

NORTH CAROLINA REGISTER

VOLUME 33 • ISSUE 21 • Pages 2082 – 2156

May 1, 2019

I. EXECUTIVE ORDERS

| | |
|------------------------------|-------------|
| Executive Order No. 91 | 2082 – 2084 |
| Executive Order No. 92 | 2085 – 2087 |

II. PROPOSED RULES

Occupational Licensing Boards and Commissions

| | |
|---|-------------|
| Certified Public Accountant Examiners, Board of | 2088 |
| Cosmetic Art Examiners, Board of | 2088 – 2105 |
| Electrolysis Examiners, Board of | 2105 – 2110 |

III. APPROVED RULES..... 2111 – 2144

Agriculture and Consumer Services, Department of

Soil and Water Conservation Commission

Commerce, Department of

Credit Union Division

Health and Human Services, Department of

Medical Care Commission

Public Safety, Department of

Alcoholic Beverage Control Commission

Environmental Quality, Department of

Coastal Resources Commission

Transportation, Department of

Department

Occupational Licensing Boards and Commissions

Barber Examiners, Board of

Medical Board

IV. RULES REVIEW COMMISSION..... 2145 – 2152

V. CONTESTED CASE DECISIONS

| | |
|------------------------------|-------------|
| Index to ALJ Decisions | 2153 – 2156 |
|------------------------------|-------------|

PUBLISHED BY

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2019 – December 2019

| FILING DEADLINES | | | NOTICE OF TEXT | | PERMANENT RULE | | | TEMPORARY RULES |
|-----------------------|------------|---------------------|----------------------------------|--------------------------------|--|------------------|--------------------------------------|--|
| Volume & issue number | Issue date | Last day for filing | Earliest date for public hearing | End of required comment Period | Deadline to submit to RRC for review at next meeting | RRC Meeting Date | Earliest Eff. Date of Permanent Rule | 270 th day from publication in the Register |
| 33:13 | 01/02/19 | 12/06/18 | 01/17/19 | 03/04/19 | 03/20/19 | 04/18/19 | 05/01/19 | 09/29/19 |
| 33:14 | 01/15/19 | 12/19/18 | 01/30/19 | 03/18/19 | 03/20/19 | 04/18/19 | 05/01/19 | 10/12/19 |
| 33:15 | 02/01/19 | 01/10/19 | 02/16/19 | 04/02/19 | 04/22/19 | 05/16/19 | 06/01/19 | 10/29/19 |
| 33:16 | 02/15/19 | 01/25/19 | 03/02/19 | 04/16/19 | 04/22/19 | 05/16/19 | 06/01/19 | 11/12/19 |
| 33:17 | 03/01/19 | 02/08/19 | 03/16/19 | 04/30/19 | 05/20/19 | 06/20/19 | 07/01/19 | 11/26/19 |
| 33:18 | 03/15/19 | 02/22/19 | 03/30/19 | 05/14/19 | 05/20/19 | 06/20/19 | 07/01/19 | 12/10/19 |
| 33:19 | 04/01/19 | 03/11/19 | 04/16/19 | 05/31/19 | 06/20/19 | 07/18/19 | 08/01/19 | 12/27/19 |
| 33:20 | 04/15/19 | 03/25/19 | 04/30/19 | 06/14/19 | 06/20/19 | 07/18/19 | 08/01/19 | 01/10/20 |
| 33:21 | 05/01/19 | 04/09/19 | 05/16/19 | 07/01/19 | 07/22/19 | 08/15/19 | 09/01/19 | 01/26/20 |
| 33:22 | 05/15/19 | 04/24/19 | 05/30/19 | 07/15/19 | 07/22/19 | 08/15/19 | 09/01/19 | 02/09/20 |
| 33:23 | 06/03/19 | 05/10/19 | 06/18/19 | 08/02/19 | 08/20/19 | 09/19/19 | 10/01/19 | 02/28/20 |
| 33:24 | 06/17/19 | 05/24/19 | 07/02/19 | 08/16/19 | 08/20/19 | 09/19/19 | 10/01/19 | 03/13/20 |
| 34:01 | 07/01/19 | 06/10/19 | 07/16/19 | 08/30/19 | 09/20/19 | 10/17/19 | 11/01/19 | 03/27/20 |
| 34:02 | 07/15/19 | 06/21/19 | 07/30/19 | 09/13/19 | 09/20/19 | 10/17/19 | 11/01/19 | 04/10/20 |
| 34:03 | 08/01/19 | 07/11/19 | 08/16/19 | 09/30/19 | 10/21/19 | 11/21/19 | 12/01/19 | 04/27/20 |
| 34:04 | 08/15/19 | 07/25/19 | 08/30/19 | 10/14/19 | 10/21/19 | 11/21/19 | 12/01/19 | 05/11/20 |
| 34:05 | 09/03/19 | 08/12/19 | 09/18/19 | 11/04/19 | 11/20/19 | 12/19/19 | 01/01/20 | 05/30/20 |
| 34:06 | 09/16/19 | 08/23/19 | 10/01/19 | 11/15/19 | 11/20/19 | 12/19/19 | 01/01/20 | 06/12/20 |
| 34:07 | 10/01/19 | 09/10/19 | 10/16/19 | 12/02/19 | 12/20/19 | 01/16/20 | 02/01/20 | 06/27/20 |
| 34:08 | 10/15/19 | 09/24/19 | 10/30/19 | 12/16/19 | 12/20/19 | 01/16/20 | 02/01/20 | 07/11/20 |
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| 34:10 | 11/15/19 | 10/24/19 | 11/30/19 | 01/14/20 | 01/21/20 | 02/20/20 | 03/01/20 | 08/11/20 |
| 34:11 | 12/02/19 | 11/06/19 | 12/17/19 | 01/31/20 | 02/20/20 | 03/19/20 | 04/01/20 | 08/28/20 |
| 34:12 | 12/16/19 | 11/21/19 | 12/31/19 | 02/14/20 | 02/20/20 | 03/19/20 | 04/01/20 | 09/11/20 |

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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



State of North Carolina

ROY COOPER
GOVERNOR

March 14, 2019

EXECUTIVE ORDER NO. 91

**ESTABLISHING THE TASK FORCE ON CONNECTING NORTH CAROLINA,
PROMOTING EXPANSION OF ACCESS TO HIGH-SPEED INTERNET AND
REMOVING BARRIERS TO BROADBAND INFRASTRUCTURE INSTALLATION**

WHEREAS, broadband infrastructure, which consists of installed telecommunications equipment, networks, and the technology necessary to provide high-speed internet access, has become essential to connect North Carolina's residents, businesses, non-profits, schools, communities, and governments both within and outside the state; and

WHEREAS, deploying broadband infrastructure assets and advanced communication technologies across the state supports continued improvements in critical areas including education, economic development, health care, public safety, and workforce development; and

WHEREAS, state government can facilitate the deployment of broadband infrastructure assets, identify and remove obstacles barring internet service providers ("ISPs") from deploying these assets, and develop programs that remove impediments to the increased adoption and utilization of online services throughout North Carolina; and

WHEREAS, North Carolina possesses significant state, private, and local resources that can be used to increase the installation of state-of-the-art communication networks across the state and help North Carolina become a national leader in broadband infrastructure; and

WHEREAS, pursuant to 2015 N.C. Sess. Laws 241, the North Carolina Department of Information Technology's Broadband Infrastructure Office ("the Office") issued a State Broadband Plan (the "Plan") that includes recommendations for expanding broadband access and adoption across the state; and

WHEREAS, the Plan calls for the design and implementation of a Dig Once policy, which is designed to reduce repeated excavations for the installation and maintenance of broadband infrastructure; and

WHEREAS, while progress is being made towards achieving the Plan's goals, additional actions and strategies are necessary to expand broadband access.

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

SECTION 1. **Purpose**

It is the policy of the Office of the Governor and the North Carolina Department of Information Technology ("DIT") to promote and implement actions that equitably expand broadband access in North Carolina. These actions include: supporting the deployment of last-mile broadband infrastructure; developing a uniform Dig Once policy to reduce repeated broadband installation excavations; bridging the homework gap that results from students not having internet access; and increasing efforts to ensure affordable, high-speed internet for North Carolina residents, businesses, non-profits, schools, communities, and governments. The vast expertise within state cabinet agencies as well as partnerships with non-governmental entities will be utilized to develop and implement strategies toward accomplishing this goal.

SECTION 2. **Establishment**

The Governor's Task Force on Connecting North Carolina (the "Task Force") is hereby established.

SECTION 3. **Membership**

- a. The Governor shall appoint all members to the Task Force. The members shall be the following:
 - i. The Secretary of DIT, or designee;
 - ii. The Secretary of the North Carolina Department of Health and Human Services, or designee;
 - iii. The Secretary of the North Carolina Department of Commerce, or designee;
 - iv. The Secretary of the North Carolina Department of Administration, or designee;
 - v. The Secretary of the North Carolina Department of Public Safety, or designee;
 - vi. The Secretary of the North Carolina Department of Transportation ("DOT"), or designee;
 - vii. The Secretary of the North Carolina Department of Natural and Cultural Resources, or designee;
 - viii. The Director of the North Carolina Office of State Budget and Management, or designee.
- b. The Governor may appoint additional members to the Task Force.
- c. All members shall serve at the pleasure of the Governor.
- d. A simple majority of the Task Force shall constitute a quorum for the purpose of transacting business.
- e. The Secretary of DIT, or designee, shall chair the Task Force.

SECTION 4. **Meetings**

The Task Force shall meet when necessary but no less frequently than once a month. The Task Force shall also meet upon the call of the Governor or the Chair.

SECTION 5. **Duties**

The Task Force shall have the following duties:

- a. Prepare and submit a report to the Governor no later than June 1, 2019, that accomplishes the following:
 - i. Assesses the state's progress in meeting the Plan's recommendations;
 - ii. Identifies opportunities in the state's efforts to promote broadband internet connectivity for its residents, businesses, and government institutions;
 - iii. Proposes metrics and standards by which the Governor and DIT Secretary can evaluate the State's success in achieving its goals under the Plan; and

- iv. Identifies what recommendations for the state should be prioritized and addressed by the end of the 2019 calendar year.
- b. Coordinate efforts to identify and seek federal funding to support the development and installation of broadband infrastructure across North Carolina.
- c. Support North Carolina residents, businesses, and government entities in seeking federal funding to support the development and installation of broadband infrastructure.
- d. Prepare recommendations regarding state processes and procedures that may be streamlined to leverage state property and reduce barriers to the deployment of broadband infrastructure across the state in partnership with ISPs.
- e. Develop one or more draft uniform contract, application, and/or permit template to facilitate the use of state property or rights-of-way for broadband deployment.

SECTION 6. **Administration**

The Office shall provide administrative and staff support for the Task Force.

SECTION 7. **Homework Gap**

By May 1, 2019, the Office shall present to the Governor specific, feasible recommendations to reduce the homework gap in North Carolina by 2020.

SECTION 8. **Dig Once Policy**

No later than July 1, 2019, DOT and DIT will jointly develop and issue a uniform Dig Once policy to reduce the scale and number of repeated excavations related to state road projects for the installation and maintenance of broadband infrastructure in rights-of-way.

DOT and DIT will jointly develop model Dig Once policies for potential adoption by county and municipal governments. DOT and DIT shall seek input from the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, and other stakeholders in developing these model policies.

SECTION 9. **Miscellaneous**

This Executive Order is consistent with and does not otherwise abrogate existing federal or state law.

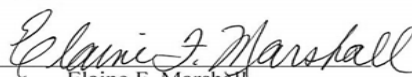
This Executive Order is effective immediately. It supersedes and replaces all other Executive Orders on this subject. This Executive Order shall remain in effect until December 31, 2021, pursuant to N.C. Gen. Stat. § 147-16.2, or until amended or rescinded.

IN WITNESS THEREOF, 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 14th day in the year of our Lord two thousand and nineteen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

March 28, 2019

EXECUTIVE ORDER NO. 92

EMPLOYMENT FIRST FOR NORTH CAROLINIANS WITH DISABILITIES

WHEREAS, the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.*, established a clear and comprehensive national mandate to eliminate discrimination against people with disabilities and safeguard their civil rights; and

WHEREAS, the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355 (as amended through Pub. L. No. 114-95) ("Rehab Act"), establishes aspirational workforce goals, including increased employment of workers with disabilities; and

WHEREAS, state government should strive to achieve these goals by recruiting applicants with disabilities, collecting data regarding applicants and employees who self-identify as having disabilities, and engaging in outreach to individuals with disabilities by forming partnerships with disability rights and advocacy organizations; and

WHEREAS, significant advancements for employees with disabilities, including the Workforce Innovation and Opportunity Act, 29 U.S.C. § 3101 *et seq.*; federal rules for home and community-based services contained in 42 C.F.R. Parts 430-447; and the ADA Amendments Act of 2008, Pub. L. No. 110-325, 122 Stat. 3553, have built upon the protections established in the ADA and the Rehab Act; and

WHEREAS, more than 1.3 million North Carolinians over the age of five, approximately 13% of the state's population, have a disability; and

WHEREAS, North Carolinians with disabilities experience disproportionately high levels of unemployment, residential segregation, financial dependency, and poverty; and

WHEREAS, less than 35% of North Carolinians who are between the ages of eighteen and sixty-four and have a disability are employed – a stark contrast to the nearly 76% of North Carolinians of working age without disabilities who are employed; and

WHEREAS, North Carolinians with disabilities should be able to secure employment in integrated community settings that provide competitive wages and benefits, enable them to reach their full potential, increase their economic self-sufficiency, and grant them dignity as members of the workforce; and

WHEREAS, the undersigned issued Executive Order No. 24, *Policies Prohibiting Discrimination, Harassment, and Retaliation in State Employment, Services, and Contracts under the Jurisdiction of the Office of the Governor*, 32 N.C. Reg. 958-62 (Nov. 15, 2017), which directed the North Carolina Office of State Human Resources ("OSHR") to issue a non-discrimination guidance to State Agencies for certain groups, including people with disabilities; and

WHEREAS, the undersigned launched the NC Job Ready Initiative in 2017 to better align public sector resources with the evolving needs of businesses; and

WHEREAS, the undersigned commenced the Hometown Strong Initiative in 2018 to bolster efforts to expand employment opportunities to all North Carolinians; and

WHEREAS, North Carolina initiated the Everybody Works NC campaign in 2018 to increase awareness of the skills and expertise of North Carolinians with disabilities, as well as to assist these individuals and their families by providing information on how to access training and education, helping them become more competitive for available job opportunities, and improving their job readiness; and

WHEREAS, state government should take additional steps to support North Carolinians with disabilities in finding and securing good paying, high quality jobs.

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

Section 1. Definitions

- (a) An “Integrated setting” is a workplace arrangement in which employed individuals with disabilities have equal opportunities to interact with co-workers without disabilities. Individuals who are paid to provide services to support the work of individuals with disabilities are not included when assessing integration.
- (b) “Competitive wages” are at or above the minimum wage, but not less than the customary wage and level of benefits paid by an employer for the same or similar work performed by individuals who do not have disabilities.
- (c) “Competitive, integrated employment” is work in a competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which an individual is compensated with competitive wages.
- (d) “Employment First” typically refers to the principle that employment in the general workforce should be the first and preferred option for individuals with disabilities.
- (e) “State Agency” refers to any North Carolina department, agency, board, commission, or committee for which the Governor has oversight responsibility.

Section 2. North Carolina as a Model Employer through Employment First

- (a) Employment First is the policy of State Agencies. This policy reflects the state’s goals to be a leader in recruiting workers with disabilities and to create an inclusive job climate for workers with disabilities. Competitive, integrated employment is the preferred mode of employment for all North Carolinians with disabilities regardless of level of disability. North Carolinians with disabilities should be able to work a job of their choosing, with reasonable support and accommodations provided to achieve and maintain employment.
- (b) Employment First principles will apply to all individuals with intellectual and developmental, physical, sensory, mental health, and substance use disorder disabilities and include the following:
 - 1. North Carolinians with disabilities can work in integrated settings and earn competitive wages and benefits.
 - 2. Individuals with significant disabilities can secure employment with reasonable and appropriate accommodations and support.
 - 3. Employees with and without disabilities are equally valued.
 - 4. A job should match an individual’s work skills, abilities, and career choices to the greatest extent possible.

Section 3. State Agency Specific Policies

- (a) OSHR, in consultation with the North Carolina Department of Health and Human Services, will take the following actions to further the goals set forth in this Executive Order:
1. Issue guidelines applicable to State Agencies and directors, supervisors, officers, managers, staff, and employees covered under the State Human Resources Act that facilitate compliance with Section 2 of this Executive Order. These guidelines will set forth internal standards addressing these objectives:
 - i. Improve recruitment and outreach efforts to identify and attract qualified individuals with disabilities for employment;
 - ii. Enhance the accessibility of employment applications and facilitate accommodations during the hiring process;
 - iii. Implement clear, reasonable workplace accommodation guidelines;
 - iv. Build upon existing state human resources training programs to improve the inclusion of individuals with disabilities in the workplace;
 - v. Identify opportunities for data collection to improve the state's hiring of individuals with disabilities.
 2. Define measurable employment outcomes to achieve competitive and integrated employment for individuals with disabilities.
 3. Track the measurable progress of State Agencies in the implementation of this Executive Order.
 4. Periodically report on efforts to comply with and implement this Executive Order.
- (b) I direct State Agencies to take the following actions to further the goals set forth in this Executive Order:
1. Consult with OSIIR and thereafter, consistent with existing federal and state law, develop additional State Agency specific plans and procedures necessary to implement this Executive Order; and
 2. Periodically report on efforts to comply with and implement this Executive Order.

Section 4. General Provisions

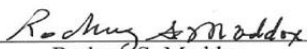
- (a) This Executive Order does not create a private right of action.
- (b) This Executive Order shall not be interpreted to supersede or preempt federal or state law.
- (c) State entities not subject to the undersigned's oversight are encouraged but not required to comply with this Executive Order.
- (d) This Executive Order is effective immediately and shall remain in effect until amended or rescinded by future Executive Order of the Governor.

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 the 28th day of March in the year of our Lord two thousand and nineteen.



Roy Cooper
Governor

ATTEST:



Rodney S. Maddox
Chief Deputy Secretary of State



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

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS
AND COMMISSIONS**

**CHAPTER 08 – BOARD OF CERTIFIED PUBLIC
ACCOUNTANT EXAMINERS**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Certified Public Accountant Examiners intends to amend the rule cited as 21 NCAC 08F .0105.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.nccpaboard.gov

Proposed Effective Date: January 1, 2020

Public Hearing:

Date: May 23, 2019

Time: 10:00 a.m.

Location: 1101 Oberlin Road, Suite 104, Raleigh, NC 27605

Reason for Proposed Action: 21 NCAC 08F .0105 explains how many times a Uniform CPA Examination (Exam) candidate can take the same section of the Exam. The Exam vendor is changing when an Exam candidate may retake the same section of the Uniform CPA Examination.

Comments may be submitted to: Robert N. Brooks, 1101 Oberlin Road, Suite 104, Raleigh, NC 27605, phone (919) 733-1425, fax (919) 733-4209, email rbrooks@nccpaboard.gov

Comment period ends: July 1, 2019

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

☐ State funds affected

- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

**SUBCHAPTER 08F - REQUIREMENTS FOR CERTIFIED
PUBLIC ACCOUNTANT EXAMINATION AND
CERTIFICATE APPLICANTS**

SECTION .0100 - GENERAL PROVISIONS

**21 NCAC 08F .0105 CONDITIONING
REQUIREMENTS**

(a) Passing Grades. A candidate shall pass all sections of the examination with a grade of 75 or higher on each section.
(b) Military Service. A candidate who is on active military service shall not have the time on active military service counted against Subparagraph (c)(1) of this Rule unless the candidate applies to take the examination during the active military service, in which case each month a candidate sits shall be counted toward Subparagraph (c)(1) of this Rule.

(c) A candidate is subject to the following conditioning requirements:

- (1) a candidate shall obtain a passing grade on all sections of the examination within an 18-month period;
- (2) a candidate may sit for any section of the examination individually;
- (3) a candidate may ~~sit for each~~ retake the same section of the examination ~~up to four as many~~ as determined by times during a one-year period ~~but not more than one time in a three-month testing window as defined by~~ as determined by the examination ~~vendors(s); vendor(s); and~~ as determined by the examination vendors(s);
- (4) credit awarded by the Board for passage of a section of the examination is valid for an 18-month period beginning on the date the section is taken.

Authority G.S. 93-12(3); 93-12(5).

**CHAPTER 14 – BOARD OF COSMETIC ART
EXAMINERS**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Cosmetic Art Examiners intends to amend the rules cited as 21 NCAC 14H .0101, .0102, .0302, .0401, .0403; 14P .0113; 14R .0105; 14T .0102, .0201, .0502, .0601-.0612, .0701, and .0703.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.nccosmeticarts.com/uploads/Board/Rules4-19.pdf>

Proposed Effective Date: *October 1, 2019*

Public Hearing:

Date: *May 20, 2019*

Time: *9:00 a.m.*

Location: *1207 Front Street, Suite 110, Raleigh, NC 27609*

Reason for Proposed Action: *The Board has proposed these amendments to update terminology, provide for a path for online education for initial licensure and to clarify the requirements for graduation.*

Comments may be submitted to: *Stefanie Kuzdrall, 1207 Front Street, Suite 110, Raleigh, NC, 27609, phone (919) 715-0018 Ext 8, email skuzdrall@nccosmeticarts.com*

Comment period ends: *July 5, 2019 at 4:00 p.m.*

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

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

SUBCHAPTER 14H – SANITATION INFECTION CONTROL

SECTION .0100 - SANITATION INFECTION CONTROL

21 NCAC 14H .0101 COPY OF RULES TO COSMETOLOGY STUDENTS

Cosmetic art schools shall give a copy of the sanitation Infection Control rules governing the practice of the cosmetic arts to each student for study.

Authority G.S. 88-23; 88-30.

21 NCAC 14H .0102 COPY OF RULES TO BEAUTY ESTABLISHMENTS

The Board shall give copies of the rules of ~~sanitation~~ Infection Control governing the practice of cosmetic art to all beauty establishments.

Authority G.S. 88-23; 88-30.

SECTION .0300 - COSMETIC ART SHOP AND EQUIPMENT

21 NCAC 14H .0302 VENTILATION AND LIGHT

(a) Ventilation shall be provided at all times in the clinic areas ~~where~~ when patrons are serviced in all cosmetic art shops and there must be a continuous exchange of air.

(b) Light shall be provided in the service area of a cosmetic art shop.

(c) All cosmetic art shops must adhere to any federal, State and local government regulation or ordinance regarding fire safety codes, plumbing and electrical work.

Authority G.S. 88B-2; 88B-4; 88B-14.

SECTION .0400 - SANITATION INFECTION CONTROL PROCEDURES AND PRACTICES

21 NCAC 14H .0401 LICENSEES AND STUDENTS

(a) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to licensees and students in practice in cosmetic art schools and shops. Each licensee and student shall wash his or her hands with soap and water or ~~an equally effective cleansing agent~~ use of a 70 percent or greater alcohol-based hand sanitizer immediately before and after serving each client.

(b) Each licensee and student shall wear clean garments and shoes while serving patrons.

(c) Licensees or students shall not use or possess in a cosmetic art school or shop any of the following:

- (1) Methyl Methacrylate Liquid Monomer, a.k.a. MMA;
- (2) razor-type callus shavers designed and intended to cut growths of skin including skin tags, corns, and calluses;
- (3) FDA rated Class III devices;
- (4) carbolic acid (phenol) over two percent strength;
- (5) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform any service; or
- (6) a variable speed electrical nail file unless it has been designed for use on a natural nail.

(d) A licensee or student shall not:

- (1) use any product, implement, or piece of equipment in any manner other than the product's, implement's, or equipment's intended use as described or detailed by the manufacturer;
- (2) treat any medical condition unless referred by a physician;

- (3) provide any service unless trained prior to performing the service;
- (4) perform services on a client if the licensee has reason to believe the client has any of the following:
 - (A) fungus, lice, or nits;
 - (B) an inflamed, infected, broken, raised, or swollen skin or nail tissue in the area to be worked on; or
 - (C) an open wound or sore in the area to be worked on;
- (5) alter or duplicate a license issued by the Board;
- (6) advertise or solicit clients in any form of communication in a manner that is false or misleading;
- (7) use any FDA rated Class II device without the documented supervision of a licensed physician;
- (8) use any product that will penetrate the dermis;
- (9) make any statement to a member of the public, either verbally or in writing, stating or implying any action is required or forbidden by Board rules when such action is not required or forbidden by Board rules. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation is set forth in 21 NCAC 14P .0108 of this Chapter; or
- (10) use or possess any product banned by the FDA. A list of banned products is available at www.fda.gov.
- (11) use or possess any machine for a cosmetic art service that is not approved by the FDA.

(e) In using a disinfectant, the user shall wear any personal protective equipment, such as gloves, recommended by the manufacturer in the Safety Data Sheet.

(f) Licensees may only perform services specifically designated within their licensure field as defined by G.S. 88B-2.

Authority G.S. 88B-2; 88B-4; 88B-14; 88B-24.

21 NCAC 14H .0403 DISINFECTION PROCEDURES

(a) ~~Sanitation~~ Infection Control rules that apply to towels and cloths are as follows:

- (1) Clean protective capes, drapes, linens, and towels shall be used for each patron;
- (2) After a protective cape has been in contact with a patron's neck it shall be placed in a clean, closed container until laundered with soap and hot water and dried in a heated dryer. Capes that cannot be laundered and dried in a heater dryer may be disinfected with ~~an EPA registered hospital grade disinfectant mixed and a disinfectant that is bactericidal, virucidal and fungicidal and approved by the EPA for use in beauty salons, or salon~~ used in accordance with the manufacturer directions; and
- (3) After a drape, linen, or towel has been in contact with a patron's skin it shall be placed in

a clean, covered container until laundered with soap and hot water and dried in a heated dryer. A covered container may have an opening so soiled items may be dropped into the container.

(b) Any paper or nonwoven protective drape or covering shall be discarded after one use.

(c) There shall be a supply of clean protective drapes, linens and towels at all times. Wet towels used in services must be prepared fresh each day. Unused, prepared wet towels must be laundered daily.

(d) Clean drapes, capes, linens, towels and all other supplies shall be stored in a clean area.

(e) Bathroom facilities must be kept clean.

(f) All implements shall be cleaned and disinfected after each use in the following manner:

(1) They shall be washed with warm water and a cleaning solution and scrubbed to remove debris and dried.

(2) They shall be disinfected with either:

(A) disinfectant that is bactericidal, virucidal and fungicidal and approved by the EPA for use in beauty salons, or salon settings that is mixed and used according to the manufacturer's directions. They shall be rinsed with hot tap water and dried with a clean towel before their next use. They shall be stored in a clean, closed cabinet or container until they are ~~needed;~~ needed or;

~~(B) 1 and 1/3 cup of 5.25 percent unexpired household bleach to one gallon of water for 10 minutes. They shall be rinsed with hot tap water and dried with a clean towel before their next use. They shall be stored in a clean, closed cabinet or container until they are needed; or~~

~~(C)~~ (B) UV-C, ultraviolet germicidal irradiation used accordance with the manufacturer's directions.

(3) If the implement is not immersible or is not disinfected by UV-C irradiation, it shall be cleaned by wiping it with a clean cloth moistened or sprayed with a disinfectant that is bactericidal, virucidal and fungicidal and approved by the EPA for use in beauty salons, or salon settings used in accordance with the manufacturer's directions.

(g) All disinfected non-electrical implements shall be stored in a clean, closed cabinet or clean closed container.

(h) All disinfected electrical implements shall be stored in a clean ~~area.~~ area separate from other clean implements.

(i) Disposable and porous implements and supplies must be discarded after use or upon completion of the service.

(j) Product that comes into contact with the patron must be discarded upon completion of the service.

(k) Containers with open faces may be covered or closed with plastic wrapping. Disinfected implements must not be stored with any implement or item that has not been disinfected.

(l) Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.

(m) All creams, lotions, wax, cosmetics, and other products dispensed to come in contact with patron's skin must be kept in clean, closed containers, and must conform in all respects to the requirements of the Pure Food and Drug Law. Any product apportioned for use and removed from original containers must be distributed in a sanitary manner that prevents contamination of product or container. Any product dispensed in portions into another container must be dispensed into a clean container and applied to patrons by means of a disinfected or disposable implement or other clean methods. Any product dispensed in portions not dispensed into another container must be used immediately and applied to patrons by means of a disinfected or disposable implement or other clean methods. No product dispensed in portions may be returned to the original container.

(n) As used in this Rule whirlpool or footspa means any basin using circulating water.

(o) After use by each patron each whirlpool or footspa must be cleaned and disinfected as follows:

- (1) All water must be drained and all debris removed from the basin;
- (2) The basin must be disinfected by filling the basin with water and circulating:
 - (A) Two tablespoons of automatic dishwashing powder and 1/4 cup of 5.25 percent household bleach to one gallon of water through the unit for 10 minutes; or
 - (B) Surfactant or enzymatic soap with an EPA registered disinfectant with bactericidal, fungicidal and virucidal activity used according to manufacturer's instructions through the unit for 10 minutes;
- (3) The basin must be drained and rinsed with clean water; and
- (4) The basin must be wiped dry with a clean towel.

