Services Board	09	DOJ 3488	Morrison	12/15/09	
Richard Lee Powers, Sr. and Richard Lee Powers, Jr. v. Private Protective Services Board	09	DOJ 3489	Morrison	12/15/09	
Cindy Smith Ojeda v. NC Sheriffs' Education and Training Standards Commission	09	DOJ 3643	Brooks	12/07/09	
Anthony Lyle Gentry v. NC Sheriffs' Education and Training Standards Commission	09	DOJ 3865	Gray	08/05/09	
Edward A. Patterson v. Attorney General Office	09	DOJ 4025	Webster	08/28/09	
Edward A. Patterson v. Attorney General Office	09	DOJ 4108	Webster	08/28/09	
Amanda Watson Whitaker v. NC Sheriffs' Education and Training Standards Commission	09	DOJ 4126	Overby	10/02/09	
Walter Armand Bedard v. NC Sheriffs' Education and Training Standards Commission	09	DOJ 4127	Lassiter	11/05/09	
Edward A. Patterson v. Attorney General's Office	09	DOJ 4146	Webster	08/28/09	
Luther Daniel Stidham v. NC Criminal Justice Education and Training Standards Commission	09	DOJ 4219	May	10/01/09	
Antonio Garcia v. NC Sheriffs' Education and Training Standards Commission	09	DOJ 4365	Gray	10/07/09	
Clyde Devon Boger v. NC Sheriffs' Education and Training Standards Commission Re: Richard Squires	09	DOJ 4853	Lassiter	09/29/09	
Melvin Downing, Triton Special Police Dept. v. Company Police Program	09	DOJ 5316	May	11/10/09	

DEPARTMENT OF LABOR

Duane J. Thomas v. NC Dept. of Labor, NC Board of Funeral Service, Forest Lawn Mortuary	09	DOL 4348	May	11/02/09
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DEPARTMENT OF TRANSPORTATION

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

Queen N. Thompson v. NC Office of State Treasurer	05	DST 0037	Brooks	12/01/09
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
Queen N. Thompson v. NC Office of State Treasurer	09	DST 3682	Brooks	12/01/09
Linda Duane Stalvey v. NC Dept. of Treasury	09	DST 4073	May	11/09/09

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John R. Hall v. State Board of Education Licensure	08	EDC 1750	Brooks	07/09/09
John David Erwin v. NC Dept. of Public Instruction	08	EDC 1827	Brooks	05/27/09
Michelle Sara Rodriguez v. National Board Certification Appeals Panel/Division of Talent Management and Development	08	EDC 3219	Brooks	08/21/09

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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	
Kenneth H. Leftwich v. June Atkinson, Superintendent of Public Instruction	08 EDC 3690	May	06/29/09	
Lindsey Forde-Smith v. North Carolina State Board of Education	09 EDC 1848	Gray	07/09/09	
Provisions Community Development Corporation dba Provisions Academy v. State Board of Education	09 EDC 2081	Elkins	07/27/09	24:11 NCR 969
Sandra Chesser v. State Board of Education	09 EDC 4435	May	10/01/09	
Ashley Chrisp v. NC Dept. of Public Instruction	09 EDC 5160	Brooks	10/23/09	

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

Robert Taylor, Grier Fleischauer, Sue Bankes, and Carol Faley v. NC Dept. of Environment and Natural Resources, Division of Coastal Management and TP, Inc.	07 EHR 1765	Gray	06/19/09	24:11 NCR 881
The Town of Franklin Government of NC v. NC Dept. of Environment and Natural Resources, Division of Water Quality and Duke Energy Carolinas, LLC	07 EHR 2201	Brooks	09/24/09	
The Jackson County Government of NC v. NC Dept. of Environment and Natural Resources, Division of Water Quality and Duke Energy Carolinas, LLC	08 EHR 0019	Brooks	09/24/09	
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	
Olde Beau General Partnership v. NC Dept. of Environment and Natural Resources, Division of Land Resources	09 EHR 0122	Gray	08/18/09	24:11 NCR 983
Saint Gobain Containers, Inc. v. NC Dept. of Environment and Natural Resources, Division of Air Quality	09 EHR 1616	Overby	10/23/09	
John C Campbell Folk School, John M Clarke, Bldgs & Ground Mgr v. NCDENR Public Water Supply Section	09 EHR 1852	Overby	06/03/09	
Doug Jernigan v. NC Dept. of Environment and Natural Resources, Division of Air Quality	09 EHR 3118	Elkins	10/16/09	
Appalachian Stove Fab, Inc., James Rice v. Western North Carolina Regional Air Quality Agency	09 EHR 3785	Gray	08/06/09	
Woodfield Gardens Apartments, Loretta Sims, v. NC Dept. of Environment and Natural Resources, Division of Envir Health	09 EHR 4330	May	10/09/09	
Kyle D. Page v. NC Dept. of Environment and Natural Resources	09 EHR 4623	Gray	10/07/09	
Town of Lilesville v. NCDENR/Public Water Supply Section	09 EHR 5286	May	12/05/09	
Sidney Bruton, III v. NC Dept. of Environment and Natural Resources, Division of Air Quality	09 EHR 5351	Gray	11/05/09	

