

Fiscal Note: Proposed Amendment of Rules
10A NCAC 27G .6702, Operations
10A NCAC 27H, Section .0200, Training and Registration of Forensic Evaluators

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Impact Summary: State government: Yes
Local government: Yes
Substantial economic impact: No

Authority: N.C.G.S. § 143B-147 and Session Law 2013-18, Section 9

I. Overview

The Division of Mental Health, Developmental Disabilities and Substance Abuse Services (MHDDSAS) proposes to amend rule 10 NCAC 27G .6702 and the rules in Section .0200 of 10A NCAC 27H to include the requirement for forensic evaluators to complete: a) a training to be credentialed as a certified forensic evaluator and b) annual continuing education modules. The modules would include training in conducting forensic evaluations and screening examinations of defendants to determine capacity to proceed and in preparing written reports required by law. See Appendix for the text of the proposed rules. The proposed amendments also reflects a change from a registration process to a certification process consistent with Session Law 2013-18, Section 9.

II. Rationale for Proposed Rule Amendments

Session Law 2013-18 (Senate Bill 45), *Incapacity to Proceed Amendments*, granted the Commission for MH/DD/SAS authority to adopt rules to require forensic evaluators appointed pursuant to G.S.15A-1002(b) to meet the following requirements:

- (1) complete all training requirements necessary to be credentialed as a certified forensic evaluator; and
- (2) attend annual continuing education seminars that provide continuing education and training in conducting forensic evaluations and screening examinations of defendants to determine capacity to proceed and in preparing written reports required by law.

Per G.S. 143B-147(a)(1)(f), the Commission has the authority to adopt rules regarding the standards of public services for mental health, developmental disabilities, and substance abuse services. These amendments are consistent with its grant of authority.

III. Analysis of Impact

No fiscal impact is anticipated as a result of the changes proposed to the following rules:

- 10A NCAC 27G .6702, *Operations*;
- 10A NCAC 27H
 - .0201, *Scope*;
 - .0202, *Definitions*;
 - .0203 *Eligibility for Training*;

- .0206, *Termination of Registration*; or
- .0207, *Duties of Registered Forensic Evaluators*.

The proposed amendments to Rules 10A NCAC 27H .0204, Training and Registration, and 27H .0205, Period of Registration, are expected to have the fiscal impact referenced below.

The proposed rules will improve the overall quality of the community forensic evaluation process. This includes: new requirements for evaluators to be licensed clinicians, enhanced training requirements, a quality oversight role of the process by the Local Management Entity-Managed Care Organization (LME/MCO), and a mechanism to identify when additional evaluators are needed to meet the demand in the local area. Together, these improvements will strengthen the due process for individuals with mental illness, substance use disorders and/or intellectual and developmental disabilities who are charged with crimes.

Costs associated with this rules were projected and submitted as a fiscal impact statement during the bill review process. However, the statute was enacted without any additional funding. The funding for this rule will come from the existing budgets of Central Regional Hospital and the LME/MCOs.

Rule 10A NCAC.0204, *Training and Registration (proposed: Training and Certification)*, as amended, mandates annual training for local forensic evaluators. Currently, a forensically trained senior psychologist conducts one-day training for individuals desiring to be a local forensic evaluator. There is no additional training for the over two hundred (200) individuals who have been trained as screeners. Under the amended rule, both initial training/certification as a local forensic evaluator is required, as well as annual continuing education to maintain the certification.

The Pre-Trial Unit currently provides a one (1) day initial training for community screeners. This training is offered three to four (3 to 4) times throughout the year. In addition to these trainings and to ensure adequate training opportunities for the mandatory annual training proposed in these rule changes, monthly one (1) day training will be required, which would result in additional travel costs to the state government. At a cost of \$0.30 per mile and an estimate of 1,050 miles that the additional FTEs would have to travel per year, the travel costs are estimated at \$3,780 for the current year.