(p) At the end of the day each whirlpool or footspa must be cleaned and disinfected as follows:

- (1) The screen must be removed and all debris trapped behind the screen removed;
- (2) The screen and the inlet must be washed with surfactant or enzymatic soap or detergent and rinsed with clean water;
- (3) Before replacing the screen one of the following procedures must be performed:
 - (A) The screen must be totally immersed in a household bleach solution of 1/4 cup of 5.25 percent household bleach to one gallon of water for 10 minutes; or
 - (B) The screen must be totally immersed in an EPA registered disinfectant with bactericidal, fungicidal and virucidal activity in accordance to the

manufacturer's instructions for 10 minutes;

- (4) The inlet and area behind the screen must be cleaned with a brush and surfactant soap and water to remove all visible debris and residue; and
- (5) The spa system must be flushed with low sudsing surfactant or enzymatic soap and warm water for at least 10 minutes and then rinsed and drained.

(q) A record must be made of the date and time of each cleaning and disinfecting as required by this Rule including the date, time, reason, and name of the staff member who performed the cleaning. This record must be made for each whirlpool or footspa and must be kept and made available for at least 90 days upon request by either a patron or inspector.

(r) The water in a vaporizer machine must be emptied daily and the unit disinfected daily after emptying.

(s) The area where services are performed that come in contact with the patron's skin including treatment chairs, treatment tables, and beds shall be disinfected between patrons.

(t) A manufacturers label for all disinfectant concentrate must be available at all times. If a concentrate bottle is emptied, it must remain available until a new bottle is available.

(u) When mixed disinfectant concentrate is placed in a secondary container such as a spray bottle, tub or jar, that container must be labeled to indicate what chemical is in the container. SDS sheets must be readily available for all disinfectants in use at all times.

(v) Disinfectants must be stored and disposed of in accordance with all local, State and federal requirements.

(w) The cabinet and supplies of a towel warmer machine must be emptied daily and the unit dried daily after emptying.

Authority G.S. 88B-2; 88B-4; 88B-14.

SUBCHAPTER 14P – CIVIL PENALTY

SECTION .0100 – CIVIL PENALTY

21 NCAC 14P .0113 OPERATIONS OF SCHOOLS OF COSMETIC ART

(a) The presumptive civil penalty for failure to record student's hours of daily attendance per 21 NCAC 14T .0502 is:

- | | |
|-----------------------------|--------------------|
| (1) 1 st offense | warning (\$100.00) |
| (2) 2 nd offense | \$200.00 |
| (3) 3 rd offense | \$300.00 |

(b) The presumptive civil penalty for failure to report withdrawal or graduation of a student per 21 NCAC 14T .0502 is:

- | | |
|-----------------|-------------------|
| (1) 1st offense | warning (\$50.00) |
| (2) 2nd offense | \$100.00 |
| (3) 3rd offense | \$200.00 |

(c) The presumptive civil penalty for failure to submit student enrollments per 21 NCAC 14T .0502 is:

- | | |
|-----------------|-------------------|
| (1) 1st offense | warning (\$50.00) |
| (2) 2nd offense | \$100.00 |
| (3) 3rd offense | \$200.00 |

(d) The presumptive civil penalty for failure to display a copy of the ~~sanitation~~ Infection Control rules is:

- | | |
|-----------------------------|-------------------|
| (1) 1 st offense | warning (\$50.00) |
|-----------------------------|-------------------|

- (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00
- (e) The presumptive civil penalty for failure to post consumer sign "Cosmetic Art School - Work Done Exclusively by Students" is:
- (1) 1st offense warning (\$50.00)
 (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00
- (f) The presumptive civil penalty for allowing a cosmetic art shop to operate within a cosmetic art school is:
- (1) 1st offense \$200.00
 (2) 2nd offense \$400.00
 (3) 3rd offense \$600.00
- (g) The presumptive civil penalty for a cosmetic art school that is not separated from a cosmetic art shop or other business by a solid wall, floor to ceiling, with a separate entrance and a door that stays closed at all times is:
- (1) 1st offense \$200.00
 (2) 2nd offense \$400.00
 (3) 3rd offense \$600.00
- (h) The presumptive civil penalty for failure to have any student wear the required school uniform or identification per 21 NCAC 14T .0613 is:
- (1) 1st offense warning (\$50.00)
 (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00
- (i) The presumptive civil penalty for failure to renew or file school bond or bond alternative is:
- (1) 1st offense \$200.00
 (2) 2nd offense \$400.00
 (3) 3rd offense \$600.00
- (j) The presumptive civil penalty for failure to maintain the student permanent file with required documents per 21 NCAC 14T .0502 is:
- (1) 1st offense warning (\$50.00)
 (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00
- (k) The presumptive civil penalty for failure to maintain records of daily hours of attendance documents per 21 NCAC 14T .0502 is:
- (1) 1st offense warning (\$50.00)
 (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00
- (l) The presumptive civil penalty for failure to maintain records of performances documents per 21 NCAC 14T .0502 is:
- (1) 1st offense warning (\$50.00)
 (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00
- (m) The presumptive civil penalty for allowing an unlicensed individual to instruct cosmetic art is:
- (1) 1st offense \$500.00
 (2) 2nd offense \$750.00
 (3) 3rd offense \$1000.00
- (n) The presumptive civil penalty for failure to track and record the student progression in an online education course:
- (1) 1st offense warning (\$50.00)
 (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00

(o) The presumptive civil penalty for allowing more than 50 percent for teachers 25 percent of all other courses to be done through online education:

- (1) 1st offense warning (\$50.00)
 (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00

(p) The presumptive civil penalty for failure to administer a test at the mid-point and at the end of each online education course in person at the school.

- (1) 1st offense warning (\$50.00)
 (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00

(q) The presumptive civil penalty altering the format, school name or school code on a Board form:

- (1) 1st offense warning (\$50.00)
 (2) 2nd offense \$100.00
 (3) 3rd offense \$200.00

Authority G.S. 88B-4; 88B-16; 88B-17; 88B-29.

SUBCHAPTER 14R – CONTINUING EDUCATION

SECTION .0100 – CONTINUING EDUCATION

21 NCAC 14R .0105 CONTINUING EDUCATION

(a) This Rule pertains to all cosmetic art licensees. Each licensee wishing to maintain his or her license shall obtain continuing education during each licensing period. The licensee shall maintain records of attendance at a continuing education course including the following information:

- (1) course title and description;
 (2) date conducted;
 (3) address of location where the course was conducted; and
 (4) continuing education hours earned.

(b) At least one-half of the required continuing education hours for each licensee shall be in the cosmetic arts profession in which he or she is licensed.

(c) Each cosmetic art teacher must ensure at least 50 percent of the subject matter in a course taken for the purpose of license renewal relates to teacher training techniques and enhances the ability to communicate.

(d) Continuing education courses shall be approved by the Board providing the courses meet the requirements above.

(e) The Board or an agent of the Board may conduct audits of the licensee's continuing education at any time. Upon the Board's request, each licensee shall provide completed records to the Board to support the last affirmation given pursuant to Subparagraph (j)(3) of this Rule. Records must be maintained until the end of the next renewal cycle after the affirmation for audit purposes.

(f) Continuing education courses completed prior to an individual's being licensed by the Board shall not qualify for continuing education credit.

(g) Apprentices do not need to earn continuing education for license renewal.

(h) Licensees are exempt from the eight hours of continuing education requirement until the licensing period commencing after their initial licensure.

(i) After completion of the continuing education requirements for any licensing cycle, the licensee shall forward to the Board the following:

- (1) the license renewal application;
- (2) the license renewal fee; and
- (3) affirmation of the following pledge: "I hereby certify that I have obtained all continuing education hours required in accordance with the G.S. 88B-21 and Board rules. I am aware that 1) false or dishonest misleading information may be grounds for disciplinary action against my license; and further that 2) false statements are punishable by law."

(j) Failure to produce documents or file a response to a request for audit from the Board within 30 days of the request shall result in a civil penalty to the licensee in the amount of ~~two hundred fifty dollars (\$250.00)~~; one hundred dollars (\$100.00).

(k) The presentation of fraudulent continuing education documentation to the Board by a licensee shall result in a civil penalty of five hundred dollars (\$500.00).

(l) Licensees in inactive status may reactivate licensure by taking no fewer than eight hours of continuing education per year of inactivity up to 24 total hours.

Authority G.S. 88B-2; 88B-4; 88B-21; 88B-24; 88B-29.

SUBCHAPTER 14T – COSMETIC ART SCHOOLS

SECTION .0100 - SCOPE AND SCHOOL APPLICATIONS

21 NCAC 14T .0102 NEW SCHOOL APPLICATIONS

(a) Persons desiring to operate a cosmetic art school in the state of North Carolina shall make application for licensure by submitting to the Board the Board's School Application. The Board's School Application shall include:

- (1) School name;
- (2) Cosmetic Art discipline(s) to be taught;
- (3) Physical address and mailing address;
- (4) Phone number;
- (5) Email address;
- (6) Ownership type;
- (7) Reason for application;
- (8) Owner name;
- (9) School contact person with phone number and email address; and
- (10) List of teachers with cosmetic art license number.

(b) School application forms must be submitted along with supporting documents as follows:

- (1) Proof of bond as required by G.S. 88B-17;
- (2) Diagram with location of equipment placement and marking square footage of all areas including classrooms, dispensary, water supplies, stations, locker room/dressing room, office areas, reception areas and restroom facilities;
- (3) Course curriculum for each cosmetic art discipline and teacher trainee program to be taught in the school;

(4) Plans for record keeping of student hours, minimum course requirement qualifications, and student performances;

(5) ~~Evaluation plans for the assignment of performance services, the~~ The qualifications for passing a performance requirement and techniques for grading of performances;

(6) Handbook for students containing student policies on attendance, leave of absence policy, performance assignment, and a plan to assist students to achieve the required minimum hours and performances per 21 NCAC 14T .0602-.0610;

(7) A raised seal identifying the school name and physical location to be used on all Board forms, reports, and other official papers;

(8) Documentation of local municipality fire, occupancy, electrical and plumbing approval; and

(9) School operation schedule including days, hours and observed holidays.

(10) Signed and notarized statement that the school owner has read and understands the Board's rules in 21 NCAC 14T.

(c) The Board shall not approve an application for a license until all plans, furniture, supplies and equipment as prescribed by the rules in this Subchapter have been installed.

(d) The Board shall issue a license to any cosmetic art school that meets the requirements of this Subchapter.

Authority G.S. 88B-4; 88B-16; 88B-17.

SECTION .0200 - PHYSICAL REQUIREMENTS FOR COSMETIC ART SCHOOLS

21 NCAC 14T .0201 ALL COSMETIC ART SCHOOLS

(a) Cosmetology schools must have the following physical departments:

(1) Practice Department – a minimum of 200 square feet with a table or tables and or stands to accommodate at least 10 students and have at least 40 inches between each mannequin. Cosmetic art schools must provide an additional 5 square feet in the practice department for each student over the maximum of 10. This area shall have at least one mirror of a minimum of two square feet.

(2) Clinic Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:

- (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
- (B) 24 inches from the center of the chair forward;
- (C) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring table; and

- (D) at least 30 inches of space from the back of each styling chair, esthetics table to the wall of the school.
- (3) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a sink with hot and cold running water. All cosmetic art schools must have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0404;
- (4) Theory classroom – classroom with a minimum of 300 square feet to accommodate a maximum of 25 students. Cosmetic art schools must provide an additional 8 square feet in the theory classroom for each student over the maximum of 25;
- (5) Office – administrative office for the secure and locked facilitation of student records and files. This office shall be outfitted with a minimum of one desk and one chair;
- (6) Reception area – a reception area for clients to wait prior to receiving services;
- (7) Break room for student use;
- (8) Restrooms for student and public use;
- (9) Locker or dressing room – a locker or room for students to secure and lock personal belongings throughout the day; and
- (10) All stations as defined in Rule .0302 of this Subchapter must be numbered numerically.
- (b) Manicuring, esthetics and natural hair care schools must have the following physical departments:
 - (1) Clinic Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
 - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
 - (B) 24 inches from the center of the chair forward;
 - (C) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring table; and
 - (D) at least 30 inches of space from the back of each styling chair or esthetics table to the wall of the school.
 - (2) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a sink with hot and cold running water. All cosmetic art schools shall have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0404;
 - (3) Theory classroom – a room or area with equipment for theory training appropriate to both practical and theory learning including desks and chairs.
 - (4) Office – administrative office for the secure and locked facilitation of student records and files.
- This office shall be outfitted with a minimum of one desk and one chair;
- (5) Reception area – a reception area for clients to wait prior to receiving services;
- (6) Break room for student use;
- (7) Restrooms for student and public use;
- (8) Locker or dressing room – a locker or room for students to secure/lock personal belongings throughout the day; and
- (9) All stations must be numbered numerically.
- (c) Each cosmetic art school must display a sign in a conspicuous place in the reception area. The sign cannot be smaller than 12 inches by 18 inches, with lettering at least one and one half inches in size and must read as follows: "Cosmetic Art School Work Done Exclusively by Students."
- (d) Each of the requirements listed within this Rule must be located within the same building with the exception of the theory classroom which may be located in an adjacent building or another building within 500 feet of the main cosmetic art ~~building~~ building and/or a proctored examination center which may be located on the school campus.
- (e) All Cosmetic Art schools must post hours of operation per cosmetic art discipline and submit this information to the Board. Any changes to the hours of operation must be posted and submitted to the Board. A school shall be considered open by the Board when cosmetic art instruction, services or performances are provided.
- (f) Cosmetic art schools may not offer student hours or performances unless they are in compliance with Paragraph (a) of this Rule.
- (g) All cosmetic art schools must adhere to any federal, state and local government regulation or ordinance regarding fire safety codes, plumbing and electrical work.
- (h) All cosmetic art schools must maintain a ventilation system in good working order with temperature control. During school operating hours the temperature must be maintained between 60 and 85 degrees Fahrenheit.
- (i) All equipment in cosmetic art schools shall be in working order; kept in safe repair; and installed in such a manner as to facilitate proper usage.
- (j) All cosmetic art school buildings shall be maintained. Maintenance includes the safe and working condition of the physical building, furniture, equipment and supplies.
- (k) All cosmetic art schools must maintain a bulletin board in plain sight of the clinic floor. The bulletin board shall be used to display at all times the Board ~~sanitation~~ Infection Control rules in 21 NCAC 14H and the sanitation grade card issued to the school.
- (l) All cosmetic art schools must post together the school letter of approval, the school license and all cosmetic art licenses issued to the teachers on staff.
- (m) Each room in a cosmetic art school must be labeled according to its assigned purpose.
- (n) Each theory classroom shall be equipped with desks or chairs suitable for classroom work and one chair suitable for demonstrating cosmetic art practices.
- (o) When a school and a shop are under the same ownership:
 - (1) separate operation of the shop and school shall be maintained;

- (2) if the school and shop are located in the same building, they must be separated by a solid wall of at least seven feet in height; separate entrances and visitor reception areas shall be maintained; and
- (3) the school and shop shall have separate public information releases, advertisements, names and advertising signs.

(p) A cosmetic art school must maintain space and equipment appropriate to both practical and theory learning including desks and chairs, and station requirements so that each student in attendance has a location within which to complete assigned tasks. Each station or desk space may be designated for only one student at a time.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

SECTION .0500 - RECORD KEEPING

21 NCAC 14T .0502 PERMANENT RECORDS, FORMS AND DOCUMENTATION

(a) Cosmetic art schools must maintain locked storage for the permanent files of all enrolled students and students who have withdrawn or graduated ~~within the last six months~~ together in one room within the approved square footage of the cosmetic art school. Withdrawal and graduation forms reviewed by the Board or an agent of the Board may be removed from this room. The permanent file shall include a copy of:

- (1) Board Enrollment Form;
- (2) Documentation of student receipt of school policies, school and student contract and the Board Infection Control Rules 21 NCAC 14H and felony policy; Rule 21 NCAC 14I .0401;
- (3) All applicable Board Withdrawal Forms;
- (4) Social security card for any individual who has a social security number or tax ID card or student visa information;
- (5) Government issued ID and proof of date of birth;
- (6) Grades for all examinations and documentation for pass performances;
- (7) Documentation for any leave of absence over 30 days;
- (8) Transfer of hours form documenting hours earned in other schools and hours accepted by current school; and
- (9) Graduation Form.

(b) The school shall keep onsite, records of hours earned daily including field trip hours and documentation of field trip hours updated with a running grand total:

- (1) A daily record shall be kept of the performances for each student, showing the actual date of the performance and the teacher who approved the performance;
- (2) A daily record shall be kept of the actual number of hours of attendance; ~~and~~
- (3) A daily record shall be kept of the actual number of hours and educational achievements completed via online; and

~~(3)(4)~~ An updated Performance Record.

(c) When a student enrolled in a cosmetic art school withdraws from the school, the cosmetic art school shall report the withdrawal to the Board.

(d) If a student withdraws from a cosmetic art discipline within the first five days, the school need not submit the enrollment to the Board. The unsubmitted enrollment must be maintained in the student file until reviewed by the Board or an agent of the Board after which, it may be removed.

(e) The graduation form documentation must be signed by on site school staff or on site school administrators and must have the seal of the school affixed. The original graduation form documentation must be prepared on the Board form and shall indicate that the applicable requirement of this Chapter have been met. The cosmetic art school shall mail the graduation form to the Board at the Board's address set forth in Rule 14A .0104 or submit the graduation form via the Board's school documents portal at www.nccosmeticarts.com within 30 days of the student's graduation date.

(f) All forms submitted to the Board must be sealed originals or a digital scan of sealed originals and a copy shall be maintained in the school permanent file storage. Except for student signatures, all forms submitted to the Board must be completed, by on site school staff or on site school administrators. Board forms shall be used for the sole purpose of documenting to the Board student records and shall not be used to notify students of enrollment, transfer of hours, withdrawal or graduation.

(g) Changes or corrections made by the school to any Board form must be submitted to the Board with supporting documentation.

(h) All cosmetic art schools must maintain on file at the school an original daily record of enrolled students' hour and performances. This record must be kept in a secured location under lock and key but made available for review by the Board or its agent at any time.

(i) All records kept by a cosmetic art school on a student who has withdrawn or graduated must be kept in the school's locked files for future reference until the date the student is accepted for the Board examination or five years after the date the student first enrolled in the school, whichever occurs earlier. Forms reviewed by the Board or an agent of the Board may be removed from this room.

(j) The record of all hours and performances must be documented in writing. Credit issued to students that cannot be verified may be eliminated from the student record by an agent of the Board.

(k) Access to student records must be limited to agents of the Board, teachers and administrators of the school. Records cannot be altered offsite. Records that are altered must be altered onsite and must have documentation supporting the change attached. The format, school name and school code on Board forms cannot be altered.

(l) All individuals in a cosmetic art school receiving cosmetic art education, earning hours, performing or practicing cosmetic art services must be enrolled in the school.

(m) Only teachers reported to the Board as employees of a cosmetic art school may grade practical student examinations and evaluate pass or fail of student performances. Only on site teachers, on site school administrators or on site school staff shall record student hours and performances, grade examinations and

determine completion and record credit of live model and mannequin performances.

(n) Minimum scores required for examinations and the successful completion of live model/mannequin performances as determined through the school's evaluation plan that is approved by the Board at the time of application shall be disclosed to students at the time of enrollment. Passing grades and performances cannot be credited to students who fail to meet the requirements of the evaluation plan.

(o) Cosmetic art schools must provide to each student a copy of school policies, the Board felony policies and shall retain for the permanent file a copy of the student's acknowledgement of receipt of these policies.

(p) The names of students with unsatisfied academic obligations shall not be submitted to the Board as graduates but may be submitted as withdrawn.

(q) Cosmetic art schools shall not report to the Board the unsatisfied financial obligations of any cosmetic art student. Cosmetic art schools shall not prevent the graduation of students who have met the Board minimum requirements and passed all school academic requirements.

(r) Records of hours must be rounded to no more than the nearest quarter hour. Cosmetic art schools shall not give or deduct hours or performances as rewards or penalties.

(s) An applicant may receive credit for instruction taken in another state if the conditions set forth in this Paragraph are met. In order to determine if the conditions have been met the applicant's record shall be certified by the state agency or department that issues licenses to practice in the cosmetic arts. If this agency or department does not maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified by any state department or state agency that does maintain such records and is willing to certify their accuracy. If no state department or board will certify the accuracy of the student's records, then the Board shall review the student's records for validity on a case-by-case basis using the documentation provided by the student.

(t) Hours transferred between open North Carolina schools must be obtained by the submission of the Board transfer form mailed directly from the school in which the hours are earned with the school seal affixed, with grades for examinations and performances to the new school in which a student enrolls. Such original documentation shall be submitted to the Board with enrollment. Transfer forms shall include the following:

- (1) Student name and social security number;
- (2) School code;
- (3) Course type and total number of live model and mannequin service performances;
- (4) Enrollment date and last date of attendance;
- (5) Number of hours and minutes completed;
- (6) School owner name and signature; and
- (7) School seal.

(u) A student must pass an entrance examination given by the school to which the student is transferring for the hours to be transferred from one cosmetic art school to another.

Authority G.S. 88B-4; 88B-16.

SECTION .0600 - CURRICULA

21 NCAC 14T .0601 COSMETIC ART CURRICULA

(a) The Board will establish evaluation plans for infection control, and blood exposure. Cosmetic art schools shall develop and submit to the Board a curriculum of each discipline to be taught at the school. The curriculum, once approved by the Board's standards listed in Rules .0602-.0610, of this Section shall be adhered to and lessons developed from the approved curriculum.

(b) Blood exposure and infection control evaluations must be passed with a score of 100% before a student may perform a mannequin or live model performance. Before a student may perform a live model performance the student shall pass the respective mannequin performance evaluation ~~plan plan, and blood exposure and disinfection procedure evaluation plan submitted by the school as required in Rule .0102 of this Subchapter.~~

(c) Performances shall be defined as the systematic completion of the steps for safe and effective cosmetic art services to a client.

(d) All cosmetic art students shall receive training on ~~Material~~ Safety Data Sheets prepared by the manufacturer on all products used by the school's students in performances.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0602 COSMETOLOGY CURRICULUM

(a) To meet the approval of the Board, a cosmetologist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 1500 hours of instruction in theory and practical performances as set forth in Paragraph (b) of this Rule as follows:

- (1) Professional image;
- (2) ~~Sanitation;~~ Infection control;
- (3) Bacteriology;
- (4) Disinfection;
- (5) First aid;
- (6) Anatomy;
- (7) ~~Electricity;~~ Electricity as is relates to cosmetic art;
- (8) ~~Chemistry;~~ Chemistry as is relates to cosmetic art;
- (9) Professional ethics;
- (10) Draping;
- (11) Shampooing;
- (12) Roller sets;
- (13) Pin curls;
- (14) Ridge curls with C shaping;
- (15) Fingerwaves;
- (16) Braids;
- (17) Artificial hair;
- (18) Up-styles;
- (19) Blowdrying;
- (20) Brush control;
- (21) Blowdrying with curling iron;
- (22) Pressing or thermal;
- (23) Hair cutting;
- (24) Partings;
- (25) Perm types and wraps;
- (26) Relaxer types and sectioning;

- (27) Color types and application sectioning;
- (28) Scalp treatments;
- (29) Manicures;
- (30) pedicures;
- (31) artificial nails; and
- (32) Styles and techniques of cosmetology services including:
 - (A) Arranging;
 - (B) Dressing;
 - (C) Curling;
 - (D) Waving;
 - (E) Cutting techniques and implements including razors, clippers, thinning shears, and shears;

- (F) Cleansing;
- (G) Cutting;
- (H) Singeing;
- (I) Bleaching, or coloring hair;
- (J) Esthetics;
- (K) Manicuring;
- (L) Business management; and
- (M) Salon ~~business~~, business;
- (33) Board laws, regulations and website.
- (b) Performances shall be defined as the systematic completion of all steps for safe and effective cosmetic art services to a client and shall include the following:

| Practical Performance Requirements | Performances |
|--|---------------------|
| Scalp and hair treatments | 10 |
| Fullhead fingerwave and style | 5 |
| Fullhead pincurl and style | 5 |
| Hair styling — sets, blowdrying, thermal press or flat iron, and artificial hair | 170 |
| Haircuts | 85 |
| Chemical reformation or permanent waving and relaxers | 35 |
| Temporary color | 2 |
| Color application — semi, demi, permanent color, and hair lightening | 40 |
| Multidimensional color — low or high lighting, cap, or bleach | 25 |
| Lash and brow color | 2 |
| Nail care — manicures and pedicures | 15 |
| Artificial nails sets which includes all four fingers and thumb | 5 |
| Facials with surface manipulations | 10 |
| Makeup application | 2 |
| Hair removal — razor, cream, waxing, or tweezing | 5 |

- (1) Infection Control;
- (2) Blood exposure procedure;
- (3) Blow drying;
- (4) Hot iron;
- (5) Styles that apply tension (twists, braiding, locs, or knots);
- (6) Solid form cut;
- (7) Elevated cut;
- (8) Cut with tapered or thinning shears;
- (9) Razor cut;
- (10) Clipper cut;
- (11) Shears over comb cut;
- (12) Clippers over comb cut;
- (13) Virgin darker;
- (14) Virgin lightener;
- (15) Retouch;
- (16) Foil;
- (17) Freehand painting;
- (18) Relaxer virgin;
- (19) Relaxer retouch;
- (20) Curl reforming virgin;
- (21) Curl reforming retouch;
- (22) Permanent waving rod placement rectangle;
- (23) Permanent waving rod placement contour;

- (24) Permanent waving rod placement bricklay-overlap;
- (25) Permanent waving rod placement – spiral;
- (26) Basic manicure;
- (27) Artificial nails
- (28) Basic facial;
- (29) Waxing including face and body;
- (30) Hair removal with depilatory and tweezers;
- (31) Hair removal with razor;
- (32) Makeup application;
- (c) Sharing of performance completions shall not be allowed.
- (d) Credit for a performance shall be given to only one student.
- (e) Certification of performance completions shall be required on the graduation form and application for the Board examination. Graduation forms shall include the following:
 - (1) Student name and social security number;
 - (2) School code;
 - (3) Course type completed;
 - (4) Date of course completion;
 - (5) Number of hours and minutes completed;
 - (6) School owner name and signature; and
 - (7) School seal.
- (f) Before a student may perform services on a live model the student must pass both the infection control and blood exposure

procedures with a score of 100 percent and have received both theory, mannequin, and practical instruction on the performance to be completed.

(g) Each school must develop and use performance evaluation plan for each of the Board required services listed in Paragraph (b) of this Rule and any service offered in the school. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Plans must be submitted and approved by the Board prior to use or any change.

Authority G.S. 88B-4; 88B-16.

21 NCAC 14T .0603 APPRENTICE COSMETOLOGY CURRICULUM

(a) To meet the approval of the Board, a cosmetologist training course shall consist of 1200 hours of instruction in theory and practical performances as set forth in Paragraph (b) of this Rule as follows:

- (1) Professional image;
- (2) ~~Sanitation;~~ Infection control;
- (3) Bacteriology;
- (4) Disinfection;
- (5) First aid;
- (6) Anatomy;
- (7) ~~Electricity;~~ Electricity as is relates to cosmetic art;
- (8) ~~Chemistry;~~ Chemistry as is relates to cosmetic art;
- (9) Professional ethics;
- (10) Draping;
- (11) Shampooing;
- (12) Roller sets;
- (13) Pin curls;
- (14) Ridge curls with C shaping;
- (15) Fingerwaves;
- (16) Braids;

- (17) Artificial hair;
- (18) Up-styles;
- (19) Blowdrying;
- (20) Brush control;
- (21) Blowdrying with curling iron;
- (22) Pressing or thermal;
- (23) Hair cutting;
- (24) Partings;
- (25) Perm wraps;
- (26) Relaxer sectioning;
- (27) Color application sectioning;
- (28) Scalp treatments;
- (29) Manicures;
- (30) pedicures;
- (31) artificial nails; and
- (32) Styles and techniques of cosmetology services including:
 - (A) Arranging;
 - (B) Dressing;
 - (C) Curling;
 - (D) Waving;
 - (E) Cutting techniques and implements including razors, clippers, thinning shears, and shears;
 - (F) Cleansing;
 - (G) Cutting;
 - (H) Singeing;
 - (I) Bleaching, or coloring hair;
 - (J) Esthetics;
 - (K) Manicuring;
 - (L) Business management; and
 - (M) ~~Salon business;~~ business;
- (33) Board laws, regulations and website.