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NC Board of Examiners for Engineers and Surveyors v. Mr. Michael J. Dykes, PE	08 ELS 2275	Webster	06/10/09	
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Gary L. Childers v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	08 INS 2251	Brooks	06/18/09	
John Randolph Ingram v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	08 INS 2952	Gray	09/08/09	
Elizabeth M. Bailey v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	09 INS 0661	Lassiter	08/03/09	
Erin Tapley v. Blue Cross Blue Shield	09 INS 2393	Gray	10/07/09	
Lucy J. Lagnese v. NC State Health Plan	09 INS 2812	Brooks	08/14/09	
David M. Jordan v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	09 INS 3005	Cella	09/14/09	
Barbara A Evans v. State Health Plan	09 INS 3067	Lassiter	07/27/09	
Sandra Hunter v. BCBS of North Carolina	09 INS 3183	Lassiter	09/14/09	
Patricia Sharp v. NC State Health Plan Blue Cross/Blue Shield	09 INS 3192	Gray	08/31/09	

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Benjamin Pace v. Wake County Superior-District Court and Information Center	09 MIS 5188	Elkins	11/13/09	

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C.W. McAdams v. NC Dept. of Transportation	05 OSP 0626	Morrison	08/14/09	
Alvita C. Byers v. Elizabeth Cox, The office of Human Resources and The North Carolina School of the Arts	07 OSP 1514	Brooks	05/20/09	24:07 NCR 396
Edward Alan Roper v. Broughton Hospital, Dept. of Health and Human Services	07 OSP 2186	Brooks	05/18/09	
Fatima Akhtar v. NC Dept of Commerce	08 OSP 0171	Gray	08/05/09	
Julie Norris Watson v. NC DPI	08 OSP 0541	Brooks	05/22/09	
Kathleen Hardiman v. NC Aquarium at Pine Knoll Shores, Jay Barnes, Director, James Lewis and Lonnie Burke	08 OSP 0868	Gray	11/10/09	
Simon Camara v. NC Central University	08 OSP 1345	Lassiter	10/07/09	
Janice F. Stokes v. NC Dept. of Correction, Division of Community Corrections	08 OSP 2150	Gray	11/16/09	
Isaac T. Perkins v. NC Dept. of Corrections	08 OSP 2242	Overby	09/16/09	24:11 NCR 939
Sharon Annette Mercer v. N.C. Division of Motor Vehicles	08 OSP 2293	Webster	08/14/09	24:07 NCR 447
Jacqueline H. Davis v. NC Dept. of Correction	08 OSP 2342	Overby	08/19/09	
Jody Lynn Hinson v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol	08 OSP 2409	Overby	06/03/09	
Tonya M. Jones v. NC Dept. of Health and Human Services	08 OSP 2418	Webster	06/12/09	24:11 NCR 955
Richard C. Foy v. NC Dept. of Insurance	08 OSP 2581	Gray	05/21/09	