The addition of the annual training requirement will necessitate an additional 1.75 FTEs for Senior Psychologist II to conduct the trainings. These Psychologists will assess the training needs of the community evaluators, develop curriculum, teach the classes, and evaluate the effectiveness of the curriculum. New curriculum will need to be developed regularly based on the training needs identified. For example, training will focus on the evaluation skills needed for the three populations served and will need to be customized to the evaluators' area(s) of expertise. Additional administrative requirements, such as tracking attendance at mandatory training will also be required. The Senior Psychologists will work as a team, co-teaching classes as needed and filling in for each other during scheduled and unscheduled leave. The current base salary for a Senior Psychologist II is \$87,264. Assuming 7.65% of salary for social security benefits, 15.21% for retirement, about 15.21% for leave benefits, and an additional \$5,378 for health insurance, the total compensation for an FTE would be close to \$126,000 in the current year, or close to \$220,300 for the 1.75 FTEs required by the changes. See Table 1 below.

Training costs, other than salaries and travel, are expected to be very small. Trainings will be held at Central Regional Hospital or other location with no usage fees. CRH will provide training materials to participants, projected to be approximately \$5.00 per participant. This cost is included in the table below for 220 participants, the current number of registered community forensic evaluators who will be required to take the annual training. The estimates in the table assume this number will stay constant throughout

the following few years, which is consistent with historical data showing a stable number of evaluators across years.

Table 1. Estimates Impact on State Government

Additional Estimated Costs	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
<i>Senior Psychologist II Costs</i>					
Salary for 1 FTE*	\$0	\$87,777	\$89,076	\$90,535	\$91,870
Benefits for 1 FTE (Budgetary costs)	\$0	\$38,609	\$39,103	\$39,659	\$40,167
Leave Benefits for 1 FTE	\$0	\$13,351	\$13,548	\$13,770	\$13,973
Total Compensation for 1 FTE	\$0	\$126,386	\$128,179	\$130,194	\$132,037
Total Compensation for 1.75 FTE	\$0	\$221,200	\$224,300	\$227,800	\$231,100
<i>Travel and Materials Costs</i>					
Travel costs**	\$0	\$4,168	\$4,497	\$4,726	\$4,908
Training Materials***	\$0	\$1,130	\$1,162	\$1,195	\$1,224
TOTAL STATE COST (rounded to nearest \$100)	\$0	\$226,500	\$230,000	\$233,700	\$237,200

* The base salary of a Senior Psychologist II is assumed to increase by 1.48%, 1.64%, 1.47%, and 1.09% respectively, in the following four years.

** The travel costs are assumed to increase by 10.28%, 7.89%, 5.08%, and 3.85%, respectively, in the following four years.

*** The costs for training materials are assumed to increase by 2.72%, 2.88%, 2.76%, and 2.44%, respectively, in the following four years.

Note, the additional FTEs and cost are only reflective of requirements for the State (Central Regional Hospital Forensic Treatment Unit). The requirements of 10A NCAC 27H .0204 will also result in travel costs for community forensic screeners to travel to Butner, N.C. for the trainings, as well as cost of the time these screeners would spend in training (opportunity cost). There are currently 220 community forensic screeners trained who may require an annual training as certified local forensic evaluators. See Tables 2 and 3 below for an estimate of the additional cost to local governments. The opportunity cost of the time community forensic screeners would spend in training, versus their regular tasks, was computed based on an hourly compensation rate of about \$39. This figure was estimated assuming the average annual salary of the screeners is \$55,400¹ and their benefits package is similar to that of state employees resulting in a total annual compensation of close to \$82,000. These numbers may be an overestimate due to the reorganization and consolidation of the Local Management Entities who oversee the evaluators.