(b) Performances shall be defined as the systematic completion of all steps for safe and effective cosmetic art services to a client and shall include the following:

| Performance Requirements | Performances |
|--|---------------------|
| Scalp and hair treatments | 4 |
| Fullhead fingerwave and style | 3 |
| Fullhead pineurl and style | 3 |
| Hair styling — sets, blowdrying, thermal press or flat iron, and artificial hair | 136 |
| Haireuts | 68 |
| Chemical reformation or permanent waving and relaxers | 27 |
| Temporary color | 1 |
| Color application — semi, demi, permanent color, and hair lightening | 19 |
| Multidimensional color — low or high lighting, cap, or bleach | 8 |
| Lash and brow color | 1 |
| Nail care — manicures and pedicures | 12 |
| Artificial nails sets which includes all four fingers and thumb | 4 |
| Facials with surface manipulations | 7 |
| Makeup application | 1 |
| Hair removal removal — razor, cream, waxing, or tweezing | 3 |

- (1) Infection Control;
- (2) Blood exposure procedure;
- (3) Blow drying;

- (4) Hot iron;
- (5) Styles that apply tension (twists, braiding, locs, or knots);

- (6) Solid form cut;
- (7) Elevated cut;
- (8) Cut with tapered or thinning shears;
- (9) Razor cut;
- (10) Clipper cut;
- (11) Shears over comb cut;
- (12) Clippers over comb cut;
- (13) Virgin darker;
- (14) Virgin lightener;
- (15) Retouch;
- (16) Foil;
- (17) Freehand painting;
- (18) Relaxer virgin;
- (19) Relaxer retouch;
- (20) Curl reforming virgin;
- (21) Curl reforming retouch;
- (22) Permanent waving rod placement rectangle;
- (23) Permanent waving rod placement contour;
- (24) Permanent waving rod placement bricklay-overlap;
- (25) Permanent waving rod placement – spiral;
- (26) Basic manicure;
- (27) Artificial nails
- (28) Basic facial;
- (29) Waxing including face and body;
- (30) Hair removal with depilatory and tweezers;
- (31) Hair removal with razor;

- (32) Makeup application;
- (c) Sharing of performance completions shall not be allowed.
- (d) Credit for a performance shall be given to only one student.
- (e) Certification of performance completions shall be required on the graduation form and application for the Board examination. Graduation forms shall include the following:
 - (1) Student name and social security number;
 - (2) School code;
 - (3) Course type completed;
 - (4) Date of course completion;
 - (5) Number of hours and minutes completed;
 - (6) School owner name and signature; and
 - (7) School seal.
- (f) Before a student may perform services on a live model the student must pass both the infection control and blood exposure procedures with a score of 100 percent and have received both theory, mannequin, and practical instruction on the performance to be completed.
- (g) Each school must develop and use performance evaluation plan for each of the Board required services listed in Paragraph (b) of this Rule and any service offered in the school. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Plans must be submitted and approved by the Board prior to use or any change.

Authority G.S. 88B-4; 88B-16.

21 NCAC 14T .0604 ESTHETICS CURRICULUM

(a) To meet the approval of the Board, an esthetician training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of at least 600 hours of instruction in theory and practical performances as set forth in Paragraph (b) of this Rule as follows:

- (1) Anatomy or physiology;
- (2) ~~Hygiene;~~ Infection control;
- (3) Disinfection;
- (4) First aid;
- (5) ~~Chemistry;~~ Chemistry as is relates to esthetics;
- (6) Draping;
- (7) Facial or body treatment (cleansing, manipulations, ~~masks~~); masks, and chemical peels;
- (8) Hair removal;
- (9) Basic dermatology;
- (10) Skin care machines, electricity, and apparatus;
- (11) Aromatherapy;
- (12) Nutrition;
- (13) Make-up or color theory;
- (14) Styles and techniques of esthetics services including:
 - (A) Facials;
 - (B) Makeup application;
 - (C) Performing skin care;
 - (D) Hair removal;
 - (E) Eyelash extensions;
 - (F) Applying brow and lash color;
 - (G) Business management; and
 - (H) Professional ~~ethics;~~ ethics;
- (15) Board laws, regulations and website.

(b) Performances shall be defined as the systematic completion of the steps for safe and effective cosmetic art services to a client and shall include the following:

| Performance Requirements | Performances |
|---|---------------------|
| Facials Manual (skin analysis, cleansing, surface manipulations, packs, and masks) | 40 |
| Facials Electronic (the use of electrical modalities, including dermal lights, and electrical apparatus for facials and skin care including galvanic and faradic) | 30 |
| Eyebrow arching | 20 |
| Hair removal (hard wax, soft wax, and depilatories) | 30 |
| Makeup application (skin analysis, complete and corrective makeup) | 30 |
| Eyelash extensions | 40 |
| Brow and lash color | 40 |

- (1) Infection Control;
- (2) Blood exposure procedure;
- (3) Basic facial;
- (4) Waxing including underarm, lip, eyebrow, leg and bikini;
- (5) Hair removal with depilatory and tweezers;
- (6) Makeup application;
- (7) Facials with machines;
- (8) Exfoliation;
- (9) Facials with LED light;
- (10) Facials with high frequency (direct and indirect);
- (11) Lash application;

(c) Certification of performance completions shall be required on the graduation form and Board's application for the examination.

(d) Sharing of performance completions shall not be allowed.

(e) Credit for a performance shall be given to only one student.

(f) Before a student may perform services on a live model the student must pass both the infection control and blood exposure procedures with a score of 100 percent and have received both theory, mannequin, and practical instruction on the performance to be completed.

(g) Each school must develop and use performance evaluation plan for each of the Board required services listed in Paragraph (b) of this Rule and any service offered in the school. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Plans must be submitted and approved by the Board prior to use or any change.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0605 MANICURING CURRICULUM

(a) To meet the approval of the Board, a manicurist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of at least 300 hours of instruction in theory and practical performances as set forth in Paragraph (b) of this Rule as follows:

- (1) Manicuring theory;
- (2) ~~Disinfection;~~ Infection control;
- (3) First aid;
- (4) Trimming;
- (5) Filing;
- (6) Shaping;
- (7) Decorating;
- (8) Arm and hand manipulation;
- (9) Sculptured and artificial ~~nails;~~ nails (application, repair, fill, and removal);
- (10) Pedicuring
- (11) Styles and techniques for the care, treatment, and decoration of the following:
 - (A) Fingernails;
 - (B) Toenails;
 - (C) Cuticles;
 - (D) Nail extensions and artificial nails;
 - (E) Electric file;
 - ~~(G)(F)~~ Business management; ~~and~~
 - (G) Professional ~~ethics;~~ ethics; and

(H) Board laws, regulations and website.

(b) Performances shall be defined as the systematic completion of the steps for safe and effective cosmetic art services to a client and shall include the following:

| Performance Requirements | Performances |
|--|---------------------|
| Manicures including trimming, filing, shaping, decorating, and arm and hand manipulations | 15 |
| Applications or repair of sculptured or artificial nail sets including all four fingers and thumb. | 20 |
| Pedicures | 40 |

- (1) Infection Control;
- (2) Blood exposure procedure;
- (3) Basic manicure;
- (4) Basic pedicure;
- (5) Nail tips;
- (6) Acrylic overlay (application, repair, fill, and removal);
- (7) Sculptured nails (application, repair, fill, and removal);
- (8) Gel overlay (application, repair, fill, and removal).

(c) Certification of performance completions shall be required on the graduation form and Board's application for the examination.

(d) Sharing of performance completions shall not be allowed.

(e) Credit for a performance shall be given to only one student.

(f) Before a student may perform services on a live model the student must pass both the infection control and blood exposure procedures with a score of 100 percent and have received both theory, mannequin, and practical instruction on the performance to be completed.

(g) Each school must develop and use performance evaluation plan for each of the Board required services listed in Paragraph (b) of this Rule and any service offered in the school. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Plans must be submitted and approved by the Board prior to use or any change.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0606 NATURAL HAIR CARE CURRICULUM

(a) To meet the approval of the Board, a natural hair care styling training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 300 hours of instruction in theory and practical performances as set forth in Paragraph (b) of this Rule as follows:

- (1) ~~Sanitation;~~ Infection control;
- (2) Bacteriology;
- (3) ~~Disinfection;~~ Board laws, regulations, website, and licensure scope of practice.
- (4) First aid;
- (5) Shampooing;
- (6) Draping;
- (7) Anatomy;
- (8) Disorders of the hair and scalp;
- (9) Client consultation;
- (10) ~~Styles and techniques of natural hair styling including:~~
 - (A) ~~Twisting;~~
 - (B) ~~(11) Wrapping;~~
 - (C) ~~(12) Extending;~~
 - (D) ~~(13) Locking;~~
 - (E) ~~(14) Blowdry and thermal iron;~~
 - (F) ~~(15) Business management; and~~
 - (G) ~~(16) Professional ethics;~~

(b) Performances shall be defined as the systematic completion of the steps for safe and effective cosmetic art services to a client and shall include the following:

| Performance Requirements | Performances |
|---------------------------------|---------------------|
| Braids | 40 |
| Twists | 40 |
| Knots | 5 |

PROPOSED RULES

| | |
|---------------------------------|---------------|
| Corn rows | 5 |
| Hairlocking | 10 |
| Artificial hair and decorations | 10 |
| Blow dry and thermal iron | 10 |
| Braid Removal | 10 |

- (1) Infection Control;
- (2) Blood exposure procedure;
- (3) Twists
- (4) Knots
- (5) Locs
- (6) 2 strand overlap
- (7) 3 strand overbraid
- (8) 3 strand underbraid
- (9) On the scalp 3 strand braid
- (10) Track and sew weft
- (11) Adding hair extensions

(c) Certification of performance completions shall be required on the graduation form and Board's application for the Board examination.

(d) Sharing of performance completions shall not be allowed unless the live model service consists of 20 or more lengths of hair.

(e) Credit for a performance shall be given to only one student unless the performance meets the requirements of paragraph d in this rule.

(f) A performance shall consist of 10 or more lengths of hair.

(g) Before a student may perform services on a live model the student must pass both the infection control and blood exposure procedures with a score of 100 percent and have received both theory, mannequin, and practical instruction on the performance to be completed.

(h) Each school must develop and use performance evaluation plan for each of the Board required services listed in Paragraph (b) of this Rule and any service offered in the school. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Plans must be submitted and approved by the Board prior to use or any change.

Authority G.S. 88B-2; 88B-4; 88B-16.

21 NCAC 14T .0607 COSMETOLOGY TEACHER TRAINEE CURRICULUM

(a) To meet the approval of the Board, a cosmetologist teacher training course shall consist of at least 800 hours of instruction in theory and practical application, divided as follows:

| <u>Requirement Description</u> | <u>Hours</u> |
|---|---------------------------|
| Theory: observation theory, motivation, business management, student relations, teaching techniques, preparing lesson plans, facilitating student shop internship, preparing class lectures and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board | 150 <u>400</u> |
| Practical Application: Conducting theory classes from prepared lessons, preparing and giving examinations, and giving practical demonstrations | 650 <u>400</u> |

(b) A minimum of 150 hours of theory is required prior to trainees being permitted to instruct in a cosmetic art classroom.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0608 ESTHETIC TEACHER TRAINEE CURRICULUM

(a) To meet the approval of the Board under the standards set out in these Rules, an esthetician teacher training course shall consist of at least 650 hours of instruction in theory and practical application, divided as follows:

| <u>Requirement Description</u> | <u>Hours</u> |
|--|---------------------------|
| Theory: observation theory, motivation, business management, student relations, teaching techniques, preparing lesson plans, preparing class | 120 <u>325</u> |

| | |
|--|---------------------------|
| lectures and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board | |
| Practical Application: Conducting theory classes from prepared lessons, preparing and giving examinations, and giving practical demonstrations | 530 <u>325</u> |

(b) A minimum of 120 hours of theory is required prior to trainees being permitted to instruct in a cosmetic art classroom.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0609 MANICURIST TEACHER TRAINEE CURRICULUM

(a) To meet the approval of the Board under the standards set out in these Rules, a manicurist teacher training course shall consist of at least 320 hours of instruction in theory and practical application, divided as follows:

| Requirement Description | Hours |
|---|---------------------------|
| Theory: observation theory, motivation, business management, student relations, teaching techniques, preparing lesson plans, grading, preparing class lectures and presentations, preparing examinations, and G.S. 88B and the rules of the Board | 120 <u>160</u> |
| Practical Application: Conducting theory classes from prepared lessons, preparing and giving examinations and giving practical demonstrations | 530 <u>160</u> |

(b) A minimum of 115 hours of theory is required prior to trainees being permitted to instruct in a cosmetic art classroom.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0610 NATURAL HAIR CARE TEACHER CURRICULUM

(a) To meet the approval of the Board under the standards set out in these Rules, natural hair care teacher training course shall consist of at least 320 hours of instruction in theory and practical application, divided as follows:

| Requirement Description | Hours |
|---|---------------------------|
| Theory: observation theory, motivation, business management, student relations, teaching techniques, preparing lesson plans, grading, preparing class lectures and presentations, preparing examinations, and GS 88B and the rules of the Board | 115 <u>160</u> |
| Practical Application: Conducting theory classes from prepared lessons, preparing and giving examinations, and giving practical demonstrations | 205 <u>160</u> |

(b) A minimum of 115 hours of theory is required prior to trainees being permitted to instruct in a cosmetic art classroom.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0611 ONLINE INSTRUCTION

(a) Cosmetic art schools shall request written approval to offer online instruction. Online instruction and course hours are ~~not~~ accepted by the Board for any cosmetic art ~~discipline~~. discipline through a licensed cosmetic art school that demonstrates an online tracking system that can comply with Paragraphs (b)-(j) of this Rule.

(b) Online resources, course supplements and internet research may be used during the course of study with the supervision of a cosmetic art teacher within a cosmetic art school.

(c) The school shall determine if a student possess the skills and comprehension necessary to succeed in an online education environment and maintain in each student's record documentation

of the method used to determine the student's skill and comprehension.

(d) The school shall track and record the student's hours by minute and educational achievements in the online education course(s) and shall provide electronic reports generated by the tracking system to an agent of the Board or its inspector upon request.

(e) The school shall ensure the student demonstrates participation in the online education course(s).

(f) The school shall administer a test at the mid-point and at the end of each online education course. The testing shall be done in person at the school.

(f) Online instruction shall be limited to the theory portion only and no more than 50 percent for teacher trainees and 30 percent

of the total required hours for the respective cosmetic art discipline.

(g) No practical instruction shall be permitted through online education.

(h) The school shall make available to students and instructors, access to technical support for the online educational course(s) or program(s).

(i) The school shall be responsible for the quality of the courses of study and programs offered through online education and traditional methods of study.

(j) The school shall provide students and teachers with access to current reference materials that may include, but are not limited to, such formats as books, periodicals and other written matter, audio-visual equipment and materials, digital media, and online education platforms to support the educational program(s). Equipment for producing digital and paper copies of supplementary instructional materials shall be available.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0612 INSTRUCTION GUIDELINES

(a) The hours earned in the clinic department must be devoted to study and performance completions.

(b) Work in the clinic department may be done on the public.

(c) All work done by students on the public shall be checked by the cosmetic art teacher as the work is being performed and after the service has been completed so that the teacher may point out errors to the student in order that the errors may be corrected.

(d) Cosmetic art students shall receive training on theory of any cosmetic art service prior to performing that service.

(e) Theory work shall include lectures on theory subjects as well as demonstrations, questions and answers on textbooks, written examinations, and in-class practice of procedures and methods.

(f) Cosmetic art teacher trainees must be enrolled in school to earn hours.

(g) Cosmetic art schools shall supply each student with a copy of the North Carolina Cosmetic Art Act, Board rules, and the student handbook.

(h) All of the work outlined in the practice department and the clinic department shall be given to the students through practical demonstrations and lectures, questions and answers on textbooks, and written exam.

(i) A minimum of 10 percent of scheduled attendance time each week shall be spent on theory instruction, questions and answers on textbooks, and the administration of a written exam to full time students.

(j) All papers shall be graded and returned to the students.

(k) Cosmetic art students shall receive training and practice only in the discipline in which they are enrolled.

(l) All live model performances on the public shall be done in the clinic department. Mannequin performances and live model performances on other students may be performed in the clinic department or in a room within the school with a station.

(m) Textbooks shall not be used more than five years ~~after original publication date.~~ if a newer version is available.

(n) Schools shall provide textbooks and supplementary educational materials and equipment to students.

(o) A cosmetic art teacher may not perform clinical services on a client at the cosmetic art school.

(p) Exams administered in a proctored exam site need not be attended by a cosmetic art teacher.

Authority G.S. 88B-4; 88B-16.

SECTION .0700 - SCHOOL LICENSURE, OPERATIONS, CLOSING AND RELOCATING SCHOOLS

21 NCAC 14T .0701 SCHOOL OPERATIONS/LICENSURE MAINTENANCE

(a) No individual shall be given credit for any hours earned in a cosmetic art school before the date the school is granted a license, before the student is enrolled, or after graduation or withdrawal of the student without a new enrollment.

(b) All Cosmetic Art schools shall submit hours of operation per cosmetic art discipline to the Board. Any changes to the hours of operation shall be submitted to the Board. A school will be considered open by the Board when cosmetic art instruction, services, or performances are provided.

(c) Students may be required to clean and disinfect work areas, reception areas, implements, and the dispensary. Students shall not be required to perform regular maintenance.

(d) All cosmetic art schools shall adhere to all Board ~~sanitation~~ Infection Control regulations located in 21 NCAC 14H ~~Sanitation~~ Infection Control.

(e) Cosmetic art schools may permit students to leave the cosmetic art school during instructional time to visit on campus libraries and other educational resource rooms such as computer labs for research and study under the supervision of a cosmetic art instructor.

(f) Cosmetic art schools shall use the following grading scale as a minimum for passing grades:

| | |
|----------------|--------|
| Grade A | 100-90 |
| Grade B | 80-89 |
| Grade C | 70-79 |
| Grade F (Fail) | 0-69 |

(g) Cosmetic art schools shall not graduate any student who has not met the minimum school and Board requirements for graduation as prescribed by Rules .0602-.0610 of this Subchapter.

(h) Examinations shall be administered in all subjects of the cosmetic art curriculum.

(i) Students present at school shall be supervised by a cosmetic art teacher at all times. If a guest lecturer is leading a class, at least one cosmetic art teacher must be present in the lecture.

(j) All cosmetic art schools shall provide:

- (1) One teacher for every 25 students enrolled in the practice department;
- (2) One teacher for every 20 students during practical work on live models in the clinic department; and
- (3) Cosmetic art teachers at a ratio of 1:25 teacher to teacher trainees; or
 - (A) one teacher and up to 25 practice cosmetic art students and 5 teacher trainees; or
 - (B) one teacher and up to 20 cosmetic art students in practice on the clinic floor and 5 teacher trainees.

- (k) In theory classes, the teacher-student ratio may exceed the ratios established in this Rule.
- (l) The teacher student ratios established in this Rule shall be adhered to when schools are in operation.
- (m) A teacher may administer instruction to up to 10 students enrolled in practice and clinic departments at the same time. A teacher shall not administer instruction to more than 10 students enrolled in practice and clinic departments at the same time.
- (n) At no time can any one teacher be simultaneously responsible for students in a theory class and students in practice on the clinic floor.
- (o) In cases of change in teaching staff, the school shall notify the Board of the change in writing prior to beginning instruction. A change in teaching staff includes any substitution for the regularly scheduled teacher and any change, scheduled or otherwise, in the list of teachers last given to the Board.
- (1) All courses in a cosmetic art school shall be taught by a licensed cosmetology teacher, except as follows:
 - (A) manicuring courses may be taught by either a licensed cosmetology teacher or a licensed manicurist teacher;
 - (B) natural hair care courses may be taught by either a licensed cosmetology teacher or a licensed natural hair care teacher;
 - (C) esthetics courses may be taught by either a licensed cosmetology teacher or a licensed esthetician teacher.
 - (2) A licensed cosmetologist not licensed as a cosmetology teacher may substitute for a cosmetology, esthetician, natural hair care or manicurist teacher; a licensed manicurist not licensed as a manicurist teacher may substitute for a manicurist teacher; a licensed natural hair care specialist not licensed as a natural hair care teacher may substitute for a natural hair care teacher; and a licensed esthetician not licensed as an esthetician teacher may substitute for an esthetician teacher.
- (p) In no event may any cosmetic art licensee substitution last for more than 15 consecutive working days per year per teacher. If any teacher substitution is 16 consecutive days or longer, the school shall provide a new cosmetic art teacher.
- (q) Enrolled students may earn a maximum of 10 hours per day per discipline of cosmetic art and a maximum of 48 hours per week per discipline. Online education can be earned in addition to the maximum daily and weekly hours. A student enrolled in more than one cosmetic art discipline may not earn hours or complete performances concurrently.
- (r) The Board shall certify student hours for any North Carolina cosmetic art school that is closed. The Board shall not certify student hours between any North Carolina open cosmetic art schools. The Board shall certify student hours earned at North Carolina cosmetic art schools to other state boards and schools open outside of the state of North Carolina as set forth in Rule .0502 of this Subchapter.

Authority G.S. 88B-2; 88B-4; 88B-16.

21 NCAC 14T .0703 EXPIRATION OF STUDENT CREDIT

Students and graduates who fail to file an application for the examination after graduation and within five years of the initial enrollment shall not be credited any hours or performances previously earned.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; 88B-19.

* * * * *

CHAPTER 19 – BOARD OF ELECTROLYSIS EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Board of Electrolysis Examiners intends to readopt with substantive changes the rules cited as 21 NCAC 19 .0201, .0202, .0403, .0408, .0409, .0412, .0501 and readopt without substantive changes the rules cited as 21 NCAC 19 .0203, .0204, .0410, .0601, .0602, .0608, .0613, .0619, .0701-.0703.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

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

Proposed Effective Date: *September 1, 2019*

Public Hearing:

Date: *June 1, 2019*

Time: *10:00 a.m.*

Location: *Conference Room, 2 Centerview Dr, Greensboro, NC 27407*

Reason for Proposed Action: *Readoption generated as a result of the Periodic Rules Review process.*

Comments may be submitted to: *Susan Magas, 2 Centerview Ct., Suite 60, Greensboro, NC 27407, phone (336) 856-1010; email ncbeexam@att.net*

Comment period ends: *July 1, 2019*

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

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | State funds affected |
| <input type="checkbox"/> | Local funds affected |
| <input type="checkbox"/> | Substantial economic impact (>= \$1,000,000) |
| <input type="checkbox"/> | Approved by OSBM |
| <input checked="" type="checkbox"/> | No fiscal note required |

SECTION .0200 – APPLICATION PROCEDURES

21 NCAC 19 .0201 FEES

- | | |
|---|-------------------------------------|
| (a) The following fees are payable to the Board for licensure as an electrologist: | |
| (1) Application for licensure | \$125.00 <u>\$150.00</u> |
| (2) Initial licensure | \$125.00 |
| (3) Renewal of licensure | \$125.00 |
| (b) The following fees are payable to the Board for licensure as a laser hair practitioner: | |
| (1) Application for licensure | 125.00 |
| (2) Initial licensure | \$125.00 |
| (3) Renewal of licensure | \$150.00 |
| (c) The following fees are payable to the Board for certification as an instructor: | |
| (1) Application for Electrology instructor | \$150.00 |
| (2) Renewal of Electrology instructor | \$125.00 |
| (3) Application for laser hair practitioner instructor | \$150.00 |
| (4) Renewal of laser hair practitioner instructor | \$125.00 |
| (d) The following fees are payable to the Board for certification as a Board approved school: | |
| (1) IN STATE SCHOOL | |
| (A) Application for certification as an Electrology school | \$250.00 |
| (B) Renewal of certification as an Electrology school | \$150.00 |
| (C) Application for certification as a laser, light source, or pulse light treatment school | \$250.00 |
| (D) Renewal of certification for a laser, light source, or pulse light treatment school | \$150.00 |
| (2) OUT-OF-STATE SCHOOL | |
| (A) Application for certification as an Electrology school | \$400.00 |
| (B) Initial certification as an Electrology school | \$100.00 |
| (C) Renewal of certification for an Electrology school | \$100.00 |
| (D) Application for certification as a laser, light source, or pulse light treatment school | \$350.00 |
| (E) Initial certification as a laser, light source, or pulse light treatment school | \$75.00 |
| (F) Renewal of certification as a laser, light source, or pulse light treatment school | \$100.00 |
| (e) The following other fees are payable to the Board: | |
| (1) Electrologist Examination or reexamination | \$125.00 |
| (2) Office inspection or re-inspection | |
| (A) Electrologist – per licensee, for each office site | \$100.00 |
| (B) Laser Hair Practitioner – per licensee, for each office site | \$100.00 |
| (3) License by reciprocity | \$125.00 |
| (4) Late renewal charge | \$50.00 |
| (5) Reinstatement of expired license | \$250.00 |
| (6) Reinstatement of instructor licensure | \$250.00 |
| (7) Reactivation of license | \$150.00 |
| (8) Reactivation of instructor licensure | \$150.00 |
| (9) Duplicate license | \$25.00 |

(f) All fees shall be paid by check or money order, made payable to "The North Carolina Board of Electrolysis Examiners."

Authority G.S. 88A-9; 93B-15.

(g) Renewal fees required for Subparagraphs (a)(3), (b)(3), (c)(2), (c)(4), (e)(2), and (e)(9) of this Rule shall be waived for licensees under this Chapter that are exempt from renewal fees under G.S. 93B-15.

21 NCAC 19 .0202 APPLICATION FOR LICENSURE

(a) All applicants for licensure as an electrologist shall submit an application on the form provided by the Board, accompanied by proof of being 21 years of age, a passport acceptable photograph (see photo requirements for U.S. passports at www.travel.state.gov) taken within the past two years, the required application fee, as set forth in Rule .0201 of this Section, any information required by Paragraphs (b), (c) and (d) of this Rule, and certification of completion from each electrology and laser institution attended with verification of the number of hours completed in theory and clinical training. The Initial Electrolysis License Application may be obtained by contacting the Board or accessing it online at www.ncbee.com.

(b) All applications for licensure under G.S. 88A-11(2) shall be accompanied by:

- (1) the address of the licensing agency in the other state or jurisdiction;
- (2) any information such as a license number needed to identify the applicant in correspondence with that agency; and
- (3) a statement authorizing that agency to certify to the Board that the applicant is currently licensed or certified by the other state or jurisdiction and is in good standing, to inform the Board whether there are any pending complaints about the applicant, and to provide the Board with a copy of the licensing requirements in that state or jurisdiction.

(c) Proof of age shall be shown by certified copy of a birth certificate. If the applicant cannot obtain a certified copy of the birth certificate, the applicant shall attach an explanation as to why no birth certificate is obtainable and shall submit other proof of age. Other proof of age includes passports, current life insurance policies held for at least one year showing date of birth, entries in family bibles, medical or school records showing date of birth, and marriage licenses showing age.

(d) Applicants from states that do not license electrologists or applicants from states that require less than 600 hours of certified education shall submit proof of practice as required by G.S. 88A-10(a1) supported by tax records or a copy of a privilege license that will document previous practice of electrolysis prior to date of application.

(e) All new electrologist applicants shall take and pass both a written and a practical examination except for applicants meeting the requirements of G.S. 88A-11(2).

(f) In addition to maintaining an active electrologist license from the Board, a laser hair practitioner shall submit:

- (1) proof of completion of a 30-hour laser, light source, or pulsed light treatment certification course approved by the Board that encompasses the laser or light device being used by the laser hair practitioner; and
- (2) a Supervisory Agreement between the laser hair practitioner and a supervising physician licensed with the North Carolina Medical Board (NCMB) as defined under G.S. Article 1 Chapter 90. The Agreement shall be in accordance with Rule .0501 of this Chapter.

(g) A copy of the Supervisory Agreement shall be filed with the Board and a copy shall be available in the office of the supervising physician and the laser hair practitioner for inspection by the Board or its agent.

(h) A new licensee's practice site(s) shall be inspected prior to commencing business by a designee of the Board.

~~(h)(i)~~ The Board shall reject an incomplete or partial application.

Authority G.S. 88A-6; 88A-9; 88A-10; 88A-11; 88A-11.1; 88A-19; 88A-19.1; 88A-21.

21 NCAC 19 .0203 APPLICATION FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF ELECTROLYSIS LICENSE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 19 .0204 APPLICATION FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF LASER HAIR PRACTITIONER LICENSE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

SECTION .0400 – INFECTION CONTROL

21 NCAC 19 .0403 OFFICES

(a) Each Electrolysis office, wherever located, shall:

- (1) have a treatment table or other piece of furniture for placing clients for treatment;
- (2) have at least one circuline type lamp, halogen lamp, or other type or magnifying lamp;
- (3) have hand washing facilities on the same floor and toilet facilities in the same building, both with a supply of either soap or a germicidal skin preparation for washing hands;
- (4) have a supply of labeled non-sterile examination gloves, cotton balls and antiseptic product for cleaning client's skin, materials for cleaning instruments and other items, materials for cleaning the workplace or documentation of cleaning contract, paper or cotton towels, and puncture resistant containers and plastic bags for used materials;
- (5) have sterilization equipment and supplies needed for the sterilization methods used;
- (6) have a covered trash can and, if linens are used, a laundry bag or closed container for laundry, readily available to each workplace area; ~~and~~
- (7) have storage facilities sufficient to contain the equipment, instruments and supplies of the electrolysis ~~practice~~; practice;
- (8) be inspected annually at each location where the licensee practices; and
- (9) be inspected prior to the commencement of practice if the office is relocated.

(b) In addition to the items required in Paragraph (a) of this Rule, each laser practitioner office shall have the following:

- (1) all doors leading to laser room shall have laser-specific American National Standard Institute (ANSI) Z136.1 safety signs displayed;
- (2) no uncovered mirrors or reflective surfaces;

- (3) laser safety eyewear which is labeled with the same wavelength and optical density as the laser device operated and which is worn while treatment is administered;
 - (4) all windows protected from laser beam with either an opaque material or white blinds;
 - (5) a readily available fire extinguisher in the treatment room;
 - (6) face masks to be worn while treatment is administered; and
 - (7) an air filter.
- (c) A laser or light-based hair removal practice shall be maintained in accordance with local zoning regulations.
- (d) Lasers and light-based devices shall be maintained and operated in accordance with Occupational Safety and Health Administration (OSHA) standards.
- (e) A copy of the current "Supervisory Agreement" shall be available in the office for inspection upon request.

Authority G.S. 88A-16.