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Denise Vee v. Cumberland County Department of Public Health	08 OSP 2955	Elkins	07/22/09	24:07 NCR 465
Darryll Williams v. NC Dept. of Health and Human Services, Murdoch Developmental Center	08 OSP 3661	Cella	09/18/09	
Jerry Lewis Monroe, Sr. v. Fayetteville State University	09 OSP 0098	Gray	09/03/09	
Annie L. Gadson v. NC A&T University	09 OSP 0261	May	09/11/09	
Timothy Strong v. Central Regional Hospital, NC DHHS	09 OSP 2401	Elkins	05/27/09	
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Felicia D. McClain v. DENR/Soil & Water Conservation	09 OSP 2550	Webster	08/12/09	
Ronald Gene Ezzell, Jr. v. NC State Highway Patrol	09 OSP 2588	Morrison	08/05/09	24:11 NCR 998
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	
Vickye 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	
Tiajuana Evans v. O'Berry Neuro-Medical Treatment Center	09 OSP 3530	Lassiter	08/31/09	
Francisa Okafor v. NC Dept. of Health and Human Services	09 OSP 3533	Gray	09/30/09	
Charles Nathan v. Robeson Co. DSS Foster Care Unit	09 OSP 3543	Elkins	10/08/09	
Wilbert Riffin v. Scotland County Public Schools	09 OSP 3653	Elkins	10/05/09	
Marcus Lamont Hill, Sr. v. Wayne Correctional Center	09 OSP 3790	Lassiter	09/18/09	
Sarah M. Brake v. State Board of Elections	09 OSP 4061	Lassiter	10/06/09	
Cynthia Bizzell v. Durham Public Schools	09 OSP 4070	Lassiter	08/24/09	
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Randall S. Smith v. Carolina Copy c/o UNC at Chapel Hill	09 OSP 4109	Lassiter	08/31/09	
Clifton Cox v. Caswell Center	09 OSP 4241	Overby	10/29/09	
Virginia (Gin) Ivey Leggett v. Pathways LME	09 OSP 4498	Lassiter	08/31/09	
Tina McMillian v. Employment Security Commission of NC	09 OSP 4568	Gray	11/20/09	
Ruby H. Cox v. Tim Davis, Employment Security Commission	09 OSP 4774	Overby	10/05/09	
Argy R. Crowe v. Charlotte Mecklenburg Schools/UI	09 OSP 4786	Lassiter	10/20/09	
Thomas E. Freeman, Jr. v. The people associated with NC Dept. of Health and Human Services and Whitaker School	09 OSP 4795	Overby	09/18/09	
Harriette E. Smith v. UNC General Administration	09 OSP 5189	Elkins	10/30/09	

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Sarah D. Larson v. N.C. Department of the Secretary of State	08 SOS 1200	Overby	06/04/09	24:07 NCR 478
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	
Pamela Nickles v. Dept. of Secretary of NC State	09 SOS 3120	Brooks	10/16/09	
Stanley Young v. The Notary Public Section	09 SOS 4001	Brooks	09/18/09	
Jeremy Glen Blow v. NC Office of the Secretary of State	09 SOS 4245	Overby	09/14/09	
Martha C. Graybeal v. NC Dept. of the Secretary of State Certification Filing Division	09 SOS 4273	Brooks	10/07/09	
Brandi Alexis Meeker v. Dept. of the Secretary of State	09 SOS 4580	Overby	10/29/09	
Diana King Barnes v. NC Dept. of the Secretary of State	09 SOS 4906	Gray	12/02/09	

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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	
Jennifer Thompson Stewart v. UNC Hospitals	09 UNC 2147	Mann	08/07/09	
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	
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Angela M. Aldridge v. UNC Hospitals	09 UNC 3338	Elkins	10/08/09	
Kathleen G. Finch v. UNC Hospitals	09 UNC 3418	Gray	08/31/09	
R. Michael Pearson v. UNC Hospitals	09 UNC 3423	Gray	08/31/09	
Darice Witherspoon v. UNC Hospitals	09 UNC 3428	Gray	07/30/09	
Timothy H. Keck v. UNC Hospitals	09 UNC 3528	Gray	08/06/09	
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Cynthia D. Baker v. UNC Hospitals	09 UNC 3680	Gray	09/02/09	
Eilene Renee Alston v. UNC Hospitals	09 UNC 3926	Gray	08/31/09	
Karen E. Current v. UNC Hospitals	09 UNC 4019	Gray	09/08/09	
John C. Presley v. UNC Hospitals	09 UNC 4020	Gray	07/21/09	
Richard F. Shoe v. UNC Hospitals	09 UNC 4396	Elkins	11/24/09	
Alberto Berri v. UNC Hospitals	09 UNC 4718	Overby	10/06/09	