¹ The source for this number is the state average of the maximum wages for social workers per county in 2015. County Salaries in North Carolina for 2015 are available on the website of the School of Government of the University of North Carolina at Chapel Hill. See Table XXIII.

https://www.sog.unc.edu/sites/www.sog.unc.edu/files/book_chapter/envir.pdf

Table 2. Estimated Costs to Local Government for FY 2015-16

Regions	FTEs	Average Miles Traveled*	Travel Rate/ Mile	Overnight Per Diem/ FTE	Total Travel Cost	Opportunity Cost of Staff Time**	Opportunity Cost per FTE	TOTAL Cost per Region
Eastern	60	130	\$0.575	\$105.20	\$10,780	\$315	\$18,900	\$29,680
Central	100	81	\$0.575	\$105.20	\$15,149	\$315	\$31,500	\$46,649
Western	60	218	\$0.575	\$105.20	\$13,833	\$315	\$18,900	\$32,733
TOTAL	220				\$39,762		\$69,300	\$109,062

* Based on the minimum and maximum distance someone in that region would travel to Butner for the training.

** The opportunity cost was computed using 8 hours of trainings and travel.

***Based on FY15-16 costs, but actual expenditures are not anticipated until FY16-17.

Table 3. Estimated Costs to Local Governments

Costs	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
Travel costs*	\$0	\$43,848	\$47,308	\$49,711	\$51,624
Opportunity Costs**	\$0	\$69,707.44	\$70,738.64	\$71,897.99	\$72,957.69
TOTAL LOCAL GOV'T COSTS (rounded to nearest \$100)	\$0	\$113,600	\$118,000	\$121,600	\$124,600

* The travel costs are assumed to increase by 10.28%, 7.89%, 5.08%, and 3.85%, respectively, in the following four years.

** The base salary of a county forensic screener is assumed to increase by 0.59%, 1.48%, 1.64%, and 1.47%, respectively, in the following four years.

Rule 10A NCAC 27H .0205, Period of Registration (proposed LME-MCO Oversight of Forensic Evaluation Program), amends the existing rule to now require that a LME-MCO have oversight of the forensic evaluator program in their assigned catchment area. This oversight requires the following:

- ensuring sufficient numbers of local certified forensic evaluators to conduct forensic evaluations;
- maintaining a list of local certified forensic evaluators, which includes the populations for which they report having expertise to conduct forensic evaluations;
- verifying that each local certified forensic evaluator employed or contracted with the LME/MCO meets the requirements set forth in all applicable rules and statutes;
- notifying the Pre-Trial Evaluation Center of any changes that would result in a termination of a certification;
- maintaining a list of local forensic evaluations done in each county within its catchment area and providing that list to the Pre-Trial Evaluation Center on a monthly basis; and
- identifying potentially qualified individuals to enroll in training for certification to replace evaluators or to increase the number of evaluators due to increased need.

The amended rule also requires each of the eight LME/MCOs to establish a mechanism to ensure a quality management process is part of the Quality Improvement System for the local certified forensic evaluators in their assigned catchment area. Part of this process requires the LME/MCO to identify an individual who is a local certified forensic evaluator who has the following responsibilities: monitoring

the overall quality and outcomes of the reports of forensic evaluations completed by other local certified forensic evaluators; and establishing a procedure for responding to questions and concerns related to the quality of reports. These activities, and those listed above, will improve the overall quality and consistency of the community forensic evaluation program.

Using best professional judgement, it is estimated that each LME/MCO will need approximately .25 FTE to provide the required oversight of the community forensic evaluation process, reviewing and monitoring evaluation reports and responding to concerns and questions. These activities may take more than .25 FTE in larger, more urban areas in which more individuals are charged with crimes and the monitoring process will be broader. However, it is anticipated that, on average, .25 FTE will be sufficient. Since there is not a salary schedule for MCO employees, costs were based on a state Senior Psychologist I grade, using the upper end of the salary range. Currently, there are eight LME/MCO's, each at .25 FTEs, for a total of 2 FTEs across the State. As previously indicated, as the number of LME/MCOs change, the total FTEs needed for the function may also change.