21 NCAC 19 .0408 ENVIRONMENTAL CONTROL AND HOUSEKEEPING

(a) Electrologists shall observe the following elements of environmental control:

- (1) Each treatment room shall be kept clean, lighted, and ventilated;
- (2) Each treatment room shall be equipped with labeled containers, covered storage for supplies, a puncture-resistant sharps container labeled as a biohazard, and covered trash containers;
- (3) Treatment table surfaces shall be made of materials that can be washed with detergents and treated with disinfectants;
- (4) Treatment table surfaces shall be covered with fresh disposable paper drapes or barrier before each client treatment;
- (5) Headrests shall be covered with fresh disposable paper or barrier before each client treatment;
- (6) Treatment table surfaces which may come in contact with bare skin during treatments shall be covered with a fresh disposable paper drape or barrier;
- (7) Containers for dispensing products, such as soap, alcohol hand-rubs and treatment supplies shall be labeled;
- (8) All treatment supplies shall be disposable or, if reusable, the supplies containers shall be cleaned and dried before being refilled with fresh products;
- (9) Aseptic techniques for dispensing creams, lotions, ointments and antiseptics during treatment shall be followed;
- (10) Manufacturer's recommendations for the use and disposal of products and containers when contaminated, or when expiration date is reached, shall be followed;

- (11) Environmental surfaces that are touched during treatment, such as epilator needle holder and cords, epilator cart, magnification lamps, light devices and epilator controls shall be covered with a fresh protective disposable barrier before each treatment of a client ~~and~~ or decontaminated after each treatment of a client, following manufacturer's instructions;
- (12) Disposable items such as cotton, paper drapes and protective disposal barriers shall be stored in covered containers, closed cabinets or drawers before use;
- (13) Used disposable items shall be discarded into a covered trash container lined with a plastic bag, securely fastened when ready for disposal, and disposed of daily into the regular trash, unless otherwise specified by state and local health regulations;
- (14) Reusable items such as sheets, pillowcases and towels that are used to cover treatment table or as a client drape shall be stored in covered containers, closed cabinets or drawers before use; and
- (15) After use, reusable items shall be placed in a covered container labeled as "soiled laundry," laundered with detergent and water temperatures that will ensure cleaning and disinfection, and dried in a gas or electric clothes dryer.

(b) Electrologists shall observe the following elements of housekeeping:

- (1) A low-level hospital-grade disinfectant registered with the Environmental Protection Agency (EPA) shall be used for cleaning non-critical environmental surfaces such as epilator surfaces, magnifying lamps, epilator carts, floors, walls, door knobs, tabletops, and window sills;
- (2) All other environmental surfaces in the treatment room shall be kept in a state of visible cleanliness by cleaning with water and detergent and using a hospital-grade disinfectant or detergent designed for general housekeeping purposes, as indicated on the product label;
- (3) Countertops shall be of smooth, non-porous material and shall be cleaned daily, taking care in the areas where the procedures of cleaning and sterilizing instruments and items takes place;
- (4) Sinks and toilet facilities shall be cleaned daily;
- (5) Non-critical equipment, environmental surfaces, doorknobs, telephones, and treatment tables in the treatment room shall be kept cleaned and disinfected;
- (6) Floors cleaned weekly and carpets shall be vacuumed weekly or more often if necessary; and

- (7) Walls, blinds and curtains shall be cleaned when visibly soiled.

Authority G.S. 88A-16.

21 NCAC 19 .0409 CLIENT EVALUATION

As an evaluation for each client, the electrologist and laser hair practitioner shall:

- (1) Prepare a Health History Assessment File that contains:
 - (a) the date, name, address, contact information, date of birth, and names of family physician, gynecological physician, and dermatologist;
 - (b) the areas of face and body to be treated;
 - (c) the hirsute family history;
 - (d) any current and previous methods of hair removal;
 - (e) any current and previous medications;
 - (f) any current and previous physical examination dates and results;
 - (g) any skin irregularities; and
 - (h) the date and signature of client.
- (2) Update and evaluate the client's health status to determine if the client should be referred to a physician.
- (3) Examine the client's skin for signs of infection or rashes prior to each treatment and delay treatment if actual or potential signs or symptoms of infection are present.
- (4) Refer the client to a physician when evaluation of health history or skin examination indicates.
- (5) Instruct the client on post-treatment care to promote healing of the treated skin site.
- (6) Update client health history annually.

Authority G.S. 88A-2; 88A-6.

21 NCAC 19 .0410 HEPATITIS B VIRUS (HBV) VACCINATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 19 .0412 STANDARD PRECAUTIONS FOR DISEASE CONTROL AND PREVENTION

Electrologists shall:

- (1) Wear a mask and eye protection or a face shield to protect mucous membranes of the eyes, nose and mouth during procedures and client care activities that are likely to generate splashed or sprays of blood and body fluids;
- (2) Wear a gown, scrubs, lab coat, or medical grade clothing to protect skin and prevent soiling of clothing during procedures and client care activities that are likely to generate splashed or sprays of blood and body fluids;
- (3) Remove soiled ~~gowns~~ medical clothing as promptly as possible and wash hands;

- (4) Wear protective gloves to prevent prevent ~~prevent~~ puncture injuries when using or cleaning instruments and when disposing of used needles.

Authority G.S. 88A-16.

SECTION .0500 - PHYSICIAN/LASER HAIR PRACTITIONER GUIDELINES

21 NCAC 19 .0501 SUPERVISING PHYSICIAN

(a) Supervision by Physician – It is the licensed laser practitioner's responsibility to perform procedures solely within his or her professional scope of practice. A laser hair practitioner licensed under this Chapter shall perform laser hair removal only under the supervision of a physician licensed by the State of North Carolina to perform surgical services. The laser hair practitioner shall receive physician supervision both before and after the laser treatment procedure. The laser hair practitioner shall perform services only after a physician or other practitioner licensed by the NC Medical Board (NCMB) under G.S. 1, Article 90 has examined the patient. This examination shall include a medical history and focused physical examination. The laser hair practitioner shall ensure that the supervising physician is available during services so that the supervising physician is able to respond to patient emergencies and questions by the laser practitioner.

(b) Supervisory Agreement – A laser hair practitioner shall not operate any laser equipment without a signed Supervisory Agreement in accordance with Rule .0202 of this Chapter in place and on file with the Board. The Supervisory Agreement shall include the following elements:

- (1) the supervising physician's name, business address, business telephone number, NCMB license number, and medical specialty;
- (2) an attestation that the supervising physician is licensed to practice medicine in North Carolina and plans to maintain licensure during the timeframe of the agreement;
- (3) a list of devices, makes, and models being used by the laser hair practitioner;
- (4) an attestation that the supervising physician is knowledgeable in the use of the listed devices;
- (5) an attestation that the supervising physician ensures the laser hair practitioner has training to perform laser hair reduction with the listed devices;
- (6) an attestation that the supervising physician will provide personal and responsible direction to the laser hair practitioner;
- (7) an attestation that the supervising physician will be available and able to respond to patient emergencies and to questions by the laser hair practitioner under supervision; ~~and~~
- (8) the geographical distance between the supervising physician and the laser hair practitioner; ~~practitioner;~~
- (9) an attestation that the supervising physician will ensure that adequate patient contact, evaluation, and education have been provided for the

prescription medications that are related to laser hair reduction, both before and after treatment; and

- (10) a provision for biannual renewal of the supervisory agreement, with a copy provided to the Board.

(c) A laser hair practitioner shall notify the Board within 30 days of the termination of the Supervisory Agreement with the supervising physician.

Authority G.S. 88A-11.1.

SECTION .0600 – SCHOOLS

21 NCAC 19 .0601 CURRICULUM (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 19 .0602 APPLICATION FOR AND RENEWAL OF SCHOOL CERTIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 19 .0608 SCHOOL EQUIPMENT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 19 .0613 STUDENT/TEACHER RATIO AND EQUIPMENT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 19 .0619 EQUIPMENT ENDORSEMENTS AND SALES PROHIBITED (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0700 - CONTINUING EDUCATION

21 NCAC 19 .0701 CONTINUING EDUCATION REQUIREMENTS, LICENSE RENEWAL, REINSTATEMENT AND REACTIVATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 19 .0702 BOARD APPROVAL OF COURSES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 19 .0703 COMPUTATION OF CONTINUING EDUCATION UNITS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

*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 March 21, 2019 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

SOIL AND WATER CONSERVATION COMMISSION

| | | |
|---|-------------------|-----------|
| <u>Purpose</u> | 02 NCAC 59H .0101 | 32:09 NCR |
| <u>Definitions</u> | 02 NCAC 59H .0102 | 32:09 NCR |
| <u>Allocation Guidelines And Procedures</u> | 02 NCAC 59H .0103 | 32:09 NCR |
| <u>Best Management Practices Eligible For Cost Share Payments</u> | 02 NCAC 59H .0104 | 32:09 NCR |
| <u>Cost Share And Incentive Payments</u> | 02 NCAC 59H .0105 | 32:09 NCR |
| <u>Technical Assistance Funds</u> | 02 NCAC 59H .0106 | 32:09 NCR |
| <u>Cost Share Agreement</u> | 02 NCAC 59H .0107 | 32:09 NCR |
| <u>District Program Operation</u> | 02 NCAC 59H .0108 | 32:09 NCR |

CREDIT UNION DIVISION

| | | |
|--|--------------------|-----------|
| <u>Charitable Contributions and Charitable Donation Accounts</u> | 04 NCAC 06C .0708* | 33:12 NCR |
|--|--------------------|-----------|

MEDICAL CARE COMMISSION

| | | |
|---|---------------------|-----------|
| <u>Plan Approval</u> | 10A NCAC 13B .3102 | 33:05 NCR |
| <u>List of Referenced Codes, Rules, Regulation, and Standards</u> | 10A NCAC 13B .6101 | 33:05 NCR |
| <u>General</u> | 10A NCAC 13B .6102* | 33:05 NCR |
| <u>Equivalency and Conflicts with Requirements</u> | 10A NCAC 13B .6103* | 33:05 NCR |
| <u>Outpatient Surgical Facilities</u> | 10A NCAC 13B .6207 | 33:05 NCR |

ALCOHOLIC BEVERAGE CONTROL COMMISSION

| | | |
|---|---------------------|-----------|
| <u>Requirements for Storage</u> | 14B NCAC 15A .1603* | 33:08 NCR |
| <u>Prohibited Practices</u> | 14B NCAC 15A .1604* | 33:08 NCR |
| <u>Removal of Beverages from ABC Stores</u> | 14B NCAC 15A .1701* | 33:08 NCR |
| <u>Mixed Beverages Tax Stamp</u> | 14B NCAC 15A .1901* | 33:08 NCR |
| <u>Nonprofit Sales at Raffle or Auction</u> | 14B NCAC 15A .2206* | 33:09 NCR |
| <u>Definitions</u> | 14B NCAC 15B .0101* | 33:08 NCR |
| <u>Consumption: Intoxication by Permittee Prohibited</u> | 14B NCAC 15B .0209* | 33:09 NCR |
| <u>Advertising of Malt Beverages, Wine and Beverages by Reta...</u> | 14B NCAC 15B .1006* | 33:08 NCR |
| <u>Definitions</u> | 14B NCAC 15C .0101* | 33:08 NCR |
| <u>Application Procedures</u> | 14B NCAC 15C .0102* | 33:08 NCR |
| <u>Distiller, Supplier and Brokerage Representatives: Prohib...</u> | 14B NCAC 15C .0901* | 33:08 NCR |
| <u>Definitions</u> | 14B NCAC 15C .1301* | 33:08 NCR |
| <u>Other Similar Events Approval</u> | 14B NCAC 15C .1302* | 33:08 NCR |
| <u>Tastings Held for Consumers</u> | 14B NCAC 15C .1303* | 33:08 NCR |
| <u>Special Event Compliance Procedure</u> | 14B NCAC 15C .1304 | 33:08 NCR |
| <u>Special Event Sale of Branded Merchandise, Point-of-Sale ...</u> | 14B NCAC 15C .1305* | 33:08 NCR |
| <u>Special Event Participation Limitations</u> | 14B NCAC 15C .1306 | 33:08 NCR |

COASTAL RESOURCES COMMISSION

| | | |
|--|---------------------|-----------|
| <u>Coastal Shorelines</u> | 15A NCAC 07H .0209* | 32:18 NCR |
| <u>Specific Use Standards for Ocean Hazard Areas</u> | 15A NCAC 07H .0308* | 33:02 NCR |
| <u>General Conditions</u> | 15A NCAC 07H .1704* | 33:02 NCR |
| <u>Specific Conditions</u> | 15A NCAC 07H .1705* | 33:02 NCR |

TRANSPORTATION, DEPARTMENT OF

| | | |
|--|---------------------|-----------|
| <u>Purpose and Scope</u> | 19A NCAC 02D .1101* | 33:12 NCR |
| <u>Definitions</u> | 19A NCAC 02D .1102* | 33:12 NCR |
| <u>Certification of Firms</u> | 19A NCAC 02D .1103* | 33:12 NCR |
| <u>Renewal of Certification</u> | 19A NCAC 02D .1104* | 33:12 NCR |
| <u>Change in Ownership or Control</u> | 19A NCAC 02D .1105* | 33:12 NCR |
| <u>Decertification</u> | 19A NCAC 02D .1106* | 33:12 NCR |
| <u>Appeals of Denial of Certification</u> | 19A NCAC 02D .1107* | 33:12 NCR |
| <u>Goals</u> | 19A NCAC 02D .1108* | 33:12 NCR |
| <u>Counting Participation Toward Meeting the Goal</u> | 19A NCAC 02D .1109* | 33:12 NCR |
| <u>Non-Attainment of Goals</u> | 19A NCAC 02D .1110* | 33:12 NCR |
| <u>Performance Related Replacement of Eligible Firms</u> | 19A NCAC 02D .1111* | 33:12 NCR |
| <u>Replacement of a Firm Removed by Decertification</u> | 19A NCAC 02D .1112* | 33:12 NCR |

BARBER EXAMINERS, BOARD OF

| | | |
|---|--------------------|----------------------|
| <u>Physical and Mailing Address</u> | 21 NCAC 06A .0102* | G.S. 150B-21.5(a)(4) |
| <u>Student Permit</u> | 21 NCAC 06F .0113 | 33:11 NCR |
| <u>State Authorization as a Postsecondary Institution</u> | 21 NCAC 06F .0127 | 33:11 NCR |

MEDICAL BOARD

| | | |
|--|--------------------|-----------|
| <u>Qualifications and Requirements for License</u> | 21 NCAC 32S .0202* | 33:08 NCR |
| <u>Annual Renewal</u> | 21 NCAC 32S .0204* | 33:08 NCR |
| <u>Expedited Application for Physician Assistant Licensure</u> | 21 NCAC 32S .0220* | 33:08 NCR |

**TITLE 02 - DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

*Transferred from 15A NCAC 06I .0103 Eff. May 1, 2012;
Amended Eff. November 1, 2016;
Repealed Eff. January 1, 2020.*

**02 NCAC 59H .0101 PURPOSE
02 NCAC 59H .0102 DEFINITIONS FOR
SUBCHAPTER 59H**

*History Note: Authority G.S. 106-840; 106-860; 139-4;
139-8;
Eff. December 1, 2007;
Transferred from 15A NCAC 06I .0101 -.0102 Eff. May 1, 2012;
Amended Eff. November 1, 2016;
Repealed Eff. January 1, 2020.*

**02 NCAC 59H .0103 ALLOCATION GUIDELINES
AND PROCEDURES**

*History Note: Authority G.S. 106-840; 106-860; 139-4;
139-8;
Eff. January 1, 2008;*

**02 NCAC 59H .0104 BEST MANAGEMENT
PRACTICES ELIGIBLE FOR COST SHARE PAYMENTS
02 NCAC 59H .0105 COST SHARE AND INCENTIVE
PAYMENTS
02 NCAC 59H .0106 TECHNICAL ASSISTANCE
FUNDS**

*History Note: Authority G.S. 106-840; 106-860; 139-4;
139-8;
Eff. December 1, 2007;
Transferred from 15A NCAC 06I .0104 - .0106 Eff. May 1, 2012;
Repealed Eff. January 1, 2020.*

02 NCAC 59H .0107 COST SHARE AGREEMENT

*History Note: Authority G.S. 106-860; 139-4; 139-8;
Eff. June 1, 2008;
Transferred from 15A NCAC 06I .0107 Eff. May 1, 2012;
Repealed Eff. January 1, 2020.*

**02 NCAC 59H .0108 DISTRICT PROGRAM
OPERATION**

*History Note: Authority G.S. 106-840;
Eff. March 1, 2008;
Transferred from 15A NCAC 06I .0108 Eff. May 1, 2012;
Repealed Eff. January 1, 2020.*

TITLE 04 - DEPARTMENT OF COMMERCE

**04 NCAC 06C .0708 CHARITABLE
CONTRIBUTIONS AND CHARITABLE DONATION
ACCOUNTS**

(a) A credit union may make charitable contributions and donations or may fund a charitable donation account. The following definitions apply throughout this Rule:

- (1) "Charitable contributions and donations" means gifts provided by credit unions to assist others through contributions of staff, equipment, money, or other resources. This definition includes donations to community groups, nonprofit organizations, other credit unions or credit union affiliated causes, political donations, or donations to create charitable foundations.
- (2) "Charitable donation account" ("CDA") means a hybrid charitable and investment vehicle that a credit union may fund as a means to provide charitable contributions to qualified charities.
- (3) "Qualified charity" means a charitable organization or other non-profit entity that serves either a charitable, social, welfare, or educational purpose, and recognized by section 501(c)(3) of the Internal Revenue Code as tax exempt.
- (4) "Total return" means the actual rate of return on all investments in a CDA over a given period of up to five years, including realized interest, capital gains, dividends, and distributions, but exclusive of account fees and expenses.

(b) A credit union seeking to make charitable contributions and donations shall adopt policies and procedures as approved by its Board of Directors.

(c) A credit union shall be allowed to fund a CDA only after it has satisfied the following:

- (1) Notice. The credit union shall send written notice of the type and amount of initial investment to the Administrator 10 days prior to funding the CDA.
- (2) Rating. The credit union shall be rated a CAMEL 1, 2, or 3.
- (3) Maximum aggregate funding. The total aggregate investment in CDAs shall be limited

to five percent of the applicant credit union's net worth for the duration of the CDAs, as measured every quarterly Call Report cycle.

(4) Segregated account. The assets of a CDA shall be held in a segregated custodial account or special purpose entity and shall be labeled as a CDA.

(5) Regulatory oversight. If a CDA is established using a trust vehicle, the trust shall be a revocable trust and the trustee shall be an entity regulated by a state financial regulatory agency or a federal regulatory agency. A regulated trustee, other person, or entity that is authorized to make investment decisions for a CDA (manager), other than the credit union itself, shall be either a Registered Investment Adviser with the U.S. Securities and Exchange Commission or regulated by the Office of the Comptroller of the Currency.

(6) CDA documentation and other written requirements. The parties to the CDA shall document the terms and conditions controlling the CDA in a written agreement. The terms of the agreement shall be consistent with this Rule. A credit union's board of directors shall adopt written policies governing the creation, funding, and management of a CDA that are consistent with this Rule, review the policies annually, and may amend them. A CDA agreement and policies shall at a minimum:

- (A) provide that the CDA will make charitable contributions and donations only to qualified charities;
- (B) document the investment strategies and risk tolerances the CDA trustee or other manager shall follow in administering the account;
- (C) provide that a credit union shall account for the CDA, including distributions to charities and liquidation of the CDA, in accordance with generally accepted accounting principles; and
- (D) state the frequency with which the trustee or manager of the CDA will make distributions to qualified charities that are consistent with Subparagraph (c)(7) of this Rule.

(7) Minimum distribution to charities. A credit union shall distribute a minimum of 51 percent of the CDA's total return to one or more qualified charities no less frequently than every 5 years.

(d) Upon termination of a CDA, regardless of the length of its term, a minimum of 51 percent of the CDA's total return on assets shall be distributed to one or more qualified charities. Following the distributions to the qualified charities, any remaining assets shall be distributed to the credit union either in cash or shall be distributed to the credit union in kind but only if those assets are

permissible investments for State-chartered credit unions as set forth in Rule .1201 of this Subchapter and G.S. 54, Article 14I.

(e) The Administrator may revoke or modify a previously funded investment to the applicable credit union, if the Administrator finds the previously authorized investment is no longer a safe and sound practice, or has become inconsistent with applicable State or federal law. The Administrator shall send written notice of the revocation or modification to the applicable credit union. A credit union may appeal for a final decision by the Administrator as set forth in 04 NCAC 06B .0501 of this Chapter.

History Note: Authority G.S. 54-109.12; 54-109.21(19); 54-109.21(20);
Eff. April 1, 2019.

- (1) prepare any component of the safety risk assessment required by Section 1.2-3 Safety Risk Assessment of the FGI Guidelines; and
- (2) submit any component of the safety risk assessment prepared to the Construction Section with each submittal cited in Paragraph (e) of this Rule.

(i) In order to maintain compliance with the standards established in this Rule and Sections .6000 through .6200 of this Subchapter, the governing body shall obtain written approval from the Construction Section for any changes made during the construction of the facility in the same manner as set forth in Paragraph (e) of this Rule.

(j) Two weeks prior to the anticipated construction completion date, the governing body shall notify the Construction Section of the anticipated construction completion date in writing either by U.S. Mail at the Division of Health Service Regulation, Construction Section, 2705 Mail Service Center, Raleigh, NC, 27699-2705 or by e-mail at DHSR.Construction.Admin@dhhs.nc.gov.

(k) Construction documents and building construction, including the operation of all building systems, shall be approved in writing by the Construction Section prior to licensure or patient occupancy.

(l) When the Construction Section approves the construction documents and specifications, they shall provide the governing body with an approval letter. The Construction Section's approval of the construction documents and specifications shall expire 12 months after the issuance of the approval letter, unless the governing body has obtained a building permit for construction. If the Construction Section's approval has expired, the governing body may obtain a renewed approval of the construction documents and specifications from the Construction Section as follows:

- (1) If the standards established in this Rule and Sections .6000 through .6200 of this Subchapter have not changed, the governing body shall request a renewed approval of the construction documents and specifications from the Construction Section.
- (2) If the standards established in this Rule and Sections .6000 through .6200 of this Subchapter have changed, the governing body shall:
 - (A) submit revised construction documents and specifications meeting the current standards established in this Rule and Sections .6000 through .6200 of this Subchapter to the Construction Section; and
 - (B) obtain written approval of the revised construction documents and specifications from the Construction Section.

(m) Bassinets in a Neonatal Level I nursery as specified in Rule .6228 of this Subchapter shall not be included in a facility's bed capacity; however, no more bassinets shall be placed in service than the number allowed by the requirements set forth in Rule .6228 of this Subchapter. Beds in Neonatal Level II, III, and IV

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 13B .3102 PLAN APPROVAL

(a) For the purposes of this Rule, the Guidelines for the Design and Construction of Hospitals and Outpatient Facilities that is incorporated by reference in Rule .6105 of this Subchapter shall be referred to as the "FGI Guidelines."

(b) The definitions as set forth in Rule .6003 of this Subchapter shall apply to this Rule.

(c) The facility design and construction shall be in accordance with this Rule and the standards set forth in Sections .6000 through .6200 of this Subchapter.

(d) The site where the facility is located shall:

- (1) be approved by the Construction Section prior to the construction of a new facility or the construction of an addition to an existing facility;
- (2) be free from noise from railroads, freight yards, main traffic arteries, and schools and children's playgrounds; and
- (3) not be exposed to smoke, odors, or dust from industrial plants.

(e) Prior to the construction of a new facility or the construction of an addition or alteration to an existing facility, the governing body shall submit paper copies of the following to the Construction Section for review and approval:

- (1) one set of schematic design drawings;
- (2) one set of design development drawings; and
- (3) one set of construction documents and specifications.

(f) If the North Carolina State Building Code Administrative Code and Policies requires the North Carolina Department of Insurance to review and approve the construction documents and specifications, the governing body shall submit a copy of the construction documents and specifications to the North Carolina Department of Insurance.

(g) The governing body shall submit a functional program that complies with Section 1.2-2 Functional Program of the FGI Guidelines with each submittal cited in Paragraph (e) of this Rule.

(h) The governing body shall:

nurseries as specified in Rule .6228 of this Subchapter shall be included in a facility's bed capacity.

History Note: Authority G.S. 131E-77; 131E-79;
Eff. January 1, 1996;
Temporary Amendment Eff. March 15, 2002;
Amended Eff. April 1, 2003;
Readopted Eff. April 1, 2019.

10A NCAC 13B .6101 LIST OF REFERENCED CODES, RULES, REGULATIONS, AND STANDARDS

For the purposes of the rules in this Subchapter, the following codes, rules, regulations, and standards are incorporated herein by reference including subsequent amendments and editions. Copies of these codes, rules, regulations, and standards may be obtained or accessed from the online addresses listed:

- (1) the North Carolina State Building Codes with copies that may be purchased from the International Code Council online at <http://shop.iccsafe.org/> at a cost of five hundred seventy-one dollars (\$571.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>;
- (2) 42 CFR Part 482.41, Condition of Participation: Physical Plant, that is incorporated herein by reference including all subsequent amendments and editions; however, Part 482.41(c)(1) shall not be incorporated by reference. Copies of this regulation may be accessed free of charge at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5/xml/CFR-2017-title42-vol5-sec482-41.xml> or purchased online at <https://bookstore.gpo.gov/products/cfr-title-42-pt-482-end-code-federal-regulationspaper-201-7> for a cost of seventy-seven dollars (\$77.00);
- (3) the following National Fire Protection Association standards, codes, and guidelines with copies of these standards, codes, and guidelines that may be accessed electronically free of charge at <https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards> or may be purchased online at <https://catalog.nfpa.org/Codes-and-Standards-C3322.aspx> for the costs listed:
 - (a) NFPA 22, Standard for Water Tanks for Private Fire Protection for a cost of fifty-four dollars (\$54.00);
 - (b) NFPA 53, Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres for a cost of fifty-three dollars (\$53.00);
 - (c) NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas for a cost of fifty-four dollars (\$54.00);
 - (d) NFPA 255, Standard Method of Test of Surface Burning Characteristics of

- (e) Building Materials for a cost of forty-two dollars (\$42.00);
- (e) NFPA 407, Standard for Aircraft Fuel Servicing for a cost of forty-nine dollars (\$49.00);
- (f) NFPA 705, Recommended Practice for a Field Flame Test for Textiles and Films for a cost of forty-two dollars (\$42.00);
- (g) NFPA 780, Standard for the Installation of Lightning Protection Systems for a cost of sixty-three dollars and fifty cents (\$63.50);
- (h) NFPA 801, Standard for Fire Protection for Facilities Handling Radioactive Materials for a cost of forty-nine dollars (\$49.00); and
- (i) Fire Protection Guide to Hazardous Materials for a cost of one hundred and thirty-five dollars and twenty-five cents (\$135.25);
- (4) 42 CFR Part 482.15 Condition of participation: Emergency preparedness with copies of this regulation that may be accessed free of charge at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5/xml/CFR-2017-title42-vol5-sec482-15.xml> or purchased online at <https://bookstore.gpo.gov/products/cfr-title-42-pt-482-end-code-federal-regulationspaper-201-7> for a cost of seventy-seven dollars (\$77.00);
- (5) the "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes, and Other Institutions" 15A NCAC 18A .1300 with copies of these rules that may be accessed electronically free of charge at <http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20a/15a%20ncac%2018a%20.1301.pdf>; and
- (6) the rules for ambulatory surgical facilities in 10A NCAC 13C, Licensing of Ambulatory Surgical Facilities with copies of these rules that may be accessed electronically free of charge at <http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2013%20-%20nc%20medical%20care%20commission/subchapter%20c/subchapter%20c%20rules.pdf>.

History Note: Authority G.S. 131E-79;
Eff. January 1, 1996;
Readopted Eff. April 1, 2019.

10A NCAC 13B .6102 GENERAL

(a) A new facility or any addition or alteration to an existing facility whose construction documents were approved by the Construction Section on or after April 1, 2019 shall comply with the requirements provided in the codes, regulations, rules, and standards incorporated by reference in Rule .6101(1) through (3) of this Section. An existing facility whose construction documents were approved by the Construction Section prior to April 1, 2019 shall comply with the codes, regulations, rules, and standards incorporated by reference in Rule .6101(1) through (3) of this Section that were in effect at the time construction documents were approved by the Construction Section.

(b) The facility shall develop and maintain an emergency preparedness program as required by 42 CFR Part 482.15 Condition of Participation: Emergency Preparedness. The emergency preparedness program shall be developed with input from the local fire department and local emergency management agency. Documentation required to be maintained by 42 CFR Part 482.15 shall be maintained at the facility for at least three years and shall be made available to the Division during an inspection upon request.

(c) The facility shall comply with the "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes, and Other Institutions," 15A NCAC 18A .1300 of the North Carolina Division of Public Health, Environmental Health Services Section.

*History Note: Authority G.S. 131E-79;
Eff. January 1, 1996;
Readopted Eff. April 1, 2019.*

10A NCAC 13B .6103 EQUIVALENCY AND CONFLICTS WITH REQUIREMENTS

(a) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements in Rule .3102 and the Rules contained in Sections .6000 through .6200 of this Subchapter. The equivalency may be granted by the Division if a governing body submits a written equivalency request to the Division that states the following:

- (1) the rule citation and the rule requirement that will not be met;
- (2) the justification for the equivalency; and
- (3) how the proposed equivalency meets the intent of the corresponding rule requirement.

In determining whether to grant an equivalency request the Division shall consider whether the request will reduce the safety and operational effectiveness of the facility design and layout. The governing body shall maintain a copy of the approved equivalence issued by the Division.

(b) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

*History Note: Authority G.S. 131E-79;
Eff. January 1, 1996;
Readopted Eff. April 1, 2019.*

10A NCAC 13B .6207 OUTPATIENT SURGICAL FACILITIES

(a) If a facility elects to share outpatient surgical facilities with inpatient surgical facilities, the outpatient operating room and support areas shall meet the requirements set forth in Sections .6000 through .6200 of this Subchapter.

(b) If a facility elects to provide separate, non-sharable outpatient surgical facilities, the operating rooms and support areas shall meet the requirements set forth in 10A NCAC 13C .1400.

*History Note: Authority G.S. 131E-79;
Eff. January 1, 1996;
Readopted Eff. April 1, 2019.*

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 15A .1603 REQUIREMENTS FOR STORAGE

All privately-owned bonded warehouses holding permits for the storage of spirituous liquors are required to:

- (1) store all liquor separate and apart from other merchandise;
- (2) store all military codes separate and apart from State codes;
- (3) store all liquor of the same code together and spaced evenly for inventory purposes;
- (4) submit to the Commission monthly reports of all spirituous liquors received and delivered so that a perpetual inventory may be kept at the Commission. The report must match the inventory at the bonded warehouse at all times and upon inspection;
- (5) take at their expense, and submit to the Commission, at least once every 12 months inventories of all spirituous liquors being held in the bonded warehouse. These inventories may be observed by representatives of the Commission or the State Auditor's Office;
- (6) return to the distiller all liquor that is distressed when received within 30 days of its receipt;
- (7) destroy all liquor that becomes distressed after it is received, after notifying the distiller and obtaining in writing the distiller's approval to destroy the distressed liquor. The distiller, or a representative of the distiller, shall be given an opportunity to:
 - (a) be present in person or by video conference at the destruction; or
 - (b) request proof of destruction by photographs or video recordings showing the distressed liquor before and after the destruction.

The warehouse shall provide the distiller with a written or electronic copy of the Destruction of Unsalable Merchandise Report for the distressed liquor destroyed. A written or electronic copy of the report shall be sent quarterly by the warehouse to the Commission.

History Note: Authority G.S. 18B-100; 18B-204; 18B-207; S.L. 2018-100, s. 2;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1603 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. April 1, 2019.

14B NCAC 15A .1604 PROHIBITED PRACTICES

- (a) The removal of any spirituous liquors except as provided for in these Rules to any place except the State ABC warehouse, military posts, points outside the State, or the shipping distillery shall be prohibited.
- (b) No liquor, distressed or otherwise, shall be given to any distiller representative or employee of the warehouse but, in accordance with Rule .1603 of this Section, shall be returned to the distiller or destroyed and recorded in the Destruction of Unsalable Merchandise Report.

History Note: Authority G.S. 18B-100; 18B-204; 18B-207; S.L. 2018-100, s. 2;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1604 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. April 1, 2019.

14B NCAC 15A .1701 REMOVAL OF BEVERAGES FROM ABC STORES

- (a) Except as allowed pursuant to Paragraph (b) of this Rule, spirituous liquor, either distressed or otherwise, shall not leave the custody of a local board after receipt unless:
- (1) The spirituous liquor is sold at retail;
 - (2) The liquor is returned to the State ABC warehouse; or
 - (3) The liquor is purchased, exchanged, or otherwise obtained by another local board as provided by 14B NCAC 15A .1301(e).

Any spirituous liquor otherwise leaving the local board is nontaxpaid spirituous liquor.

(b) Distressed Liquor. Distressed liquor shall be given to a public or private hospital for medicinal purposes only or destroyed and the destruction witnessed by the manager, or the manager's designee, in accordance with this Paragraph. The local board shall notify the distiller, or a representative of the distiller, in writing of the intent to destroy the distressed liquor, and obtain the distiller's, or a representative of the distiller's, written approval to destroy the distressed liquor. The distiller, or a representative of the distiller, shall be given an opportunity to:

- (1) be present in person or by video conference at the destruction; or
- (2) request proof of destruction by photographs or video recordings showing the distressed liquor before and after the destruction.

(c) A Destruction of Unsalable Merchandise Report shall be completed and signed by the party destroying the distressed liquor and the party approving the destruction on behalf of the distiller. The report shall contain the following:

- (1) the name of the entity submitting the report;
- (2) the date of the report;
- (3) the name of the distiller of the distressed liquor;
- (4) the product code and brand name of the distressed liquor;
- (5) the quantity of bottles being destroyed;
- (6) the cost of each bottle;
- (7) the total cost of all bottles destroyed;
- (8) an explanation of the type of damage that makes the liquor distressed;
- (9) the name and title of the distiller, or representative of the distiller, who provided written approval to destroy the distressed liquor; and
- (10) the date the approval to destroy was given.

A written or electronic copy of the report shall be sent to the distiller and a written or electronic copy shall be sent quarterly to the Commission by the local board. The original shall be retained by the local board for a period of three years.

(d) No sales of alcoholic beverages shall be made to employees, board members, or other retail customers on credit. This does not prohibit purchases made by the use of credit cards.

History Note: Authority G.S. 18B-100; 18B-207; 18B-806; 18B-807; S.L. 2018-100, s. 2;
Eff. January 1, 1982;
Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1701 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. April 1, 2019.

14B NCAC 15A .1901 MIXED BEVERAGES TAX STAMP

(a) Except as permitted pursuant to Paragraph (c) of this Rule, prior to the sale of any container of spirituous liquor or antique spirituous liquor to a permittee, the local board shall affix to the container a mixed beverages tax stamp that states the following:

- (1) the local board system of sale;
- (2) the permittee's transaction number; and
- (3) the permittee's Mixed Beverage Permit number.

(b) The mixed beverages tax stamp shall be affixed to any vertical portion of each container. In no event shall the stamp be affixed to the cap or closure of a container. Where a case of one brand has been purchased, the mixed beverages tax stamp shall be affixed to each container in the case and it shall not be sufficient to stamp the exterior of the case.

(c) For sales of liquor to a guest room cabinet permittee, a local board may affix the mixed beverages tax stamp to any portion of the container other than the cap or closure. In lieu of affixing the stamp to each container purchased by a guest room cabinet permittee, a local board may choose to give to the guest room cabinet permittee one tax stamp for each container of liquor

purchased for resale from a guest room cabinet, to be affixed by the permittee as authorized by Rule .1804 of this Subchapter.

(d) Mixed beverage permittees may transport no more than eight liters of opened containers of spirituous liquor without a purchase-transportation permit to and from a local board in the non-passenger area of a motor vehicle for the purpose of replacing mixed beverage tax stamps that are defaced or that have worn out numbers.

History Note: Authority G.S. 18B-100; 18B-203(a)(1); 18B-207; 18B-807; S.L. 2018-100, s. 3; Eff. January 1, 1982;
Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1901 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. April 1, 2019; January 1, 2018.

14B NCAC 15A .2206 NONPROFIT SALES AT RAFFLE OR AUCTION

(a) Sales of alcohol under a special one-time permit pursuant to G.S. 18B-1002(a)(5) by a nonprofit organization as a prize in a raffle or at auction shall be sold for off-premises consumption and shall not be consumed on the permitted premises.

(b) Possession of the alcohol sold as a prize at a raffle or at auction pursuant to this Rule shall not be given by the nonprofit organization to the raffle prize winner or buyer at auction until the conclusion of the event or until the time the buyer leaves the event.

(c) Sales of alcohol pursuant to G.S. 18B-1002(a)(5) by a nonprofit organization shall be subject to the following conditions:

- (1) sales shall only be made to persons at least 21 years of age;
- (2) no sales shall be made to a person who is intoxicated as defined in 14B NCAC 15B .0101(2); and
- (3) delivery of possession of a quantity of alcohol sold pursuant to this Rule to a single buyer in excess of the limits set forth in G.S. 18B-303 shall not be permitted unless the raffle prize winner or buyer at auction of the alcohol has a valid permit issued pursuant to G.S. 18B-1002(a)(4) or otherwise complies with the provisions of G.S. 18B-303.

History Note: Authority G.S. 18B-100; 18B-207; 18B-303; 18B-1002;
Eff. April 1, 2019.

14B NCAC 15B .0101 DEFINITIONS

In addition to the definitions found in Sections 18B-101 and 18B-1000 of the North Carolina General Statutes, the following definitions apply to this Subchapter:

- (1) "Employee" means any person who performs a service for any person holding an ABC permit, regardless of whether that person is

compensated for the performance of those services.

- (2) "Intoxicated" means the condition of a person whose mental or physical functioning appears to be presently substantially impaired as a result of the use of alcohol or other substance, as set forth in G.S. 122C-3(18), and shall be when the person appears to a reasonable observer to be so far under such influence that:
 - (A) the person's emotions are conspicuously uncontrolled; or
 - (B) the person's intelligence, sense-perceptions, judgment, continuity of thought or of ideas, speech and coordination of volition with muscular action, or some of these faculties or processes are materially impaired.
- (3) "Modified Plan Permits," as used in Rules .0105 and .0106 of this Section, mean on-premise malt beverage permits authorized by elections held pursuant to G.S. 18B-602(a)(4).
- (4) "Original container" means a bottle, can, or other alcoholic beverage product container filled by a manufacturer or bottler that has been approved for sale within this State.
- (5) "Premises" means the same as defined in G.S. 18B-101(12a). A diagram attached to the investigative report and kept in the permittee's file is prima facie evidence of the premises covered by that permit and for which the permittee and the permittee's employees are responsible. Permits shall authorize the sale and possession or consumption of alcoholic beverages only on the premises described in the investigative report and diagram furnished by the investigating agent.
- (6) "Private dining area" means any area of a restaurant or hotel that is or can be closed off from public view.
- (7) "Sports and entertainment venue," as used in G.S. 18B-1000(7a) and in this Subchapter, shall include a building, structure, or place in which sporting competitions or contests are held, or shows, performances, or other entertainment is provided.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1000; 18B-1008;
Eff. January 1, 1982;
Amended Eff. January 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02S .0101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;
Amended Eff. April 1, 2019.

**14B NCAC 15B .0209 CONSUMPTION:
INTOXICATION BY PERMITTEE PROHIBITED**

(a) No permittee or permittee's employees shall be on licensed premises permitted under G.S. 18B-1001, 18B-1002, 18B-1114.1 or 18B-1114.5 after consuming alcoholic beverages except under the following conditions:

- (1) The permittee or employee is off duty for the remainder of that day or night during which the permittee or employee consumes any alcoholic beverage;
- (2) The permittee or employee is out of uniform when uniforms are required to be worn while performing any on duty services; and
- (3) The permittee or employee shall not perform any on duty services of any nature while or after consuming alcoholic beverages.

(b) Notwithstanding Paragraph (a) of this Rule, a malt beverage or wine permittee or its employee who is of legal age and who is responsible for ordering or serving alcoholic beverages may sample new malt beverage or wine products as provided by 14B NCAC 15C .0711(b) on the licensed premises. Samples shall not exceed two ounce servings of individual products and the total of the samples shall not exceed eight ounces in one calendar day.

(c) No permittee or the permittee's agents or employees shall be or become intoxicated on the licensed premises.

(d) Notwithstanding Paragraph (a) of this Rule, a permittee or the permittee's employees may be on licensed premises after consuming alcoholic beverages pursuant to G.S. 18B-1121(3) and (4) and may serve or pour alcoholic beverages for other persons for the remainder of the day provided the alcohol concentration of the permittee or the permittee's employees who serve or pour remains less than 0.03. The serving or pouring of alcoholic beverages for other persons pursuant to this Paragraph constitutes implied-consent to a chemical analysis of the person's alcohol concentration consistent with G.S. 20-16.2 and G.S. 20-139.1. The failure to submit to a chemical analysis pursuant to this Paragraph shall constitute a violation of the ABC laws.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1005(b); 18B-1006(d); 18B-1121;

Eff. January 1, 1982;

Amended Eff. May 1, 1984;

Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge James L. Conner, II declared Rule 04 NCAC 02S .0212(b) void as applied in North Carolina Alcoholic Beverage Control Commission v. Midnight Sun Investments, Inc. t/a Tiki Cabaret (03 ABC 1732);

Amended Eff. January 1, 2011;

Transferred and Recodified from 04 NCAC 02S .0212 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

Amended Eff. April 1, 2019.

**14B NCAC 15B .1006 ADVERTISING OF MALT
BEVERAGES, WINE AND MIXED BEVERAGES BY
RETAILERS**

(a) Interior Advertising.

- (1) Point-of-Sale. Retail malt beverage, wine, and mixed beverage permittees may utilize any amount of point-of-sale advertising for malt beverage, wine, and mixed beverage products offered for sale in the establishment. This advertising may be supplied by the industry member unless it constitutes a fixture or has value other than as advertising material. However, an industry member may give a retailer brand-identified items listed in 14B NCAC 15C .0711(c) for use as point-of-sale advertising;
- (2) Price Boards. Retail malt beverage, wine, and mixed beverage permittees may display inside price boards showing the brand names and prices of malt beverage, wine, and mixed beverage products offered for sale in the establishment;
- (3) Menus and Beverage Lists. Retail on-premise malt beverage, wine, and mixed beverage permittees may place on the menu and beverage lists the brand names and prices of malt beverage, wine, and mixed beverage products offered for sale in the establishment. Beverage lists may be supplied by an industry member and may include up to six items from the retailer's food menu but shall not include the name, logo, or other identifier of the retail permittee on the advertisement. A table tent shall be considered a beverage list for purposes of this Rule;
- (4) Retailer Advertising Specialty Items. "Retailer advertising specialty items" are items such as trays, coasters, mats, meal checks, paper napkins, glassware, cups, foam scrapers, back bar mats, thermometers, and other similar items that bear advertising matter. Advertising specialty items may be provided to a retailer by an industry member as provided in 14B NCAC 15C .0711(b)(8);
- (5) Window Displays. Retail malt beverage, wine, and mixed beverage permittees may arrange unopened malt beverage, wine, or spirituous liquor products in a window display;
- (6) Location. Except as permitted pursuant to Paragraph (e) of this Rule, no point-of-sale advertising, advertising specialty item or price board shall be displayed in a manner designed or intended to advertise malt beverages, wine, or mixed beverages on the outside of the establishment; and
- (7) T-shirts. A retailer's employees shall not wear alcoholic beverage brand identified t-shirts while working on the retailer's licensed premises.

(b) Exterior Advertising.

- (1) Outside signs on the premises.
 - (A) Malt Beverages. Retail malt beverage permittees may display the term

"beer," "cold beer," "draught beer," "specialty beer," "craft beer," "North Carolina beer," "local beer," or "imported beer," on a single, non-mechanical outside sign. This sign may be neon illuminated. The letters and figures on the sign shall not be more than 5 inches in height and 2 inches apart and the sign shall be attached to the building on the licensed premises. Retail malt beverage permittees may also display the term "beer," "cold beer," "draught beer," "specialty beer," "craft beer," "North Carolina beer," "local beer," or "imported beer" or a similar term on a single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides. The sidewalk sign shall be displayed only during the hours of operation.

- (B) Wine. Retail wine permittees may display the term "wine permit-off premise," "wine permit-on premise," "fine wine," or a similar term on a single non-mechanical outside sign. This sign may be neon illuminated. The letters and figures on the sign shall not be more than 5 inches in height and 2 inches apart and the sign shall be attached to the building on the licensed premises. Instead of the sign described in this Paragraph, retail wine permittees engaged in off-premise sales of wine may display the term "Wine Shop," "Wine and Cheese," or a similar term on a single non-mechanical sign. This sign may be neon illuminated. The letters and figures on the sign shall not be more than 18 inches in height and the sign shall be attached to the building on the licensed premises. Retail wine permittees may also display the term "wine permit-off premise," "wine permit-on premise," "fine wine," or a similar term on a single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides. Instead of the sidewalk sign described in this Paragraph, retail wine permittees engaged in off-premise sales of wine may display the term "Wine Shop," "Wine and Cheese," "fine wine," or a similar term on a single, portable, non-mechanical sidewalk sign that is no larger than 25 inches by 45 inches on

each of its two sides. A sidewalk sign shall be displayed only during the hours of operation.

- (C) Restriction. Retail malt beverage, wine, and mixed beverage permittees shall not allow price advertising or additional signs advertising malt beverages, wine, and mixed beverages on the outside of their premises. Outside signs alluding to malt beverages, wine, or mixed beverages by slang descriptions such as "brew," "suds," "six-pack," "vino," or "booze" are prohibited.
- (D) Exceptions for Menus. The placement of a food menu that also contains a list of alcoholic beverages by brand and price in a window, on the exterior of the retailer's building or on a sidewalk sign that is no larger than 25 inches by 45 inches on each of its two sides is not a violation of this Rule. A sidewalk sign shall be displayed only during the hours of operation.
- (E) Mixed Beverages. Retail mixed beverage permittees may display the term "mixed beverages," "all ABC permits," "mixed drinks," "cocktails," or "spirits," on a single non-mechanical, non-neon, or otherwise self-illuminated outside sign. The letters and figures on the sign shall not be more than five inches in height and two inches apart and the sign shall be attached to the building on the licensed premises.
- (F) Private Club. A private club shall not display any exterior sign advertising the availability of malt beverages, wine, or mixed beverages.
- (2) Billboards. Retail permittees shall not advertise malt beverage, wine, or mixed beverage products or the availability of alcoholic beverages by means of a billboard or outdoor sign except as provided in this Section. Industry members with retail permits may advertise tastings;
- (3) Aerial Displays. Retail permittees shall not advertise malt beverage, wine, or mixed beverage products or the availability of alcoholic beverages by means of an aerial display or an inflatable item that is tethered; and
- (4) This Rule permits only exterior advertising allowed by local ordinances.
- (c) Removal of Signs. A permittee shall remove any sign, display, or advertisement in or about the permittee's licensed premises if the Commission finds following a hearing it is contrary to public interest and orders its removal.

(d) Media Advertising. A retail malt beverage, wine, or mixed beverage permittee may advertise price and brand of malt beverage, wine, and mixed beverage products offered for sale by means of circular, newspaper, magazine, radio, television, and internet.

(e) Notwithstanding Subparagraphs (a)(6) and (c) of this Rule, a sports or entertainment venue with a permanently constructed seating capacity of 3,000 or more, which is not located on the campus of a school, college, or university, may display point-of-sale advertising for malt beverages and unfortified wine inside the venue that is visible from the outside of the venue, and shall not be required by the Commission to move or remove the advertising.

History Note: Authority G.S. 18B-100; 18B-105; 18B-207; S.L. 2018-65, s. 5.1;

Eff. January 1, 1982;

Amended Eff. March 1, 2012; January 1, 2011; July 1, 1992; May 1, 1984;

Transferred and Recodified from 04 NCAC 02S .1008 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

Amended Eff. April 1, 2019.

14B NCAC 15C .0101 DEFINITIONS

The following terms shall have the following meanings when used in this Chapter:

- (1) "Brand," in relation to wines, means the name under which a wine is produced and includes trade names or trademarks. A brand shall not be construed to mean a class or type of wine, but all classes and types of wines sold under the same brand label shall be considered a single brand. Differences in packaging such as a different style, type, or size of container shall not be considered different brands.
- (2) "Branded merchandise" means items, including glassware, cups, signs, t-shirts, hats and other apparel, that bears the brand of the alcoholic beverage being served, or the brand of the brewery, winery, or distiller whose alcoholic beverages is being served, at a tasting conducted pursuant to G.S. 18B-1114.1, 18B-1114.5 or 18B-1114.7.
- (3) "Brokerage" means a business that brokers in the State the sale of spirituous liquor on behalf of a spirituous liquor supplier.
- (4) "Brokerage representative" means an individual who promotes spirituous liquor on behalf of a brokerage.
- (5) "Distiller representative" means an individual who promotes spirituous liquor on behalf of a distiller, or otherwise represents a distiller.
- (6) "Industry member" means any wholesaler, salesman, brewery, winery, bottler, importer, liquor importer/bottler, distiller, distiller representative, brokerage, brokerage representative, supplier representative, rectifier, nonresident vendor, vendor representative, or affiliate thereof, that sells or solicits orders for alcoholic beverages, whether or not licensed in this State.
- (7) "Rectifier" means a permittee that processes spirituous liquor by cutting, blending, mixing, or infusing it with any ingredient that reacts with the constituents of the distilled spirits and changes the character and nature, or standards of identity, of the distilled spirits, but does not include a person who extracts spirituous liquor by original or continuous distillation, or who mixes spirituous liquor with other ingredients for immediate consumption.
- (8) "Retail permittee" or "retailer" means any permittee holding a retail alcoholic beverage permit issued pursuant to the authority of G.S. 18B-1001, but does not include a non-profit or political organization that has been issued a Special One-Time permit pursuant to the provisions of G.S. 18B-1002(a)(2) or (5).
- (9) "Spirituous liquor supplier" means a distiller, liquor importer/bottler, or rectifier.
- (10) "Supplier representative" means, as the term is used in G.S. 18B-1114.7, an individual who promotes on behalf of a spirituous liquor supplier, or otherwise represents a spirituous liquor supplier.
- (11) "Vendor" means any brewery, winery, bottler, malt beverages or wine importer, or nonresident malt beverage vendor or nonresident wine vendor as those terms are used in G.S. 18B-1113 and 18B-1114.
- (12) "Vendor representative" means any person who holds a permit issued pursuant to G.S. 18B-1112.
- (13) "Wine" means both fortified wine and unfortified wine.

History Note: Authority G.S. 18B-100; 18B-101; 18B-207; Eff. January 1, 1982;
Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;
Transferred and Recodified from 04 NCAC 02T .0101 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;
Amended Eff. April 1, 2019.

14B NCAC 15C .0102 APPLICATION PROCEDURES

(a) Who Files. Before any winery, brewery, distiller, wholesaler, importer, bottler, vendor, distiller representative, brokerage representative, salesman, supplier representative, or vendor representative sells, solicits orders for, or manufactures, bottles, or imports any alcoholic beverage in this State, that person shall first file written application for the appropriate permit and pay any required fees, as described in G.S. 18B-902, and as set forth in this Rule. Applications for permits for businesses shall be filed by those individuals listed in G.S. 18B-900(c).

(b) Application. Application forms for all ABC permits may be obtained from the North Carolina Alcoholic Beverage Control Commission's office or website as set forth in 14B NCAC 15A .0102. Each person shall provide in the application, under oath, the following information, as applicable:

- (1) the name, address, email address, last four digits of social security number, and telephone number(s) of the applicant;
- (2) the mailing address and location address of the business for which a permit is desired, and the county and state where the business is located;
- (3) the name of the business and whether the business is a sole proprietorship, corporation, limited liability company, or partnership;
- (4) the trade name of business;
- (5) the applicant's date of birth;
- (6) if the business is a corporation or limited liability company, the name and address of the person authorized to accept service of process of Commission notices or orders under G.S. 1A, Rule 4(j);
- (7) if the applicant is a non-resident intending to operate a business in the State, the name and address of a resident of the State appointed as the applicant's attorney-in-fact in accordance with Chapter 32C of the General Statutes for purposes of G.S. 18B-900(a)(2)b.;
- (8) if the application is for a vendor representative, brokerage representative, distiller representative, or supplier representative permit, authorization from the commercial permittee, brokerage, distiller, or spirituous liquor supplier to represent it; and
- (9) that the applicant is in compliance with G.S. 18B-900(a)(3) through (8).

(c) Additional documentation. The following documents completed, signed, notarized, and recorded, as applicable, shall be attached to and submitted with an application, and shall be incorporated as part of the application:

- (1) for applicants applying on behalf of a business pursuant to G.S. 18B-900(c), the fingerprint card, Authority for Release of Information Form, and certified check, cashier check, money order, electronic payment, or credit card payment made payable to the North Carolina ABC Commission in the amount of thirty-eight dollars (\$38.00) for payment of a state and national fingerprint-based criminal history record check pursuant to 14B NCAC 18B .0405;
- (2) for applicants applying for brokerage representative, distiller representative, or supplier representative permits, a certified copy of the applicant's State criminal history record check;
- (3) payment of applicable permit fees as authorized in 14B NCAC 15A .0104;
- (4) for businesses located in this State, a certified copy of any recorded power of attorney

registered in the county where the proposed licensed premises is located;

- (5) for corporations not already holding a permit in this State, a copy of the Articles of Incorporation and notarized corporate certification of shareholders holding 25 percent or more of the shares of the corporation;
- (6) for limited liability companies not already holding a permit in this State, a copy of Articles of Organization and notarized organizational certification of members owning 25 percent or more interest in the company. Additionally, if manager-managed, a copy of the Operating Agreement;
- (7) a black and white copy of applicant's current photo identification;
- (8) for a business located in this State, a copy or memorandum of the lease showing the applicant as tenant, a copy of the deed showing the applicant as the grantee or owner, or a copy of a management agreement with the owner or lessee of the permitted property showing the applicant has the authority to operate the business at the permitted location; and
- (9) a Federal Employer Identification/Social Security Number Verification Form.

(d) Salesmen, Representatives, Vendors To State Companies. All salesmen, vendor representatives, distiller representatives, brokerage representatives, supplier representatives, and vendors shall further state on the permit application the name of every manufacturer, importer, wholesaler, distiller, brokerage, spirituous liquor supplier, or vendor that the applicant will represent in the State. The persons listed in this Paragraph shall notify the Commission when their authorization to represent an industry member ceases. The manufacturer, importer, wholesaler, distiller, brokerage, spirituous liquor supplier, or vendor shall notify the Commission whenever any of the persons listed in this Paragraph are no longer their authorized representative. Notification required pursuant to this Paragraph shall be made to the Commission in writing within 30 days of the termination of the authorization to represent.

(e) Wholesalers. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, before a wholesaler receives, possesses, transports, sells, delivers, or ships wine or malt beverages in the State, the vendor shall file with the Commission a separate distribution agreement filing form for each brand authorized to be sold by the wholesaler and the specific territory where the product may be sold for each wholesaler location. The distribution agreement filing form shall contain the vendor's and wholesaler's names, trade names if applicable, addresses, telephone numbers, ABC permit numbers, and the name of the brand and territory where the sales may take place in the State, by county or parts of counties. For wine vendors, the form shall also state whether the vendor ships 1,250 cases or more of wine in the State each year. The form shall be signed and dated by the vendor and the wholesaler. If any changes in the distribution agreement affect the information on the distribution agreement filing form filed with the Commission, the wholesaler shall amend the form and file it with the Commission

on a revised distribution agreement filing form before the changes become effective.

(f) Liquor Importer/Bottler. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a liquor importer/bottler applying for a permit shall submit a description of the operations of its business, which shall include the location address of any storage facility or bottling plant, if different than the address shown on the permit application, and any associated federal alcoholic beverage permit numbers.

(g) Nonresident Vendors. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a nonresident malt beverage vendor or a nonresident wine vendor applying for a permit shall submit the following:

- (1) a copy of the Federal Basic Permit or Brewers Notice;
- (2) a statement of whether the business is a malt beverage vendor or a wine vendor;
- (3) a statement whether the applicant has ever been disapproved by any government agency for any application to manufacture, use, store, rectify, bottle, distribute, sell, import, or transport distilled spirits, beer, or wine;
- (4) a statement whether the applicant has ever compromised, by payment of penalties or otherwise, any violation of any federal or state laws relating to internal revenue or customs taxation of alcoholic beverages; and
- (5) certification of understanding that the applicant can only engage in activities authorized by the ABC laws of this State for the permit issued, and that before any wine or malt beverage can be offered for sale in the State, the product and label must be approved by the Commission.

(h) Wine Producers. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a wine producer applying for a permit shall submit a copy of the recorded deed or lease for the farming establishment that meets the requirements set forth in G.S. 18B-1000(10), including the address of the farm and one of the following:

- (1) a survey or diagram of the farm, indicating the areas and acreage used in the production of grapes, berries, or other fruits for the manufacture of unfortified wine; or
- (2) an affidavit stating that the farm consists of at least five acres committed to the production of grapes, berries, or other fruits for the manufacture of unfortified wine, listing the acreage used for this purpose and its function.

(i) Wine Shippers. In addition to the requirements set forth in Paragraphs (a), (b), and (c) of this Rule, a wine shipper applying for a permit shall submit the following:

- (1) a description of the operation of the business;
- (2) a website address through which orders will be received;
- (3) a statement whether the applicant has ever been disapproved by any government agency for any application to manufacture, use, store, rectify, bottle, distribute, sell, import or transport distilled spirits, beer, or wine;

- (4) a statement whether the applicant has ever compromised, by payment of penalties or otherwise, any violation of any federal or state laws relating to internal revenue or customs taxation of alcoholic beverages;
- (5) a statement whether the business entity holds a valid Federal Basic Permit, either as a Bonded Wine Cellar or Bonded Winery, and a copy of the Federal Basic Permit; and
- (6) a wine shipper brand listing consisting of all brands of fortified and unfortified wines identified to be shipped into the State by the wine shipper, including the names of the common carriers used for shipping. The permitted wine shipper may amend the brands of wine permitted to be shipped into the State by filing an amended wine shipper brand listing with the Commission prior to shipping. Only brands identified by the wine shipper to the Commission in writing may be legally shipped into the State.

History Note: Authority G.S. 18B-100; 18B-109; 18B-207; 18B-900; 18B-902; 18B-1000; 18B-1001.1; 18B-1105.1; 18B-1113; 18B-1114; 18B-1114.3; 18B-1114.7; 18B-1203; 18B-1303;

Eff. January 1, 1982;

Amended Eff. May 1, 1984;

Transferred and Recodified from 04 NCAC 02T .0102 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;

Amended Eff. April 1, 2019.