Table 4. Estimated Costs to Local Government

Additional Estimated Costs	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
<i>Senior Psychologist I Costs</i>					
Salary for 0.25 FTE*	\$0	\$25,008	\$25,378	\$25,794	\$26,174
Benefits for 1 FTE (Budgetary costs)	\$0	\$7,015	\$7,099	\$7,194	\$7,281
Leave Benefits for 1 FTE	\$0	\$3,804	\$3,860	\$3,923	\$3,981
Total Compensation for 0.25 FTE	\$0	\$35,827	\$36,337	\$36,911	\$37,436
Total Compensation for 2.00 FTE	\$0	\$286,616	\$290,696	\$295,288	\$299,488
<i>Travel Costs</i>					
Travel costs**	\$0	\$0	\$0	\$0	\$0
TOTAL COST (rounded to nearest \$100)	\$0	\$286,600	\$290,700	\$295,300	\$299,500

* The base salary of a Senior Psychologist I is assumed to increase by 0.59%, 1.48%, 1.64%, and 1.47%, respectively, in the following four years.

Table 5 below presents the total estimates costs to both state and local governments from the proposed rule changes.

Table 1. Estimates Impacts from the Proposed Rule Changes

Additional Estimated Costs	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
State Government	\$0	\$226,500	\$230,000	\$233,700	\$237,200
Local Governments	\$0	\$400,200	\$408,700	\$416,900	\$424,100
TOTAL COST (rounded to nearest \$100)	\$0	\$626,700	\$638,700	\$650,600	\$661,300

Appendix

**Proposed Amendment
of**

Rule 10A NCAC 27G .06702

and

Rules 10A NCAC 27H .0201 - .0207

1 **10A NCAC 27G .6702 is proposed for amendment as follows:**

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3 **10A NCAC 27G .6702 OPERATIONS**

- 4 (a) ~~Forensic Screening And Evaluation.~~ Forensic screening and evaluation to assess capacity to proceed to trial shall
5 be provided by evaluators trained and ~~registered~~ certified in accordance with the provisions of 10A NCAC 27H
6 .0201 through .0207, ~~TRAINING AND REGISTRATION OF FORENSIC EVALUATORS (DMH/DD/SAS~~
7 ~~publication APSR 100-3).~~ .0207.
- 8 (b) ~~Consultation To Law Enforcement Officials.~~ Consultation ~~to~~ with law enforcement officials, including
9 consultation prior to the commitment of an offender or alleged offender to any state psychiatric hospital, shall be
10 provided.
- 11 (c) Justice Treatment Services:
- 12 (1) Each ~~area program~~ Local Management Entity-Managed Care Organization (LME-MCO) shall develop and
13 implement a written justice treatment services plan ~~which~~ that shall provide for the coordination of ~~area~~
14 ~~program~~ LME-MCO court related activities with the criminal justice system.
- 15 (2) ~~An~~ Each LME-MCO shall designate an individual ~~shall be designated~~ who has responsibility for developing
16 and implementing the justice treatment services plan.

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18 *History Note: Authority G.S. 15A-1002; 143B-147;*

19 *Eff. May 1, 1996.*

20 *Amended Eff. November 1, 2016.*

1 **10A NCAC 27H .0201 is proposed for amendment as follows:**

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3 **SECTION .0200 – TRAINING AND ~~REGISTRATION~~ CERTIFICATION OF FORENSIC EVALUATORS**

4 **10A NCAC 27H .0201 SCOPE**

5 (a) The purpose of Rules .0201 through .0207 of this Section is to specify the requirements that shall be met to be
6 ~~registered~~ certified as a local forensic evaluator by the Division of Mental Health, Developmental Disabilities
7 and Substance Abuse Services.

8 (b) The provisions of Rules .0201 through .0207 of this Section apply to any ~~qualified mental health professional or~~
9 ~~qualified substance abuse professional~~ licensed clinician as defined in Rule 10A NCAC 27G .0104 seeking
10 registration certification as a local forensic evaluator by the Division.