14B NCAC 15C .0901 DISTILLER, SUPPLIER AND BROKERAGE REPRESENTATIVES: PROHIBITED ACTS

(a) Representatives Prohibited from Entering Store. Distiller representatives, supplier representatives, or brokerage representatives shall not enter any ABC store except for the purpose of calling on the buyer if the buyer's office is maintained in the store, for the purpose of making a purchase, or for the purpose of visiting a store to market product, build displays, or attach added value items in accordance with written permission from the local Board. An initial request for permission to visit a store pursuant to this Paragraph shall be made in writing by the representative to the general manager of the local Board in a form acceptable to the local Board. The local Board may adopt policies regulating when a representative may visit the local Board's ABC store, which may include the times, frequency, purpose, method of requesting and approving permission, and any advance notice requirements. Permission granted by the general manager, or other persons designated by the local Board, to the representative to visit the local Board's ABC stores shall initially be made in writing and in accordance with any policies adopted by the local Board. The duration of the permission may be for an indefinite time. The local Board's policies may authorize the general manager, or his or her designee, to verbally authorize subsequent specific visits after written permission has been given.

(b) **Representatives Prohibited from Contacting Store Personnel.** Distiller representatives, supplier representatives, or brokerage representatives shall not contact store personnel for the purpose of promoting their merchandise while store personnel are off-duty. Store personnel shall not allow distiller representatives, supplier representatives, or brokerage representatives to contact them in any manner for the purpose of promoting their merchandise while store personnel are off-duty.

(c) **Gifts Prohibited.** Distiller representatives, supplier representatives, or brokerage representatives shall not give liquor, including samples, or anything of value to local ABC board members or employees, including store managers and general managers, at any time. Local ABC board members or employees, which includes store managers and general managers, shall not accept gifts, either directly or through a third person, from any distiller representative, supplier representative, or brokerage representative.

(d) **Soliciting and Advertising Prohibited.** Except for contact with the Commission, local ABC boards, and retail permittees, with regards to the promotion and purchase of spirituous liquor, no distiller representative, supplier representative, or brokerage representative shall:

- (1) solicit any order, agreement, or other commitment to purchase liquor, whether or not it is legally enforceable; or
- (2) advertise, promote, or encourage purchases by any means or method or furnish any means by which spirituous liquor may be obtained, except as provided in 14B NCAC 15B .1008.

This Paragraph shall not apply to a distiller representative, supplier representative, or brokerage representative who has been granted an exception by the Commission to make presentations of pictorial artwork or renderings of the design of the decanter and solicitation of a special order of these decanters at the request of a local ABC board and non-profit, charitable corporation related to orders and sales of commemorative bottles pursuant to 14B NCAC 15A .1404. Requests for an exception under this Paragraph shall be made in writing to the Commission.

(e) **Relationship With Mixed Beverages Permittee.** No employee or representative of any distiller, importer, rectifier, or bottler may promote or solicit orders by a mixed beverages permittee or aid the permittee in placing orders for any spirituous liquor or for any other alcoholic beverages.

(f) **Gifts and Inducements Prohibited.** Except as permitted pursuant to Rules .0710 and .0711 of this Subchapter, no employee or representative of any industry member may give or lend to any mixed beverage permittee or the permittee's employee any gift, money, services, equipment, furniture, fixture, or other thing of value.

History Note: Authority G.S. 18B-100; 18B-207; 18B-704; 18B-807; 18B-1116;

Eff. January 1, 1982;

Amended Eff. April 1, 2011; July 1, 1992; May 1, 1984;

Transferred and Recodified from 04 NCAC 02T .0901 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017;

Amended Eff. April 1, 2019.

14B NCAC 15C .1301 DEFINITIONS

As used in G.S. 18B-1114.7 and in this Section:

- (1) "Charitable, nonprofit organization" means a nonprofit organization that is a charitable organization as defined in G.S. 1-539.11(1).
- (2) "Local fund-raiser" means a special event sponsored or cosponsored by a local government, a local charitable, nonprofit organization, or a local political organization for the purpose of raising funds for a governmental, charitable, or political purpose.
- (3) "Special event" means either:
 - (a) an event the spirituous liquor special event permittee participates in that is a trade show, convention, street festival, holiday festival, agricultural festival, balloon race, local fund-raisers, or other similar events approved pursuant to Rule .1302 of this Section, that is for a limited duration of no more than 10 days and organized or sponsored by a person other than the spirituous liquor special event permittee; or
 - (b) an event of limited duration of no more than 60 days at a shopping mall that is organized and sponsored by the shopping mall or an association of shopping mall merchants as part of a promotion or sale for all merchants in the shopping mall.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; Eff. April 1, 2019.

14B NCAC 15C .1302 OTHER SIMILAR EVENTS APPROVAL

(a) For other events not specifically listed in G.S. 18B-1114.7, the holder of a spirituous liquor special event permit issued pursuant to G.S. 18B-1114.7 shall obtain approval of that other similar event from the Commission prior to the permit holder participating in the event. The Commission's approval of other events under this Rule shall be in writing.

(b) The holder of the permit shall submit a written application for approval to the Commission no less than seven business days prior to the date of the event. The application, available on the Commission's website, includes:

- (1) the permit holder's name, business name, spirituous liquor special event permit number, email address, and telephone and fax numbers;
- (2) the name, dates, time, location, address, and county of the event;
- (3) whether an admission fee will be charged of the attendees by the event sponsor;
- (4) the event sponsor's name, address, contact information, event or sponsor's social media link or webpage, and whether the event sponsor is a non-profit organization;

- (5) whether the event sponsor holds a special one-time ABC permit pursuant to G.S. 18B-1002(a)(2) or (5) and whether alcohol will otherwise be sold or given away at the event; and
- (6) the names of other co-sponsors, supporters, vendors, or exhibitors who are expected to participate in the event, and whether those persons hold ABC permits.

(c) The Commission shall not approve events sponsored exclusively by the holder of the permit. Tastings of spirituous liquor shall not be allowed pursuant to a spirituous liquor special event permit on the premises of a retail permittee or an ABC store.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; Eff. April 1, 2019.

14B NCAC 15C .1303 TASTINGS HELD FOR CONSUMERS

(a) Tasting Area Designation. Tastings permitted pursuant to a spirituous liquor special event permit shall only be conducted within a designated tasting area, delineated by vertical markings no less than 24 inches in height that the consumer would recognize as indicating the boundaries that physically separate the tasting area from the remainder of the special event. Consumers shall not be permitted to take tasting samples outside the designated tasting area. The permittee shall ensure that designated tasting area signs are displayed at the permittee's tastings serving tables and at the entrances and exits to the designated tasting area, with lettering of at least two inches in height, informing consumers that they must be 21 years of age to participate in the tastings and that no tasting samples are allowed to be taken out of the designated tasting area. A designated tasting area may include one or more permittees. A special event may have multiple designated tasting areas.

(b) Each permittee conducting a tasting may give each consumer tasting samples up to the limits set forth in G.S. 18B-1114.7(b)(3).
 (c) Training. Any employee of a permittee who will be conducting or supervising any tasting conducted pursuant to a spirituous liquor special event permit shall be given training, including:

- (1) identification of potential underage consumers;
- (2) recognition of fictitious identification;
- (3) identification of consumers who are visibly intoxicated;
- (4) service of correct sample sizes; and
- (5) methods to ensure compliance with G.S. 18B-1114.7 in accordance with Rule .1304 of this Section.

(d) Consumption prohibited. The permittee, the permittee's agent, or employee shall not be in the designated tasting area after consuming alcoholic beverages except under the following conditions:

- (1) the permittee, agent, or employee is off duty for the remainder of that day or night during which the individual consumes any alcoholic beverage;

- (2) the permittee, agent, or employee is out of uniform when uniforms are required to be worn while performing any on duty services; and
- (3) the permittee, agent, or employee shall not perform any on duty services of any nature while or after consuming alcoholic beverages.

(e) Limitations. Spirituous liquors provided as tastings pursuant to a spirituous liquor special event permit shall not be mixed with any other alcoholic or non-alcoholic beverage. No non-alcoholic beverages, other than water, shall be made available to the consumer in the designated tasting area.

(f) Source of spirituous liquor. All spirituous liquor used for tasting samples given in accordance with this Rule shall be purchased by the permittee from an ABC store.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; Eff. April 1, 2019.

14B NCAC 15C .1304 SPECIAL EVENT COMPLIANCE PROCEDURE

(a) The permittee to whom the spirituous liquor special event permit was issued must be present in the designated tasting area at the time the tastings occur. A copy of the spirituous liquor special event permit shall be on display in the designated tasting area and shall be made available to law enforcement agents upon request.

(b) For other special events approved by the Commission pursuant to Rule .1302 of this Section, a copy of the Commission's approval shall be kept in the designated tasting area during the duration of the tastings and made available to law enforcement upon request.

(c) A spirituous liquor special event permit holder shall maintain a written procedure establishing the method to be used by the permit holder and the permit holder's employees or agents to ensure compliance with the requirements of G.S. 18B-1114.7(b)(3), (4), and (5). A copy of the written procedure shall be available in the designated tasting area to the permit holder's employees and designated agents and shall be made available in the designated tasting area to law enforcement agents upon request.

(d) A copy of the written procedure required pursuant to Paragraph (c) of this Rule shall be:

- (1) maintained for one year following the tasting;
- (2) included as part of the consumer tasting record maintained in accordance with G.S. 18B-1114.7(b)(10); and
- (3) made available upon request to the Commission and law enforcement agents pursuant to G.S. 18B-502.

History Note: Authority G.S. 18B-100; 18B-201; 18B-1114.7; Eff. April 1, 2019.

14B NCAC 15C .1305 SPECIAL EVENT SALE OF BRANDED MERCHANDISE, POINT-OF-SALE ADVERTISING MATERIALS AND ADVERTISING SPECIALTIES

(a) In addition to the tastings permitted under this Section, a spirituous liquor special event permit holder may sell branded

merchandise and provide point-of-sale advertising materials and advertising specialties to consumers at consumer tastings only within the designated tasting area. No unrelated activities shall be conducted within the designated tasting area.

(b) For purposes of this Rule:

- (1) "Point-of-sale advertising materials" means advertising that is located inside the designated tasting area established in accordance with Rule .1303 of this Section where the product is displayed or sampled. Advertising materials may include signs, posters, banners, and decorations that bear product advertising matter. Point-of-sale advertising materials as used in this Section shall not include items listed in 14B NCAC 15C .0711(c).
- (2) "Advertising specialties" means coasters, shot glasses, bottle or can openers, cork screws, ash trays, shopping bags, individual can coolers, hats, caps, visors, t-shirts (without collars or buttons), and key chains.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; Eff. April 1, 2019.

14B NCAC 15C .1306 SPECIAL EVENT PARTICIPATION LIMITATIONS

- (a) For special events in shopping malls, the spirituous liquor special event permittee shall not participate in any single mall more than 10 days cumulatively in any three-month period.
- (b) A spirituous liquor special event permittee shall not participate more than 10 days cumulatively during a three-month period in a special event sponsored or arranged by the same person or business.
- (c) A spirituous liquor special event permittee shall not participate in a special event for which the permittee was the only spirituous liquor special event permittee invited or allowed to participate in the special event.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1114.7; 18B-1116; Eff. April 1, 2019.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 07H .0209 COASTAL SHORELINES

(a) Description. The Coastal Shorelines category includes estuarine shorelines and public trust shorelines.

- (1) Estuarine shorelines AEC are those non-ocean shorelines extending from the normal high water level or normal water level along the estuarine waters, estuaries, sounds, bays, fresh and brackish waters, and public trust areas as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environmental Quality [described in Rule .0206(a) of this Section] for a distance of 75 feet landward. For those

estuarine shorelines immediately contiguous to waters classified as Outstanding Resource Waters (ORW) by the Environmental Management Commission (EMC), the estuarine shoreline AEC shall extend to 575 feet landward from the normal high water level or normal water level, unless the Coastal Resources Commission establishes the boundary at a greater or lesser extent following required public hearing(s) within the affected county or counties.

- (2) Public trust shorelines AEC are those non-ocean shorelines immediately contiguous to public trust areas, as defined in Rule 07H .0207(a) of this Section, located inland of the dividing line between coastal fishing waters and inland fishing waters as set forth in that agreement and extending 30 feet landward of the normal high water level or normal water level.

(b) Significance. Development within coastal shorelines influences the quality of estuarine and ocean life and is subject to the damaging processes of shore front erosion and flooding. The coastal shorelines and wetlands contained within them serve as barriers against flood damage and control erosion between the estuary and the uplands. Coastal shorelines are the intersection of the upland and aquatic elements of the estuarine and ocean system, often integrating influences from both the land and the sea in wetland areas. Some of these wetlands are among the most productive natural environments of North Carolina and they support the functions of and habitat for many valuable commercial and sport fisheries of the coastal area. Many land-based activities influence the quality and productivity of estuarine waters. Some important features of the coastal shoreline include wetlands, flood plains, bluff shorelines, mud and sand flats, forested shorelines and other important habitat areas for fish and wildlife.

(c) Management Objective. All shoreline development shall be compatible with the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system. Other objectives are to conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing these shorelines so as to maximize their benefits to the estuarine and ocean system and the people of North Carolina.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. These uses shall be limited to those types of development activities that will not be detrimental to the public trust rights and the biological and physical functions of the estuarine and ocean system. Every effort shall be made by the permit applicant to avoid or minimize adverse impacts of development to estuarine and coastal systems through the planning and design of the development project. Development shall comply with the following standards:

- (1) All development projects, proposals, and designs shall preserve natural barriers to erosion, including peat marshland, resistant

- clay shorelines, and cypress-gum protective fringe areas adjacent to vulnerable shorelines.
- (2) All development projects, proposals, and designs shall limit the construction of impervious surfaces and areas not allowing natural drainage to only so much as is necessary to service the primary purpose or use for which the lot is to be developed. Impervious surfaces shall not exceed 30 percent of the AEC area of the lot, unless the applicant can demonstrate, through innovative design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. Redevelopment of areas exceeding the 30 percent impervious surface limitation shall be permitted if impervious areas are not increased and the applicant designs the project to comply with the rule to the maximum extent feasible.
- (3) All development projects, proposals, and designs shall comply with the following mandatory standards of the North Carolina Sedimentation Pollution Control Act of 1973:
- (A) All development projects, proposals, and designs shall provide for a buffer zone along the margin of the estuarine water that is sufficient to confine visible siltation within 25 percent of the buffer zone nearest the land disturbing development.
- (B) No development project proposal or design shall propose an angle for graded slopes or fill that is greater than an angle that can be retained by vegetative cover or other erosion-control devices or structures.
- (C) All development projects, proposals, and designs that involve uncovering more than one acre of land shall plant a ground cover sufficient to restrain erosion within 30 working days of completion of the grading; unless the project involves clearing land for the purpose of forming a reservoir later to be inundated.
- (4) Development shall not have a significant adverse impact on estuarine and ocean resources. Significant adverse impacts include development that would directly or indirectly impair water quality increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water, or cause degradation of shellfish beds.
- (5) Development shall not interfere with existing public rights of access to, or use of, navigable waters or public resources.
- (6) No public facility shall be permitted if such a facility is likely to require public expenditures for maintenance and continued use, unless it can be shown that the public purpose served by the facility outweighs the required public expenditures for construction, maintenance, and continued use.
- (7) Development shall not cause irreversible damage to valuable, historic architectural or archaeological resources as documented by the local historic commission or the North Carolina Department of Natural and Cultural Resources.
- (8) Established common-law and statutory public rights of access to the public trust lands and waters in estuarine areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the use of the accessways.
- (9) Within the AECs for shorelines contiguous to waters classified as ORW by the EMC, no CAMA permit shall be approved for any project that would be inconsistent with rules adopted by the CRC, EMC or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site-specific information, degrade the water quality or outstanding resource values.
- (10) Within the Coastal Shorelines category (estuarine and public trust shoreline AECs), new development shall be located a distance of 30 feet landward of the normal water level or normal high water level, with the exception of the following:
- (A) Water-dependent uses as described in Rule 07H .0208(a)(1) of this Section;
- (B) Pile-supported signs (in accordance with local regulations);
- (C) Post- or pile-supported fences;
- (D) Elevated, slatted, wooden boardwalks exclusively for pedestrian use and six feet in width or less. The boardwalk may be greater than six feet in width if it is to serve a public use or need;
- (E) Crab Shedders, if uncovered with elevated trays and no associated impervious surfaces except those necessary to protect the pump;
- (F) Decks/Observation Decks limited to slatted, wooden, elevated and unroofed decks that shall not singularly or collectively exceed 200 square feet;
- (G) Grading, excavation and landscaping with no wetland fill except when required by a permitted shoreline stabilization project. Projects shall not increase stormwater runoff to adjacent estuarine and public trust waters;

- (H) Development over existing impervious surfaces, provided that the existing impervious surface is not increased;
- (I) Where application of the buffer requirement would preclude placement of a residential structure with a footprint of 1,200 square feet or less on lots, parcels and tracts platted prior to June 1, 1999, development shall be permitted within the buffer as required in Subparagraph (d)(10) of this Rule, providing the following criteria are met:
 - (i) Development shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities, such as water and sewer; and
 - (ii) The residential structure development shall be located a distance landward of the normal high water or normal water level equal to 20 percent of the greatest depth of the lot. Existing structures that encroach into the applicable buffer area may be replaced or repaired consistent with the criteria set out in 15A NCAC 07J .0201 and .0211; and
- (J) Where application of the buffer requirement set out in Subparagraph (d)(10) of this Rule would preclude placement of a residential structure on an undeveloped lot platted prior to June 1, 1999 that are 5,000 square feet or less that does not require an on-site septic system, or on an undeveloped lot that is 7,500 square feet or less that requires an on-site septic system, development shall be permitted within the buffer if all the following criteria are met:
 - (i) The lot on which the proposed residential structure is to be located, is located between:
 - (II) An existing waterfront residential structure that encroaches into the buffer and a road, canal, or other open body of water, both of which are within 100 feet of the center of the lot;
 - (ii) Development of the lot shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities;
 - (iii) Placement of the residential structure and pervious decking shall be aligned no further into the buffer than the existing residential structures and existing pervious decking on adjoining lots;
 - (iv) The first one and one-half inches of rainfall from all impervious surfaces on the lot shall be collected and contained on-site in accordance with the design standards for stormwater management for coastal counties as specified in 15A NCAC 02H .1005. The stormwater management system shall be designed by an individual who meets applicable State occupational licensing requirements for the type of system proposed and approved during the permit application process. If the residential structure encroaches into the buffer, then no other impervious surfaces shall be allowed within the buffer; and
 - (v) The lots shall not be adjacent to waters designated as approved or conditionally approved shellfish waters by the Shellfish Sanitation Section of the Division of Marine Fisheries of the Department of Environmental Quality.
- (I) Two existing waterfront residential structures, both of which are within 100 feet of the center of the lot and at least one of which encroaches into the buffer; or
 - (e) The buffer requirements in Paragraph (d) of this Rule shall not apply to Coastal Shorelines where the EMC has adopted rules that contain buffer standards.
 - (f) Specific Use Standards for ORW Coastal Shorelines.

- (1) Within the AEC for estuarine and public trust shorelines contiguous to waters classified as ORW by the EMC, all development projects, proposals, and designs shall limit the built upon area in the AEC to no more than 25 percent or any lower site specific percentage as adopted by the EMC as necessary to protect the exceptional water quality and outstanding resource values of the ORW, and shall:
 - (A) provide a buffer zone of at least 30 feet from the normal high water line or normal water line; and
 - (B) otherwise be consistent with the use standards set out in Paragraph (d) of this Rule.
 - (2) Single-family residential lots that would not be buildable under the low-density standards defined in Subparagraph (f)(1) of this Rule may be developed for single-family residential purposes so long as the development complies with those standards to the maximum extent possible.
- (g) Urban Waterfronts.
- (1) Description. Urban Waterfronts are waterfront areas, not adjacent to ORW, in the Coastal Shorelines category that lie within the corporate limits of any municipality duly chartered within the 20 coastal counties of the state. In determining whether an area is an urban waterfront, the following criteria shall be met:
 - (A) the area lies wholly within the corporate limits of a municipality; and
 - (B) the area has a central business district or similar commercial zoning classification where there are mixed land uses, and urban level services, such as water, sewer, streets, solid waste management, roads, police and fire protection, or in an area with an industrial or similar zoning classification adjacent to a central business district.
 - (2) Significance. Urban waterfronts are recognized as having cultural, historical and economic significance for many coastal municipalities. Maritime traditions and longstanding development patterns make these areas suitable for maintaining or promoting dense development along the shore. With proper planning and stormwater management, these areas may continue to preserve local historical and aesthetic values while enhancing the economy.
 - (3) Management Objectives. To provide for the continued cultural, historical, aesthetic and economic benefits of urban waterfronts. Activities such as in-fill development, reuse and redevelopment facilitate efficient use of already urbanized areas and reduce development pressure on surrounding areas, in an effort to minimize the adverse cumulative environmental effects on estuarine and ocean systems. While recognizing that opportunities to preserve buffers are limited in highly developed urban areas, they are encouraged where practical.
- (4) Use Standards:
- (A) The buffer requirement pursuant to Subparagraph (d)(10) of this Rule shall not apply to development within Urban Waterfronts that meets the following standards:
 - (i) The development shall be consistent with the locally adopted land use plan;
 - (ii) Impervious surfaces shall not exceed 30 percent of the AEC area of the lot. Impervious surfaces may exceed 30 percent if the applicant can demonstrate, through a stormwater management system design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. The stormwater management system shall be designed by an individual who meets any North Carolina occupational licensing requirements for the type of system proposed and approved during the permit application process. Redevelopment of areas exceeding the 30 percent impervious surface limitation shall be permitted if impervious areas are not increased and the applicant designs the project to comply with the intent of the rule to the maximum extent feasible; and
 - (iii) The development shall meet all state stormwater management requirements as required by the EMC;
 - (B) Non-water dependent uses over estuarine waters, public trust waters and coastal wetlands shall be allowed only within Urban Waterfronts as set out below.
 - (i) Existing structures over coastal wetlands, estuarine waters or public trust areas may be used for commercial

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| | non-water dependent purposes. Commercial, non-water dependent uses shall be limited to restaurants and retail services. Residential uses, lodging and new parking areas shall be prohibited. | | |
| (ii) | For the purposes of this Rule, existing enclosed structures may be replaced or expanded vertically provided that vertical expansion does not exceed the original footprint of the structure, is limited to one additional story over the life of the structure, and is consistent with local requirements or limitations. | | |
| (iii) | New structures built for non-water dependent purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria: | | |
| | (I) shall provide for enhanced public access to the shoreline; | | |
| | (II) may be roofed, but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind; | | |
| | (III) shall require no filling of coastal wetlands, estuarine waters or public trust areas; | | |
| | (IV) shall not extend more than 20 feet waterward of the normal high water level or normal water level; | | |
| | (V) shall be elevated at least three feet over the wetland substrate as measured from the bottom of the decking; | | |
| | (VI) shall have no more than six feet of any dimension | | |
| | | (VII) | extending over coastal wetlands; shall not interfere with access to any riparian property and shall have a minimum setback of 15 feet between any part of the structure and the adjacent property owners' areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the structure commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development; |
| | | (VIII) | shall be consistent with the US Army Corps of Engineers setbacks along federally authorized waterways; |

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| <p>(IX) shall have no significant adverse impacts on fishery resources, water quality or adjacent wetlands and there shall be no alternative that would avoid wetlands. Significant adverse impacts include the development that would impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water level, or cause degradation of shellfish beds;</p> <p>(X) shall not degrade waters classified as SA or High Quality Waters or ORW as defined by the EMC;</p> <p>(XI) shall not degrade Critical Habitat Areas or Primary Nursery Areas as defined by the NC Marine Fisheries Commission; and</p> <p>(XII) shall not pose a threat to navigation.</p> | <p>(1) Use Standards Applicable to all Erosion Control Activities:</p> <p>(A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.</p> <p>(B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, unless specifically authorized under the Coastal Area Management Act, are prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and breakwaters.</p> <p>(C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.</p> <p>(D) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife species, as identified by natural resource agencies during project review, unless mitigation measures are incorporated into project design, as set forth in Rule .0306(h) of this Section.</p> <p>(E) Project construction shall be timed to minimize adverse effects on biological activity.</p> <p>(F) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.</p> <p>(G) Permanent erosion control structures that would otherwise be prohibited by these standards may be permitted on finding by the Division that:</p> <p style="margin-left: 20px;">(i) the erosion control structure is necessary to protect a bridge that provides the only existing road access on a barrier island, that is vital to public safety, and is imminently threatened by erosion as defined in Part (a)(2)(B) of this Rule;</p> <p style="margin-left: 20px;">(ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate to protect public health and safety; and</p> |
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History Note: Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124;
 Eff. September 1, 1977;
 Amended Eff. April 1, 2001; August 1, 2000; August 3, 1992;
 December 1, 1991; May 1, 1990; October 1, 1989;
 Temporary Amendment Eff. October 15, 2001 (exempt from 270 day requirement-S.L. 2000-142);
 Temporary Amendment Eff. February 15, 2002 (exempt from 270 day requirement-S.L. 2001-494);
 Amended Eff. April 1, 2019; March 1, 2010; April 1, 2008; August 1, 2002.

**15A NCAC 07H .0308 SPECIFIC USE STANDARDS
 FOR OCEAN HAZARD AREAS**

(a) Ocean Shoreline Erosion Control Activities:

- (iii) the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership or on public use of the beach.
- (H) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:
 - (i) the structure is necessary to protect a state or federally registered historic site that is imminently threatened by shoreline erosion as defined in Part (a)(2)(B) of this Rule;
 - (ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate and practicable to protect the site;
 - (iii) the structure is limited in extent and scope to that necessary to protect the site; and
 - (iv) a permit for a structure under this Part may be issued only to a sponsoring public agency for projects where the public benefits outweigh the significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of significant adverse impacts on adjoining properties and on public access to and use of the beach.
- (I) Structures that would otherwise be prohibited by these standards may also be permitted on finding by the Division that:
 - (i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits;
 - (ii) dredging alone is not practicable to maintain safe access to the affected channel;
 - (iii) the structure is limited in extent and scope to that necessary to maintain the channel;
- (iv) the structure shall not have significant adverse impacts on fisheries or other public trust resources; and
 - (v) a permit for a structure under this Part may be issued only to a sponsoring public agency for projects where the public benefits outweigh the significant adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any significant adverse impacts on adjoining properties and on public access to and use of the beach.
- (J) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the Commission finds that:
 - (i) the structure will not be enlarged beyond the dimensions set out in the permit;
 - (ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and
 - (iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced.
- (K) Proposed erosion response measures using innovative technology or design shall be considered as experimental and shall be evaluated on a case-by-case basis to determine consistency with 15A NCAC 07M .0200 and general and specific use standards within this Section.
- (2) Temporary Erosion Control Structures:
 - (A) Permittable temporary erosion control structures shall be limited to sandbags

- placed landward of mean high water and parallel to the shore.
- (B) Temporary erosion control structures as defined in Part (A) of this Subparagraph may be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.
- (C) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed under Rule .0309 of this Section as an exception to the erosion setback requirement.
- (D) Temporary erosion control structures may be placed waterward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
- (E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected except to align with temporary erosion control structures on adjacent properties, where the Division has determined that gaps between adjacent erosion control structures may result in an increased risk of damage to the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet waterward of the structure to be protected, or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at an increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee in accordance with Part (A) of this Subparagraph.
- (F) Temporary erosion control structures may remain in place for up to eight years for a building and its associated septic system, a bridge or a road. The property owner shall be responsible for removal of any portion of the temporary erosion control structure exposed above grade within 30 days of the end of the allowable time period.
- (G) An imminently threatened structure or property may be protected only once, regardless of ownership, unless the threatened structure or property is located in a community that is actively pursuing a beach nourishment project, or an inlet relocation or stabilization project in accordance with Part (H) of this Subparagraph. Existing temporary erosion control structures may be permitted for additional eight-year periods provided that the structure or property being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subchapter, and the community in which it is located is actively pursuing a beach nourishment or an inlet relocation or stabilization project in accordance with Part (H) of this Subparagraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) or (H) of this Subparagraph shall begin at the time the initial erosion control structure was installed. For the purpose of this Rule:
- (i) a building and its septic system shall be considered separate structures,
 - (ii) a road or highway may be incrementally protected as sections become imminently threatened. The time period for removal of each contiguous section of

- temporary erosion control structure shall begin at the time that the initial section was installed, in accordance with Part (F) of this Subparagraph.
- (H) For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment or an inlet relocation or stabilization project in accordance with G.S. 113A-115.1 if it:
- (i) has been issued an active CAMA permit, where necessary, approving such project; or
 - (ii) has been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or
 - (iii) has received a favorable economic evaluation report on a federal project; or
 - (iv) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project or the identification of the financial resources or funding bases necessary to fund the beach nourishment, inlet relocation or stabilization project.
- If beach nourishment, inlet relocation or stabilization is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Part (F) of this Subparagraph.
- (I) Once a temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, it shall be removed to the maximum extent practicable by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure. If the temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to the completion of a storm protection project constructed by the U.S. Army Corps of Engineers, a large-scale beach nourishment project, or an inlet relocation or stabilization project, any portion of the temporary erosion control structure exposed above grade shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.
- (J) Removal of temporary erosion control structures is not required if they are covered by sand. Any portion of the temporary erosion control structure that becomes exposed above grade after the expiration of the permitted time period shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management.
- (K) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.
- (L) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the temporary erosion control structure shall not exceed 20 feet, and the total height shall not exceed six feet, as measured from the bottom of the lowest bag.
- (M) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
- (N) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) or (G) of this Subparagraph.

- (3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and in accordance with Rule .0312 of this Section.
- (4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:
 - (A) The area on which this activity is being performed shall maintain a slope of adequate grade so as to not endanger the public or the public's use of the beach and shall follow the pre-emergency slope as closely as possible. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;
 - (B) The activity shall not exceed the lateral bounds of the applicant's property unless he has permission of the adjoining land owner(s);
 - (C) Movement of material from seaward of the mean low water line will require a CAMA Major Development and State Dredge and Fill Permit;
 - (D) The activity shall not increase erosion on neighboring properties and shall not have an adverse effect on natural or cultural resources;
 - (E) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.
- (b) Dune Establishment and Stabilization.
 - (1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same configuration as adjacent natural dunes.
 - (2) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an oceanward direction.
 - (3) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas shall be replanted or temporarily stabilized until planting can be completed.
 - (4) Sand used to establish or strengthen dunes shall be of the same general characteristics as the sand in the area in which it is to be placed.
 - (5) No new dunes shall be created in inlet hazard areas.
 - (6) Sand held in storage in any dune, other than the frontal or primary dune, shall remain on the lot or tract of land to the maximum extent practicable and may be redistributed within the Ocean Hazard AEC provided that it is not placed any farther oceanward than the crest of a primary dune, if present, or the crest of a frontal dune.
 - (7) No disturbance of a dune area shall be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid dune impacts.
 - (c) Structural Accessways:
 - (1) Structural accessways shall be permitted across primary or frontal dunes so long as they are designed and constructed in a manner that entails negligible alteration of the primary or frontal dune. Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a) of this Rule.
 - (2) An accessway shall be considered to entail negligible alteration of primary or frontal dunes provided that:
 - (A) The accessway is exclusively for pedestrian use;
 - (B) The accessway is a maximum of six feet in width;
 - (C) The accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the dune. Where this is deemed by the Division of Coastal Management to be impossible due to any more restrictive local, state, and/or federal building requirements, the structure shall touch the dune only to the necessary; and
 - (D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.
 - (3) An accessway that does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers are not prohibited provided all other applicable standards of this Rule are met.
 - (4) In order to preserve the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") may be provided for off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 15 feet in width and may be constructed of wooden sections fastened together, or other materials approved by the Division, over the length of the affected dune area. Installation of a Hatteras ramp shall

be done in a manner that will preserve the dune's function as a protective barrier against flooding and erosion by not reducing the volume of the dune.

- (5) Structural accessways may be constructed no more than six feet seaward of the waterward toe of the frontal or primary dune, provided they do not interfere with public trust rights and emergency access along the beach. Structural accessways are not restricted by the requirement to be landward of the FLSNV as described in Rule .0309(a) of this Section.

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) of this Section and 15A NCAC 07J .0210 shall comply with the following standards:

- (1) In order to avoid danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- (2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.
- (3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or seaward of the primary dune, the pilings shall extend to five feet below mean sea level.
- (4) All foundations shall be designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet the requirements of this Part or shall be designed to break-away without structural damage to the main structure.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a.,b.,d.; 113A-115.1; 113A-124; Eff. June 1, 1979;
Temporary Amendment Eff. June 20, 1989, for a period of 180 days to expire on December 17, 1989;
Amended Eff. August 3, 1992; December 1, 1991; March 1, 1990; December 1, 1989;
RRC Objection Eff. November 19, 1992 due to ambiguity;
RRC Objection Eff. January 21, 1993 due to ambiguity;
Amended Eff. March 1, 1993; December 28, 1992;
RRC Objection Eff. March 16, 1995 due to ambiguity;

Amended Eff. April 1, 1999; February 1, 1996; May 4, 1995; Temporary Amendment Eff. July 3, 2000; May 22, 2000; Amended Eff. April 1, 2019; May 1, 2013; July 1, 2009; April 1, 2008; February 1, 2006; August 1, 2002.

15A NCAC 07H .1704 GENERAL CONDITIONS

(a) Work permitted by means of an emergency general permit shall be subject to the following limitations:

- (1) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative so that the scope of the proposed emergency work can be delineated.
- (2) No work shall be permitted other than that which is necessary to protect against or reduce the imminent danger caused by the emergency, to restore the damaged property to its condition immediately before the emergency, or to re-establish public facilities or transportation corridors.
- (3) Any permitted temporary erosion control projects shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of way in the case of roads, except as provided under 15A NCAC 07H .0308. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions, such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee.
- (4) Fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source. Excavation below MHW in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.
- (5) This emergency general permit allows the use of oceanfront erosion control measures for all oceanfront properties without regard to the size of the existing structure on the property or the date of construction.

(b) Individuals shall allow authorized representatives of the Department of Environmental Quality to make inspections to ensure that the activity being performed under authority of this emergency general permit is in accordance with these Rules.

(c) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(d) This permit shall not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties

or on water quality, air quality, coastal wetlands, cultural or historic sites, wildlife, fisheries resources, or public trust rights.

(e) This permit does not eliminate the need to obtain any other state, local, or federal authorization.

(f) Development carried out under this permit must be consistent with all local requirements, CAMA rules, and local land use plans, storm hazard mitigation, and post-disaster recovery plans current at the time of authorization.

History Note: Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-118; 113A-118.1; Eff. November 1, 1985;

Amended Eff. December 1, 1991; May 1, 1990;

RRC Objection due to ambiguity Eff. May 19, 1994;

Amended Eff. April 1, 2019; May 1, 2010; August 1, 1998; July 1, 1994.

15A NCAC 07H .1705 SPECIFIC CONDITIONS

(a) Temporary Erosion Control Structures in the Ocean Hazard AEC.

- (1) Permittable temporary erosion control structures shall be limited to sandbags placed landward of mean high water and parallel to the shore.
- (2) Temporary erosion control structures as defined in Subparagraph (1) of this Paragraph may be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure is considered imminently threatened if its foundation, septic system, or right-of-way in the case of roads is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when the Division determines that site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.
- (3) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed under 15A NCAC 07H .0309 as an exception to the erosion setback requirement.
- (4) Temporary erosion control structures may be placed waterward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
- (5) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected except to align with temporary erosion control structures on adjacent properties, where the Division has determined that gaps between adjacent erosion control structures may result in an increased

risk of damage to the structure being protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet waterward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee. Temporary erosion control structures may remain in place for up to eight years for a building and its associated septic system, or a bridge or a road. The property owner shall be responsible for removal of any portion of the temporary erosion control structure exposed above grade within 30 days of the end of the allowable time period.

- (6) For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment or an inlet relocation or stabilization project if it:
 - (A) has an active CAMA permit, where necessary, approving such project; or
 - (B) has been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or
 - (C) has received a favorable economic evaluation report on a federal project; or
 - (D) is in the planning stages of a project designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and initiated by a local government or community with a commitment of local or state funds to construct the project or the identification of the financial resources or funding bases necessary to fund the beach nourishment or inlet relocation or stabilization project.

If beach nourishment, inlet relocation or stabilization is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or

- community and existing sandbags shall be subject to all applicable time limits set forth in Subparagraph (6) of this Paragraph.
- (8) Once a temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to relocation or removal of the threatened structure, it shall be removed by the property owner to the maximum extent practicable within 30 days of official notification from the Division of Coastal Management, regardless of the time limit placed on the temporary erosion control structure. If the temporary erosion control structure is determined by the Division of Coastal Management to be unnecessary due to the completion of a storm protection project constructed by the U.S. Army Corps of Engineers, a large scale beach nourishment project, or an inlet relocation or stabilization project, any portion of the temporary erosion control structure exposed above grade shall be removed by the permittee within 30 days of official notification by the Division of Coastal Management regardless of the time limit placed on the temporary erosion control structure.
 - (9) Removal of temporary erosion control structures is not required if they are covered by sand. Any portion of a temporary erosion control structure that becomes exposed above grade after the expiration of the permitted time period shall be removed by the property owner within 30 days of official notification from the Division of Coastal Management.
 - (10) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.
 - (11) Sandbags used to construct temporary erosion control structures shall be tan in color and 3 to 5 feet wide and 7 to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the total height shall not exceed 6 feet, as measured from the bottom of the lowest bag.
 - (12) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
 - (13) Excavation below mean high water in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.
 - (14) An imminently threatened structure may be protected by a temporary erosion control structure only once regardless of ownership, unless the threatened structure is located in a community that is actively pursuing a beach nourishment project, an inlet relocation or stabilization project in accordance with Subparagraph (7) of this Paragraph. Existing temporary erosion control structures may be permitted for additional eight-year periods provided that the structure being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subparagraph, and the community in which it is located is actively pursuing a beach nourishment or an inlet relocation or stabilization project in accordance with Subparagraph (7) of this Paragraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Subparagraph (6) or (7) of this Paragraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:
 - (A) a building and its associated septic system shall be considered as separate structures; and
 - (B) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each contiguous section of sandbags shall begin at the time that section is installed in accordance with Subparagraph (6) or (7) of this Paragraph.
 - (15) Existing temporary erosion control structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Subparagraph (6) or (7) of this Paragraph.
 - (b) Erosion Control Structures in the Estuarine Shoreline, Estuarine Waters, and Public Trust AECs. Work permitted by this Rule shall be subject to the following limitations:
 - (1) The erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet waterward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee.
 - (2) Fill material used in conjunction with emergency work for storm or erosion control in the Estuarine Shoreline, Estuarine Waters and Public Trust AECs shall be obtained from an upland source.
 - (c) Protection, Rehabilitation, or Temporary Relocation of Public Facilities or Transportation Corridors. This permit authorizes only

the immediate protection or temporary rehabilitation or relocation of existing public facilities. Long-term stabilization or relocation of public facilities shall be consistent with local governments' post-disaster recovery plans and policies which are part of their Land Use Plans.

- (1) Work permitted by this general permit shall be subject to the following limitations:
 - (A) no work shall be permitted other than that which is necessary to protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;
 - (B) the erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of-way in the case of roads. If a public facility or transportation corridor is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet waterward of the facility or corridor being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or the Director's designee in accordance with Subparagraph (a)(1) of this Rule.
 - (C) any fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source except that dredging for fill material to protect public facilities or transportation corridors shall be considered in accordance with standards in 15A NCAC 07H .0208; and
 - (D) all fill materials or structures associated with temporary relocations which are located within Coastal Wetlands, Estuarine Water, or Public Trust AECs shall be removed after the emergency event has ended and the area restored to pre-disturbed conditions.

History Note: Authority G.S. 113-229(cl); 113A-107(a),(b); 113A-113(b); 113A-115.1; 113A-118.1;
Eff. November 1, 1985;
Amended Eff. April 1, 1999; February 1, 1996; June 1, 1995;
Temporary Amendment Eff. July 3, 2000; May 22, 2000;
Amended Eff. April 1, 2019; May 1, 2013; May 1, 2010; August 1, 2002.

TITLE 19A - DEPARTMENT OF TRANSPORTATION

19A NCAC 02D .1101 PURPOSE AND SCOPE

- (a) The Department shall ensure that Disadvantaged Business Enterprises (DBE), have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds.
- (b) The Department shall ensure that Disadvantaged Minority-owned Business Enterprises (MBE) and Disadvantaged Women-owned Business Enterprises (WBE) may have the opportunity to participate in the performance of contracts financed with non-Federal funds.
- (c) 49 C.F.R. Part 23, Participation of Disadvantaged Business Enterprise in Airport Concession, and Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, are incorporated by reference, including all subsequent amendments and editions. 49 C.F.R. 23 and 26 are available at no cost by accessing <https://www.govinfo.gov/>.
- (d) The DBE/UCP Program Manager may be contacted by phone at 919-707-2800.
- (e) The Department DBE, MBE, and WBE directory may be accessed, at no cost to the public, by visiting <https://www.ebs.nc.gov/VendorDirectory/default.html>.
- (f) Unified Certification Applications may be obtained at no cost by accessing <https://www.ncdot.gov>, or from the DBE/UCP Program Manager, 919-707-2800. The substantive requirements of the Unified Certification Application are detailed at 19A NCAC 02D .1103.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1102 DEFINITIONS

In addition to the terms defined in G.S. 136-28.4, the following terms shall apply for purposes of this Section:

- (1) Disadvantaged Business Enterprise shall have the same meaning as provided in 49 C.F.R. 26.5(2).
- (2) Disadvantaged Minority-owned Business shall have the same meaning as a Disadvantaged Business Enterprise.
- (3) Disadvantaged Women-owned Business shall have the same meaning as a Disadvantaged Business Enterprise.
- (4) Minority Business Enterprise shall have the same meaning as a Disadvantaged Business Enterprise.
- (5) Women Business Enterprise shall have the same meaning as Disadvantaged Business Enterprise.
- (6) The Department's Unified Certification Program (UCP) is responsible for certification of Disadvantaged Business Enterprises in accordance with in 49 C.F.R. Part 26.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1103 CERTIFICATION OF FIRMS

(a) In order to be certified by the Department as a Disadvantaged Business Enterprise, disadvantaged Minority-owned Business Enterprise, or disadvantaged Women-owned Business Enterprise, the business enterprise shall submit a Unified Certification Application and supporting documentation to the Department. Information on Unified Certification Applications and its requirements may be found at 49 C.F.R. Appendix F to Part 26 or by accessing https://connect.ncdot.gov/business/SmallBusiness/Disadvantaged%20Businesses%20Documents/DBE_1b.pdf. Please send applications to NCDOT DBE Certification, 1511 MAIL SERVICE CENTER, RALEIGH, NC 27699-1511.

(b) Upon Receipt of the application, the Department shall review the application in accordance with the applicable certification standards and procedures as set forth in 49 C.F.R. 23.31 and 49 C.F.R. 26.61 through 26.91.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1104 RENEWAL OF CERTIFICATION

Each firm certified as a Disadvantaged Business Enterprise, disadvantaged Minority-owned Business Enterprise, or disadvantaged Women-owned Business Enterprise shall satisfy the annual affidavit requirements of 49 C.F.R. 26.83(i).

History Note: Authority G.S. 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1105 CHANGE IN OWNERSHIP OR CONTROL

Pursuant to, and in accordance with, 49 C.F.R. 26.83(i), any time a firm certified with the Department has a change of ownership, control, business size, type of work, or other factors that affect the firm's eligibility as a Disadvantaged Business Enterprise, disadvantaged Minority-owned Business Enterprise, or disadvantaged Women-owned Business Enterprise, the firm shall inform the Department in writing within 30 days of the change.

History Note: Authority G.S. 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1106 DECERTIFICATION

If the Department finds a firm in non-compliance with the eligibility requirements of 49 C.F.R. 23 or 26, then that firm shall be suspended or decertified in accordance with 49 C.F.R. 23.31 through 23.39, if the firm is a Disadvantaged Business Enterprise

for Airport Concessions, or 49 C.F.R. 26.87 and 26.88 for all other firms.

History Note: Authority G.S. 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1107 APPEALS OF DENIAL OF CERTIFICATION

(a) Any Minority Business Enterprise firm or Women Business Enterprise firm denied certification or decertified may file an appeal of that action to the Department's DBE/UCP Program Manager.

- (1) The appeal shall be received by the Department within 30 calendar days of the notice of denial or decertification. Upon receipt of the appeal, the DBE/UCP Program Manager shall schedule a hearing for the firm with the Department's Disadvantaged Business Enterprise, Minority Business Enterprise, Women Business Enterprise Appeals Committee.
- (2) If the denial of certification or decertification is upheld by the Department's appeals committee, the Minority Business Enterprise firm or Women Business Enterprise firm may file a written appeal to the Secretary of Transportation within 30 days of the committee's decision.
- (3) If the denial of certification is upheld by the Secretary of Transportation, the decision shall be final.

(b) Any Disadvantaged Business Enterprise firm denied certification or decertified may file an appeal of that action as follows:

- (1) The Disadvantaged Business Enterprise firm may file an appeal to the Department's DBE/UCP Program Manager. The appeal shall be received by the Department within 30 calendar days of the notice of denial. Upon receipt of the appeal, the DBE/UCP Program Manager shall schedule a hearing for the firm with the Department's appeals committee.
- (2) The Disadvantaged Business Enterprise firm may file a written appeal within 90 days of notice of appeal directly to the U.S. Department of Transportation, Office of Civil Rights in accordance with Parts 23 and 26 of Title 49 of the Code of Federal Regulations.
- (3) The appeals may be filed simultaneously.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1108 GOALS

(a) The Department shall perform an analysis to determine the availability of eligibility, of Disadvantaged Business Enterprise,

Minority-owned Business Enterprise, and Women-owned Business Enterprise firms relative to all businesses available to participate in Department projects in accordance with 49 C.F.R. Part 26. Goals for Disadvantaged Business Enterprise, Minority-owned Business Enterprise, and Women-owned Business Enterprise firms shall be established in accordance with 49 C.F.R. 26.41 through 26.55, and G.S. 136-28.4(b1). The goal or goals shall be prescribed in the project proposal as a percent of the bidder's construction bid price.

(b) A contractor shall ensure that eligible firms participate in at least the percentage of the contract as required by the project proposal. For purposes of these Rules, "a contractor" is any party who participate in a State funded or US Department of Transportation-assisted highway, transit, or airport project through a contract or subcontract at any tier.

*History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.*

19A NCAC 02D .1109 COUNTING PARTICIPATION TOWARD MEETING THE GOAL

Participation of Disadvantaged Business Enterprise, disadvantaged Minority-owned Business Enterprise, and Women-owned Business Enterprise firms for federally funded and non-federally funded projects shall be counted in accordance with 49 C.F.R. 26.41 through 26.55.

*History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.*

19A NCAC 02D .1110 GOOD FAITH REQUIREMENTS FOR ESTABLISHED GOALS

A contractor who does not meet the goals established in the project shall comply with the good faith requirements as set forth in 49 C.F.R. Appendix A Part 26.

*History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.*

19A NCAC 02D .1111 REPLACEMENT OF CERTIFIED FIRMS

If a certified firm, utilized to meet the goal established pursuant to 49 C.F.R. Part 26, is replaced, then the replacement shall comply with 49 CFR. 26.53.

*History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.*

19A NCAC 02D .1112 REPLACEMENT OF A FIRM REMOVED BY DECERTIFICATION

If a certified firm, utilized to meet the goal established pursuant to 49 C.F.R. Part 26, is decertified, and is replaced. The replacement shall comply with 49 C.F.R. 26.53.

*History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.*

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 06 – BOARD OF BARBER EXAMINERS

21 NCAC 06A .0102 ADDRESS

- (a) The Board's mailing address is 7001 Mail Service Center, Raleigh, North Carolina 27699-7000 and email address is barberboard@nc.gov.
- (b) The Board's physical address is 5809-102 Departure Drive, Raleigh, North Carolina 27616.
- (c) The Board's website address is www.ncbarbers.com.
- (d) The Board's phone number is (919) 814-0640.

*History Note: Authority G.S. 86A-6;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. June 1, 2008; May 1, 1989;
Readopted Eff. July 1, 2016;
Amended Eff. April 1, 2019.*

21 NCAC 06F .0113 STUDENT PERMIT

- (a) The barber school shall submit an application as required by 21 NCAC 06N .0104 for a student permit to the Board at an address listed in 21 NCAC 06A .0102.
- (b) The Board shall issue the student permit within:
 - (1) Five business days for applications submitted online; or
 - (2) Ten calendar days for applications submitted by mail or in person.
- (c) A student cannot be enrolled in the school until the Board issues the student permit. The student shall receive no credit for training received in barber school until a student permit has been issued for the student.
- (d) Within five business days of the date on which any student completes his or her course of study, drops out of school, or transfers to another school, the barber school shall return the student permit to the Board.
- (e) The Board issues a student permit only for the specific application. Once a student permit is issued, the Board shall not refund the fee.

*History Note: Authority G.S. 86A-22;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. June 1, 2008; May 1, 1989; March 1, 1983;
Readopted Eff. July 1, 2016;*

Amended Eff. April 1, 2019.

21 NCAC 06F .0127 STATE AUTHORIZATION AS A POSTSECONDARY INSTITUTION

(a) If a barber school seeks to be authorized by the Board as a postsecondary educational institution as set forth in 34 C.F.R. 600.9:

- (1) the school handbooks and enrollment agreements required by 21 NCAC 06F .0125 shall require prospective students to have a high school diploma or equivalent; and
- (2) the school shall submit a copy of the student's high school diploma or equivalency documentation with each Form BAR-3 required by 21 NCAC 06N .0104 as set forth in 21 NCAC 06F .0113.

(b) If a barber school meets the requirements set forth in Paragraph (a) of this Rule, the Board shall include the phrase "Postsecondary Institution" on the barber school permit issued under G.S. 86A-13. If the school already holds a school permit issued by the Board, the Board shall issue the permit with the phrase "Postsecondary Institution" at no additional cost, and the school shall relinquish the permit without the phrase to the Board.

(c) The Board shall determine that a school no longer complies with Paragraph (a) based on an inspection or investigation, notification to the Board by the school, or a failure by the school to comply with Paragraph (a)(2) of this Rule. If the Board makes this determination:

- (1) the Board shall issue at no charge a duplicate copy of the permit without the phrase "Postsecondary Institution";
- (2) the school shall relinquish to the Board the permit with the phrase "Postsecondary Institution"; and
- (3) the Board shall notify the federal Department of Education of the school's change in postsecondary status.

(d) This Rule shall not be construed to authorize the Board to delay issuing a permit without the phrase "Postsecondary Institution" to a school that otherwise meets the requirements of the North Carolina General Statutes and the rules of the Board.

History Note: Authority G.S. 86A-13; 86A-22; 20 U.S.C. 1001; 20 U.S.C. 1002; 34 C.F.R. 600.9; Eff. January 1, 2017; Amended Eff. April 1, 2019.

CHAPTER 32 - MEDICAL BOARD

21 NCAC 32S .0202 QUALIFICATIONS AND REQUIREMENTS FOR LICENSE

(a) Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Board before practicing as a physician assistant. An applicant for a physician assistant license shall:

- (1) submit a completed application, available at www.ncmedboard.org, to the Board;

- (2) meet the requirements set forth in G.S. 90-9.3 and has not committed any of the acts listed in G.S. 90-14;
- (3) supply a certified copy of the applicant's birth certificate if the applicant was born in the United States or a certified copy of an unexpired U.S. passport. If the applicant does not possess a certified birth certificate or unexpired U.S. passport, the applicant shall provide information about the applicant's immigration and work status that the Board shall use to verify applicant's ability to work lawfully in the United States;
- (4) submit to the Board an education form that the applicant completed a Physician Assistant Educational Program. He or she shall also show proof of achieving a passing score of completion of the Physician Assistant National Certifying Examination;
- (5) pay to the Board a non-refundable fee of two hundred thirty dollars (\$230.00) plus the cost of a criminal background check. There is no fee to apply for a physician assistant limited volunteer license;
- (6) submit National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB) reports. These reports shall be requested by the applicant and submitted to the Board within 60 days of the request;
- (7) submit a Board Action Data Bank Inquiry report from the Federation of State Medical Boards (FSMB). This report shall be requested by the applicant and submitted to the Board within 60 days of the request;
- (8) submit to the Board, at P. O. Box 20007, Raleigh, NC 27619, two complete original fingerprint record cards, on fingerprint record cards supplied by the Board upon request;
- (9) submit to the Board, at P. O. Box 20007, Raleigh, NC 27619 or license@ncmedboard.org, a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
- (10) disclose whether he or she has ever been suspended from, placed on academic probation, expelled, or required to resign from any school, including a PA educational program;
- (11) attest that he or she has no license, certificate, or registration as a physician assistant currently under discipline, revocation, suspension, probation, or any other action resulting from a health care licensing board;
- (12) certify that he or she is mentally and physically able to practice as a physician assistant;
- (13) provide the Board with two original recommendation forms within six months of the application, at P. O. Box 20007, Raleigh, NC 27619, These recommendations shall come

from persons under whom the applicant has worked or trained who are familiar with the applicant's academic competence, clinical skills, and character. At least one reference form shall be from a physician and the other reference form must be from a physician assistant peer under whom the applicant has worked or trained. References shall not be from any family member or, in the case of applicants who have not been licensed anywhere, references shall not be from fellow students of the applicant's Physician Assistant Educational Program;

- (14) if two years or more have passed since graduation from a Physician Assistant Educational Program, document that he or she has completed at least 100 hours of continuing medical education (CME) during the preceding two years, at least 50 hours of which must be recognized by the National Commission on Certification of Physician Assistants as Category I CME. An applicant who is currently certified with the NCCPA shall be deemed in compliance with this Subparagraph; and

(b) In the event any of the information required by Paragraph (a) of this Rule indicates a concern about the applicant's qualifications, the applicant shall supply any other information the Board deems necessary to evaluate the applicant's qualifications, including explanation or documentation of the information required in this Rule. In addition, an applicant may be required to appear in person for an interview with the Board, if the Board determines that more information is needed to evaluate the application.

History Note: Authority G.S. 90-9.3; 90-11; 90-13.2; 90-14(a); 90-18(c)(13); 90-18.1; Eff. September 1, 2009; Amended Eff. January 1, 2016; May 1, 2015; March 1, 2011; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016; Amended Eff. April 1, 2019.

21 NCAC 32S .0204 ANNUAL RENEWAL

(a) A physician assistant shall renew his or her license each year no later than 30 days after his or her birthday by:

- (1) completing the Board's renewal form; and
- (2) submitting a nonrefundable fee of one hundred sixty-five dollars (\$165.00), except that a physician assistant who renews not later than 30 days after his or her birthday shall pay an annual renewal fee of one hundred forty dollars (\$140.00);

(b) If a physician assistant fails to renew his or her license, the Board shall send a certified notice, return receipt requested. If the physician assistant does not renew his or her license within 30 days of the date of the mailing of that notice, his or her license shall automatically be inactive.

History Note: Authority G.S. 90-9.3(c); 90-13.2;

Eff. September 1, 2009;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;

Amended Eff. April 1, 2019.

21 NCAC 32S .0220 EXPEDITED APPLICATION FOR PHYSICIAN ASSISTANT LICENSURE

(a) A physician assistant who has been licensed, certified, or authorized to practice in at least one other state, the District of Columbia, U.S. Territory or Canadian province for at least five years, has been in active clinical practice during the past two years and who has a clean license application, as defined in Paragraph (c) of this Rule, may apply for a license on an expedited basis.

(b) In order to apply for an expedited Physician Assistant License, an applicant shall:

- (1) submit a completed application, using the Board's form, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) on the Board's form, submit a photograph, at least two inches by two inches, certified as a true likeness of the applicant by a notary public;
- (4) supply a certified copy of applicant's birth certificate if applicant was born in the United States or a certified copy of a valid and unexpired US passport. If the applicant does not possess a certified birth certificate or an unexpired U.S. passport, the applicant must provide information about applicant's immigration and work status, which the Board will use to verify applicant's ability to work lawfully in the United States;
- (5) provide a certified copy of any license, certification or authorization as a physician assistant the applicant has acquired in at least one other state or jurisdiction for the last five years immediately preceding this application;
- (6) submit proof of achieving a passing score of completion of the Physician Assistant National Certifying Examination;
- (7) submit proof of unexpired certification by the National Commission on Certification of Physician Assistants;
- (8) provide proof of clinical practice, providing patient care for an average of 20 hours or more per week, for at least the last two years;
- (9) submit National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB) reports. These reports shall be requested by the applicant and submitted to the Board within 60 days of the request;
- (10) submit a Board Action Data Bank Inquiry report from the Federation of State Medical Boards (FSMB). This report shall be requested

- by the applicant and submitted to the Board within 60 days of the request;
- (11) submit to the Board, at P. O. Box 20007, Raleigh, NC 27619, two complete original fingerprint record cards, on fingerprint record cards supplied by the Board upon request;
 - (12) submit to the Board, at P. O. Box 20007, Raleigh, NC 27619 or license@ncmedboard.org, a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
 - (13) pay to the Board a non-refundable fee of two hundred thirty dollars (\$230.00), as required by 21 NCAC 32S .0202, plus the cost of a criminal background check;
 - (14) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.

(c) A clean license application means that the physician assistant has none of the following:

- (1) professional liability insurance claims or payments;
- (2) misdemeanor or felony conviction;

- (3) medical conditions which could affect the physician assistant's ability to practice safely;
- (4) regulatory board complaints, investigations, or actions (including applicant's withdrawal of a license application);
- (5) action taken by a health care institution;
- (6) investigations or actions taken by a federal agency, the US military, medical societies or associations; or
- (7) suspension or expulsion from any school, including an educational program for physician assistants.

(d) When possible, all reports must be submitted to the Board from the entity that created the report.

(e) All information required by this Rule shall be provided within one year of submitting the application.

History Note: Authority G.S. 90-9.3; 90-13.1;

Eff. November 1, 2010;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;

Amended Eff. April 1, 2019.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission May 16, 2019 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jeffrey A. Poley
Brian P. LiVecchi

Appointed by House

Garth Dunklin (Chair)
Andrew P. Atkins
Anna Baird Choi
Paul Powell
Jeanette Doran (2nd Vice Chair)

COMMISSION COUNSEL

Amber Cronk May (919)431-3074
Amanda Reeder (919)431-3079

RULES REVIEW COMMISSION MEETING DATES

May 16, 2019 June 20, 2019
July 18, 2019 August 15, 2019

AGENDA

RULES REVIEW COMMISSION

THURSDAY, MAY 16, 2019 9:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 163A-159(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Board of Elections and Ethics Enforcement - 08 NCAC 02 .0112, .0113; 03 .0101, .0102, .0103, .0104, .0105, .0106, .0201, .0202, .0301, .0302; 04 .0302, .0304, .0305, .0306, .0307; 06B .0103, .0104, .0105; 08 .010 4; 09 .0106, .0107, .0108, .0109; 10B .0101, .0102, .0103, .0104, .0105, .0106, .0107 (May)
 - B. Commission for the Blind - 10A NCAC 63C .0203, .0204, .0403, .0601 (Reeder)
 - C. Environmental Management Commission - 15A NCAC 02B .0402, .0403, .0404, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0508, .0511; 02H .0101, .0102, .0103, .0105, .0106, .0107, .0108, .0109, .0111, .0112, .0113, .0114, .0115, .0116, .0117, .0118, .0120, .0121, .0124, .0125, .0127, .0138, .0139, .0140, .0141, .0142, .0143, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .1201, .1202, .1203, .1204, .1205, .1206 (May)
 - D. Environmental Management Commission - 15A NCAC 02B .0601, .0602, .0603, .0604, .0605, .0606, .0608, .0610, .0611, .0612, .0715, .0720, .0721, .0722, .0735; 02H .0501, .0502, .0503, .0504, .0507, .1301, .1302, .1303, .1304, .1306 (Reeder)
 - E. Environmental Management Commission - 15A NCAC 02H .0901, .0902, .0903, .0904, .0905, .0906, .0907, .0908, .0909, .0910, .0912, .0913, .0914, .0915, .0916, .0917, .0918, .0919, .0920, .0921, .0922 (Reeder)
 - F. Environmental Management Commission - 15A NCAC 02L .0401, .0402, .0403, .0404, .0405, .0406, .0407, .0408, .0409, .0410, .0411, .0412, .0413, .0414, .0415, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0511, .0512, .0513, .0514, .0515 (May)
 - G. Marriage and Family Therapy Licensure Board - 21 NCAC 31 .0201, .0202, .0203, .0301, .0401, .0403, .0404, .0501, .0502, .0503, .0504, .0505, .0506, .0609, .0701, .0801, .0802, .1001, .1002 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between March 21, 2019 and April 22, 2019
 - Department of Natural and Cultural Resources
 - DHHS - Division of Health Benefits (Reeder)
 - Sheriffs' Education and Training Standards Commission (May)

- Wildlife Resources Commission (May)
 - Department of Transportation (May)
 - Supplemental Retirement Board of Trustees/ Department of State Treasurer (Reeder)
 - Landscape Contractors' Licensing Board (May)
 - Appraisal Board (May)
 - Real Estate Commission (May)
 - Respiratory Care Board
 - Building Code Council (Reeder)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- Review of Reports
 1. 10A NCAC 27G - Commission for Mental Health/DD/SAS (May)
 2. 10A NCAC 27G - DHHS - Division of Mental Health/DD/SAS (May)
 3. 10A NCAC 27G - Commission for Mental Health/DD/SAS/Division of Mental Health/DD/SAS (May)
 4. 15A NCAC 18A - Commission for Public Health (May)
- VII. Commission Business
- H. Periodic Review and Expiration of Existing Rules Readoption Schedule
- Executive Committee to meet following Commission Business
 - Next meeting: Thursday, June 20, 2019

**Commission Review
Log of Permanent Rule Filings
March 21, 2019 through April 22, 2019**

NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

The rules in Subchapter 2I concern library development including organizational rules (.0100); state aid to public libraries (.0200); and organization of regional libraries (.0300).

Qualifications for Grant Eligibility 07 NCAC 02I .0201
Amend*

HHS - HEALTH BENEFITS, DIVISION OF

The rules in Chapter 23 concern the administration of medical assistance.

The rules in Subchapter 23A concern general administration of the program.

Quality Assurance 10A NCAC 23A .0103
Readopt with Changes*

The rules in Subchapter 23C concern application for Medicaid benefits including the application process (.0100); and application, processing, monitoring and corrective action (.0200).

Application Processing Standards 10A NCAC 23C .0201
Readopt with Changes*

The rules in Subchapter 23D concern Medicaid eligibility groups (0100); and classification (.0200).

Mandatory Groups 10A NCAC 23D .0101
Readopt/Repeal*

Optional Groups 10A NCAC 23D .0102
Readopt/Repeal*

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| <u>Classification</u> Readopt/Repeal* | 10A | NCAC | 23D | .0201 |
| The rules in Subchapter 23E concern Medicaid eligibility requirements including non-financial requirements (.0100); and financial requirements (.0200). | | | | |
| <u>Age</u> Readopt/Repeal* | 10A | NCAC | 23E | .0101 |
| <u>United States Citizen</u> Readopt/Repeal* | 10A | NCAC | 23E | .0102 |
| <u>Residence</u> Readopt with Changes* | 10A | NCAC | 23E | .0103 |
| <u>Deprivation</u> Readopt/Repeal* | 10A | NCAC | 23E | .0104 |
| <u>Disability</u> Readopt without Changes* | 10A | NCAC | 23E | .0105 |
| <u>Blindness</u> Readopt without Changes* | 10A | NCAC | 23E | .0106 |
| <u>Caretaker Relative</u> Readopt/Repeal* | 10A | NCAC | 23E | .0107 |
| <u>Inmate of Public Institution or Private Psychiatric Hospital</u> Readopt/Repeal* | 10A | NCAC | 23E | .0108 |
| <u>Applying for all Benefits and Annuities</u> Readopt with Changes* | 10A | NCAC | 23E | .0201 |
| <u>What Resources are Counted</u> Readopt with Changes* | 10A | NCAC | 23E | .0202 |
| <u>Countable Income</u> Readopt with Changes* | 10A | NCAC | 23E | .0203 |
| <u>Personal Needs Allowance</u> Readopt/Repeal* | 10A | NCAC | 23E | .0204 |
| <u>Budget Unit Membership</u> Readopt with Changes* | 10A | NCAC | 23E | .0205 |
| <u>Financial Responsibility and Deeming</u> Readopt/Repeal* | 10A | NCAC | 23E | .0206 |
| <u>Whose Resources are Counted</u> Readopt with Changes* | 10A | NCAC | 23E | .0207 |
| <u>Calculating Income</u> Readopt with Changes* | 10A | NCAC | 23E | .0208 |
| <u>Deductible</u> Readopt without Changes* | 10A | NCAC | 23E | .0209 |
| <u>Patient Liability</u> Readopt without Changes* | 10A | NCAC | 23E | .0210 |
| <u>Alien Sponsor Deeming</u> Readopt without Changes* | 10A | NCAC | 23E | .0211 |
| The rules in Subchapter 23G concern Medicaid certification (.0100); correction of erroneous eligibility (.0200); and redetermination of eligibility and change in situation (.0300). | | | | |
| <u>Certification and Authorization</u> Readopt/Repeal* | 10A | NCAC | 23G | .0101 |
| <u>General</u> Readopt without Changes* | 10A | NCAC | 23G | .0201 |
| <u>Corrective Actions</u> Readopt without Changes* | 10A | NCAC | 23G | .0202 |

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|--|-----|------|-----|-------|
| <u>Time Limits for Corrections</u> Readopt without Changes* | 10A | NCAC | 23G | .0203 |
| <u>Responsibility for Errors</u> Readopt with Changes* | 10A | NCAC | 23G | .0204 |
| <u>Recommendation</u> Readopt/Repeal* | 10A | NCAC | 23G | .0303 |
| <u>Change In Situation</u> Readopt without Changes* | 10A | NCAC | 23G | .0304 |

The rules in Subchapter 23H concern confidentiality and access to client records.

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| <u>Liability of Persons with Access</u> Readopt without Changes* | 10A | NCAC | 23H | .0106 |
| <u>Right of Access</u> Readopt without Changes* | 10A | NCAC | 23H | .0107 |
| <u>Withholding Information from the Client</u> Readopt without Changes* | 10A | NCAC | 23H | .0108 |
| <u>Procedure for Review of Records</u> Readopt without Changes* | 10A | NCAC | 23H | .0109 |
| <u>Consent for Release</u> Readopt without Changes* | 10A | NCAC | 23H | .0110 |
| <u>Disclosure Without Client Consent</u> Readopt without Changes* | 10A | NCAC | 23H | .0111 |
| <u>Documentation of Consent or Disclosure</u> Readopt without Changes* | 10A | NCAC | 23H | .0112 |
| <u>Persons Designated to Disclose Information</u> Readopt without Changes* | 10A | NCAC | 23H | .0113 |

The rules in Chapter 25 concern medical assistance provided.

The rules in Subchapter 25A concern general medical services.

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| <u>Medical Services</u> Readopt without Changes* | 10A | NCAC | 25A | .0201 |
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The rules in Subchapter 25H concern dental services.

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| <u>Standards for Participation</u> Readopt without Changes* | 10A | NCAC | 25H | .0203 |
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The rules in Subchapter 25K concern drugs/pharmacy services including pharmacy services (.0200); the drug use review board (.0300); prospective drug review (.0400); retrospective drug use (DUR) (.0500).

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| <u>Pharmacy Services</u> Readopt/Repeal* | 10A | NCAC | 25K | .0201 |
| <u>Patient Counseling</u> Readopt without Changes* | 10A | NCAC | 25K | .0401 |

The rules in Subchapter 25M concern facilities.

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| <u>Inpatient Hospital Services</u> Readopt/Repeal* | 10A | NCAC | 25M | .0201 |
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The rules in Subchapter 25P concern medical-surgical including inpatient hospital services (.0200); outpatient hospital services (.0300); and other services (.0400).

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| <u>Inpatient Hospital Services</u> Readopt/Repeal* | 10A | NCAC | 25P | .0201 |
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| <u>Outpatient Hospital Services</u> Readopt/Repeal* | 10A | NCAC | 25P | .0301 |
| <u>Clinic Services</u> Readopt/Repeal* | 10A | NCAC | 25P | .0402 |

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

Rules in Subchapter 10B are from the N. C. Sheriffs' Education and Training Standards Commission. These rules govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

| | | | | |
|--|----|------|-----|-------|
| <u>Time Req/Completion/Basic Law Enforcement Training Course</u> Amend* | 12 | NCAC | 10B | .0503 |
|--|----|------|-----|-------|

WILDLIFE RESOURCES COMMISSION

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish (.0300); non-game fish (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600).

| | | | | |
|---|-----|------|-----|-------|
| <u>Manner of Taking Nongame Fishes: Purchase and Sale</u> Amend* | 15A | NCAC | 10C | .0401 |
|---|-----|------|-----|-------|

TRANSPORTATION, DEPARTMENT OF

The rules in Subchapter 2B concern highway planning including right of way (.0100); traffic engineering (.0200); chief engineer-programs (.0300); relocation assistance procedures (.0400); utility encroachments (.0500); and driveway entrances (.0600).

| | | | | |
|--|-----|------|-----|-------|
| <u>Construction of Railroad Tracks Across Right of Way</u> Readopt without Changes* | 19A | NCAC | 02B | .0150 |
| <u>Signalization of Existing Grade Crossing</u> Readopt/Repeal* | 19A | NCAC | 02B | .0152 |
| <u>Signalization of New Grade Crossing</u> Readopt with Changes* | 19A | NCAC | 02B | .0153 |
| <u>Cost of Railroad Separation Structures</u> Readopt without Changes* | 19A | NCAC | 02B | .0154 |
| <u>Construction and Maintenance of Railroad Crossing</u> Readopt without Changes* | 19A | NCAC | 02B | .0155 |
| <u>Paving of Roadway Surface Crossing Railroad Tracks</u> Readopt without Changes* | 19A | NCAC | 02B | .0156 |
| <u>Cost of Changing Elevation of Railroad Facilities</u> Readopt without Changes* | 19A | NCAC | 02B | .0157 |
| <u>Changing Grade of Road When Grade of RR Tracks is Changed</u> Readopt without Changes* | 19A | NCAC | 02B | .0158 |
| <u>Negotiation with Municipalities and Municipal Agreements</u> Readopt without Changes* | 19A | NCAC | 02B | .0315 |

The rules in Chapter 2 are from the Division of Highways. The rules in Subchapter 2D concern highway operations including standards for design and construction (.0100); landscape (.0200); field operations-maintenance and equipment (.0400); ferry operations (.0500); oversize-overweight permits (.0600); highway design branch (.0700); prequalification advertising and bidding regulations (.0800); regulations for informal construction and repair contracts

(.0900); adopt-a-highway program (.1000); and disadvantaged business enterprise, minority business enterprise and women business enterprise programs for highway and bridge construction contracts (.1100).

| | | | | |
|---|-----|------|-----|-------|
| <u>Curb and Gutter and Underground Drainage on Highways</u> Readopt without Changes* | 19A | NCAC | 02D | .0402 |
| <u>Use of Dust Allaying Materials</u> Readopt without Changes* | 19A | NCAC | 02D | .0403 |
| <u>Examples of Construction and Maintenance Activities</u> Readopt/Repeal* | 19A | NCAC | 02D | .0405 |
| <u>Rental of Supplemental Equipment</u> Readopt without Changes* | 19A | NCAC | 02D | .0410 |
| <u>Location of Garbage Collection Containers</u> Readopt without Changes* | 19A | NCAC | 02D | .0414 |
| <u>Installation of Driveway Pipe</u> Readopt without Changes* | 19A | NCAC | 02D | .0421 |
| <u>Federal Disaster Assistance</u> Readopt/Repeal* | 19A | NCAC | 02D | .0425 |
| <u>Ferry Reservations</u> Readopt without Changes* | 19A | NCAC | 02D | .0535 |
| <u>Vehicle Weight Limitations</u> Readopt without Changes* | 19A | NCAC | 02D | .0538 |
| <u>Vehicle Physical Dimension Limitations</u> Readopt without Changes* | 19A | NCAC | 02D | .0539 |

The rules in Subchapter 2E concern miscellaneous operations including tort claims (.0100); outdoor advertising (.0200); junkyard control (.0300); general ordinances (.0400); selective vegetation removal policy (.0600); professional or specialized services (.0700); solicitation of contributions for religious purposes at rest areas (.0800); distribution of newspapers from dispensers at rest areas and welcome centers (.0900); scenic byways (.1000); tourist-oriented directional sign program (.1100); private property owners (.1200).

| | | | | |
|--|-----|------|-----|-------|
| <u>Unzoned Industrial Area</u> Readopt without Changes* | 19A | NCAC | 02E | .0301 |
| <u>Fees</u> Readopt without Changes* | 19A | NCAC | 02E | .0303 |

SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES/STATE TREASURER, DEPARTMENT OF

The rules in Chapter 11 concern administrative fees of supplemental retirement plans.

| | | | | |
|--|----|------|----|-------|
| <u>Administrative Fees: NC 401(K) and NC 457 Plans</u> Adopt* | 20 | NCAC | 11 | .0101 |
| <u>Administrative Fee: NC 403(b) Program</u> Adopt* | 20 | NCAC | 11 | .0102 |

LANDSCAPE CONTRACTORS' LICENSING BOARD

The rules in Subchapter 28B are from the Landscape Contractors' Licensing Board and include board meetings and definitions (.0100); licensure, reciprocity and seal (.0200); license renewal and reinstatement (.0300); continuing education (.0400); minimum standards (.0500); fees (.0600); complaints and investigations (.0700); and hearings process and summary suspension (.0800).

| | | | | |
|---|----|------|-----|-------|
| <u>Practice of Landscape Contracting; Display of License Number</u> Amend* | 21 | NCAC | 28B | .0103 |
| <u>Annual Reports</u> Adopt* | 21 | NCAC | 28B | .0104 |

| | | | | |
|--|----|------|-----|-------|
| <u>Applications for Licensure</u> Amend* | 21 | NCAC | 28B | .0201 |
| <u>Reciprocity</u> Amend* | 21 | NCAC | 28B | .0202 |
| <u>Qualifier/Qualifying Party; Use of Assumed Name</u> Adopt* | 21 | NCAC | 28B | .0303 |
| <u>Continuing Education Units</u> Amend* | 21 | NCAC | 28B | .0402 |
| <u>Continuing Education Records; Audit</u> Amend* | 21 | NCAC | 28B | .0403 |
| <u>General</u> Amend* | 21 | NCAC | 28B | .0501 |
| <u>Low-Voltage Lighting; Pools</u> Amend* | 21 | NCAC | 28B | .0507 |
| <u>Fee Schedule</u> Amend* | 21 | NCAC | 28B | .0601 |
| <u>Subpoenas</u> Amend* | 21 | NCAC | 28B | .0803 |
| <u>Rulemaking Petition</u> Adopt* | 21 | NCAC | 28B | .0901 |

APPRAISAL BOARD

The rules in Subchapter 57A cover licensing, certification and practice rules for appraisers including application procedures (.0100); licensing and certification (.0200); examination (.0300); general practice requirements (.0400); appraisal standards (.0500); and experience credit (.0600).

| | | | | |
|--|----|------|-----|-------|
| <u>Continuing Education</u> Amend* | 21 | NCAC | 57A | .0204 |
| <u>Supervision of Trainees</u> Amend* | 21 | NCAC | 57A | .0407 |

The rules in Subchapter 57B cover real estate appraisal education including the courses required for licensure or certification (.0100); course sponsor standards for pre-licensing or pre-certification courses (.0200); pre-licensing and pre-certification course standards (.0300); course sponsor fees (.0400); fees for private real estate appraisal education schools (.0500); and continuing education course standards (.0600).

| | | | | |
|--|----|------|-----|-------|
| <u>Instructor Requirements</u> Amend* | 21 | NCAC | 57B | .0306 |
| <u>Course Operational Requirements</u> Amend* | 21 | NCAC | 57B | .0606 |

REAL ESTATE COMMISSION

The rules in Subchapter 58A are rules relating to real estate brokers and salesmen including rules dealing with general brokerage (.0100); application for license (.0300); examinations (.0400); licensing (.0500); real estate commission hearings (.0600); petitions for rules (.0700); rulemaking (.0800); declaratory rulings (.0900); real estate education and recovery fund (.1400); discriminatory practices prohibited (.1600); mandatory continuing education (.1700); limited nonresident commercial licensing (.1800); post-licensure education (.1900); annual reports (.2000); brokers in military service (.2100); and broker price opinions and comparative market analyses (.2200).

| | | | | |
|--|----|------|-----|-------|
| <u>Retention of Records</u> Readopt without Changes* | 21 | NCAC | 58A | .0108 |
| <u>Provisional Broker to be Supervised by Broker</u> Readopt without Changes* | 21 | NCAC | 58A | .0506 |

| | | | | |
|--|----|------|-----|-------|
| <u>Complaints/Inquiries/Motions/Other Pleadings</u> Amend* | 21 | NCAC | 58A | .0601 |
| <u>Presiding Officer</u> Readopt without Changes* | 21 | NCAC | 58A | .0612 |
| <u>Postlicensing Education Requirement</u> Amend* | 21 | NCAC | 58A | .1902 |
| <u>Waiver of 90-Hour Postlicensing Education Requirement</u> Amend* | 21 | NCAC | 58A | .1905 |
| <u>Escrow Account</u> Readopt without Changes* | 21 | NCAC | 58A | .2002 |

The rules in Subchapter 58H concern real estate education including general rules (.0100); real estate schools (.0200); approved instructors (.0300); and continuing education (.0400).

| | | | | |
|---|----|------|-----|-------|
| <u>Application for Original Licensure of a Private Real Esta...</u> Amend* | 21 | NCAC | 58H | .0203 |
| <u>Prelicensing and Postlicensing Course Enrollment</u> Amend* | 21 | NCAC | 58H | .0209 |
| <u>Expiration and Renewal of a School Approval or License</u> Amend* | 21 | NCAC | 58H | .0214 |
| <u>Application and Criteria for Original Prelicensing, Postl...</u> Amend* | 21 | NCAC | 58H | .0302 |

RESPIRATORY CARE BOARD

The rules in Chapter 61 are from the Respiratory Care Board and concern organization and definitions (.0100); application for license (.0200); licensing (.0300); continuing education requirements for license holders (.0400); miscellaneous provisions (.0500); rulemaking and declaratory rulings (.0600); and administrative hearing procedures (.0700).

| | | | | |
|-----------------------|----|------|----|-------|
| <u>Fees</u> Amend* | 21 | NCAC | 61 | .0204 |
|-----------------------|----|------|----|-------|

BUILDING CODE COUNCIL

| | |
|---|-------------------------|
| <u>2018 NC Building Code/Separation</u> Amend* | 1009.7.2 |
| <u>2018 NC Building Code/Minimum Number of Required Plumbing...</u> Amend* | Table 2902.1 |
| <u>2018 NC Building Code/Ground Signs</u> Amend* | 312.1, H101.2, H109.2 |
| <u>2018 NC Residential Code/Scope</u> Amend* | N1101.1 |
| <u>2018 NC Energy Conservation Code/Scope</u> Amend* | R101.2 |
| <u>2018 NC Existing Building Code/Energy Conservation Except...</u> Amend* | 101.12 |
| <u>2018 NC Existing Building Code/Carbon Monoxide Alarms</u> Amend* | 403.11, 904.4.3, 1104.2 |
| <u>2018 NC Plumbing Code/Small Occupancies</u> Amend* | 410.2 |

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS**Chief Administrative Law Judge****JULIAN MANN, III****Senior Administrative Law Judge****FRED G. MORRISON JR.****ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton
Tenisha Jacobs

A. B. Elkins II
Selina Malherbe
J. Randolph Ward
Stacey Bawtinheimer

| Year | Code | Number | Date Decision Filed | Petitioner | | Respondent | ALJ |
|------|------|--------|---------------------|--|----|--|--------------|
| | | | | <u>PUBLISHED</u> | | | |
| 18 | ABC | 04349 | 2/20/2019 | NC Alcoholic Beverage Control Commission | v. | H and J Super Discount Inc T/A Super Discount Mini Mart | Overby |
| | | | | - | | | |
| 18 | DHR | 05011 | 2/11/2019 | Primary Care Solutions Inc | v. | Cardinal Innovations Healthcare Inc | Malherbe |
| 18 | DHR | 05357 | 2/25/2019 | Iantha Southerland | v. | Department of Health and Human Services, Division of Health Service Regulation | Lassiter |
| 18 | DHR | 06469 | 2/7/2019 | Jesusito Rondon Guzman t/a Tienda Mexicana La Posadita | v. | NC Department of Health and Human Services | Ward |
| | | | | - | | | |
| 18 | DOJ | 04480 | 2/26/2019 | Christopher Garris | v. | NC Criminal Justice Education and Training Standards Commission | Overby |
| 18 | DOJ | 04664 | 2/13/2019 | Rosalind R Smith | v. | NC Criminal Justice Education and Training Standards Commission | Ward |
| 18 | DOJ | 06219 | 2/18/2019 | Keifer Austin Furr | v. | NC Private Protective Services Board | Lassiter |
| 18 | DOJ | 06375 | 2/27/2019 | Benjamin Louis Zucker | v. | North Carolina Department of Justice Criminal Standards Division | Bawtinheimer |
| | | | | - | | | |
| 18 | INS | 04465 | 2/14/2019 | Courtney N Viebrock | v. | North Carolina Department of State Treasurer | Malherbe |
| | | | | - | | | |
| 18 | OSP | 04046 | 2/6/2019 | Heather Harper | v. | Department of Public Safety | Ward |
| | | | | | | | |
| | | | | | | | |

CONTESTED CASE DECISIONS

| | | | | <u>UNPUBLISHED</u> | | | |
|----|-----|-------|-------------------------|---------------------------|----|--|----------|
| 17 | CSE | 07720 | 2/27/2019 | Anthony R Coley | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Elkins |
| 18 | CSE | 01368 | 2/27/2019 | Mackie Barfield Jr | v. | Child Support Services | Elkins |
| 18 | CSE | 06220 | 2/7/2019 | Douglas W Moyd (Mody) | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Malherbe |
| 18 | CSE | 06235 | 2/22/2019 | David Earl Rigg | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Overby |
| 18 | CSE | 06240 | 2/15/2019 | Felicia H Middleton | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Elkins |
| 18 | CSE | 06246 | 2/1/2019 | Mark Davis-Mccrary | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Malherbe |
| 18 | CSE | 06264 | 2/27/2019 | Melanie K Marino | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Elkins |
| 18 | CSE | 06276 | 2/15/2019 | Ricky Williams | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Elkins |
| 18 | CSE | 06301 | 2/27/2019 | Michael Anthony Cylar | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Elkins |
| 18 | CSE | 06306 | 2/27/2019; 3/15/2019 | Gregory L Thompson | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Elkins |
| 18 | CSE | 06388 | 2/15/2019 | Michael Norwood | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Elkins |
| 18 | CSE | 06392 | 2/27/2019 | Mark A Preston | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Elkins |
| 18 | CSE | 06409 | 2/20/2019 | John R Mitchell | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | May |
| 18 | CSE | 06423 | 2/25/2019 | Martin Malamah-Thomas | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Malherbe |
| 18 | CSE | 06483 | 2/22/2019 | Jessica Collazo | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Overby |
| 18 | CSE | 06488 | 2/15/2019 | David M McDermott | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Elkins |
| 18 | CSE | 06537 | 2/19/2019 | Jeffrey S Brown | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Ward |
| 18 | CSE | 06554 | 2/18/2019 | Georgie A Mendoza | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Sutton |
| 18 | CSE | 06573 | 2/22/2019 | Brian O'Neal Black | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Sutton |

CONTESTED CASE DECISIONS

| | | | | | | | |
|----|-----|-------|------------------------|---------------------------|----|--|--------------|
| 18 | CSE | 06639 | 2/8/2019 | Rashone Washington | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | May |
| 18 | CSE | 06673 | 2/18/2019 | Arnold S Thomas | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Malherbe |
| 18 | CSE | 06869 | 2/8/2019 | William C Davis | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | May |
| 18 | CSE | 06870 | 2/20/2019 | Michael Kearney | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | May |
| 18 | CSE | 06997 | 2/8/2019; 2/19/2019 | Jason Leland McCrary | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | May |
| 18 | CSE | 07088 | 2/8/2019 | Roosevelt Moore | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | May |
| 18 | CSE | 07094 | 2/19/2019 | Erich M Pearl | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Malherbe |
| 18 | CSE | 07359 | 2/20/2019 | Felix Allende | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | May |
| 18 | CSE | 07420 | 2/13/2019 | Gregory Leng | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Malherbe |
| 18 | CSE | 07424 | 2/7/2019 | Andres Montoya Vazquez | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Malherbe |
| 18 | CSE | 07576 | 2/19/2019 | Eric Garcia | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Malherbe |
| 18 | CSE | 07600 | 2/18/2019 | Kevin Michael Smith | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Sutton |
| 18 | CSE | 07636 | 2/19/2019 | Nathan E Justice | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Malherbe |
| 18 | CSE | 07815 | 2/26/2019 | William Walter | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Sutton |
| 19 | CSE | 00051 | 2/19/2019 | Sherman Addison | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Bawtinheimer |
| 19 | CSE | 00280 | 2/26/2019 | Scott F Rutherford | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement | Bawtinheimer |
| | | | | | | | |
| 18 | DCS | 02864 | 2/27/2019 | Adelia Wyatt | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Elkins |
| | | | | | | | |
| 18 | DHR | 01807 | 2/15/2019 | Amjad Sheikh | v. | North Carolina Department of Health and Human Services (File No NCRR0052) | Ward |

CONTESTED CASE DECISIONS

| | | | | | | | |
|----|-----|-------|-----------------------|---|----|---|-------------|
| 18 | DHR | 06238 | 2/4/2019 | Reliable Home Care Ser Portia Shipman Owner | v. | North Carolina Department of Health and Human Services | May |
| 18 | DHR | 06863 | 2/1/2019; 2/8/2019 | Agatha Jean Morris | v. | NC Dept of Health and Human Svcs Health Care Personnel Reg Section | Jacobs |
| 18 | DHR | 06989 | 2/22/2019 | Shelia Holmes- Graham | v. | Betty Overman NC State Nurse Aid Registry Raleigh NC | Jacobs |
| 18 | DHR | 07304 | 2/20/2019 | Dena Causey | v. | Division of Child Development and Early Education | May |
| 18 | DHR | 07512 | 2/26/2019 | Taylor Phillips | v. | NC Department of Health and Human Services, Division of Health Service Regulation | Overby |
| 18 | DHR | 07669 | 2/26/2019 | Noralene Locklear | v. | Department of Health and Human Services, Division of Health Service Regulation | Lassiter |
| 18 | DHR | 07761 | 2/14/2019 | The Goddard School at Edison Square | v. | Division of Child Development and Early Education | Malherbe |
| 18 | DHR | 07768 | 2/25/2019 | Valerie Denise Little | v. | Nurse Aide Listing No 169354 Health Care Personnel Registry | May |
| | | | | | | | |
| 18 | DOJ | 06866 | 2/5/2019 | Lance Paul White | v. | NC Sheriffs Education and Training Standards Commission | Jacobs |
| 18 | DOJ | 07492 | 2/28/2019 | Christopher Bruce | v. | NC Sheriffs Education and Training Standards Commission | Sutton |
| 18 | DOJ | 07496 | 2/26/2019 | Mychella L George | v. | NC Sheriffs Education and Training Standards Commission | Bawtinhimer |
| | | | | | | | |
| 19 | DOL | 00681 | 2/27/2019 | Leslie Duke | v. | NC Dept of Labor OSHA OSHA Mr William Peterson | Bawtinhimer |
| | | | | | | | |
| 18 | OSP | 06335 | 2/11/2019 | Sharon Young | v. | Murdoch Development Center and NC Department of HAHS | Elkins |