11 (c) Individuals who are not licensed clinicians but were registered under these Rules prior to the effective date of
12 this Section continue to be eligible for certification provided they meet all other requirements.

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14 *History Note: Authority G.S. 15A-1002; 143B-147;*

15 *Eff. July 1, 1982;*

16 *Amended ~~Eff.~~ Eff. November 1, 2016; January 1, 1996; May 1, 1990.*

1 **10A NCAC 27H .0202 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0202 DEFINITIONS**

4 For the purposes of Rules .0201 through .0207 of this Section the following terms shall have the meanings indicated:

- 5 (1) "Forensic Evaluation" means ~~an~~ a local examination ordered by the court to determine if the defendant has the
6 capacity to proceed to trial, does not have the capacity to proceed to trial, or needs further treatment at an
7 inpatient facility or further evaluation at the Pre-Trial Evaluation Center.
- 8 (2) ~~"Pre-Trial Evaluation Center" means the forensic unit at Dorothea Dix Hospital.~~ "Licensed Clinician" means the
9 same as defined in Rule 10A NCAC 27G .0104.
- 10 (3) ~~"Qualified Mental Health Professional" means the same as defined in 10A NCAC 27G .0104(e) contained in~~
11 ~~Division publication, Rules for Mental Health, Developmental Disabilities and Substance Abuse Facilities and~~
12 ~~Services, APSM 40-2.~~ "Local Certified Forensic Evaluator" means a Licensed Clinician who:
13 (a) has completed the training for certification and annual training seminars described in Rule .0204 of this
14 Section; and
15 (b) is employed by, or under contract with, an LME-MCO as a Certified Forensic Evaluator.
- 16 (4) ~~"Qualified Substance Abuse Professional" means the same as defined in 10A NCAC 27G .0104(e) contained in~~
17 ~~Division publication, Rules for Mental Health, Developmental Disabilities and Substance Abuse Facilities and~~
18 ~~Services, APSM 40-2.~~ "Pre-Trial Evaluation Center" means the Forensic Services Unit so designated by the
19 Secretary of the North Carolina Department of Health and Human Services.

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21 *History Note: Authority G.S. 15A-1002; 143B-147;*

22 *Eff. July 1, 1982;*

23 *Amended ~~Eff.~~ Eff. November 1, 2016; January 1, 1996; May 1, 1990.*

1 **10A NCAC 27H .0203 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0203 ELIGIBILITY FOR TRAINING**

4 (a) To be eligible for training as a local forensic evaluator the applicant shall:

5 (1) be ~~a qualified mental health professional or a qualified substance abuse professional;~~ a Licensed Clinician;

6 (2) be an employee of, or work under contract with, an ~~area program;~~ LME-MCO and

7 (3) have his name submitted as an applicant for the training and ~~registration~~ certification program by the ~~area~~
8 LME-MCO director.

9 (b) The ~~area program~~ LME-MCO shall verify that the applicant is a Licensed Clinician and has expertise with the
10 mental health, developmental disabilities, or substance use population for whom the applicant will provide
11 forensic evaluations or that the individual meets the requirements of Rule .0201(c) of this Section. ~~meets the~~
12 ~~appropriate standards for a qualified mental health professional that are referenced in Rule .0202 of this Section.~~

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14 *History Note: Authority G.S. 15A-1002; 143B-147;*

15 *Eff. July 1, 1982;*

16 *Amended ~~Eff.~~ Eff. November 1, 2016; January 1, 1996; May 1, 1990.*

1 **10A NCAC 27H .0204 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0204 TRAINING AND REGISTRATION CERTIFICATION**

4 (a) The applicant shall ~~successfully~~ complete a minimum of six hours of initial training covering procedure,
5 techniques, and reporting that is provided by the Mental Health Section of the Division in order to be registered
6 certified as a local forensic evaluator. The initial training shall include:

- 7 (1) Current laws and practices including the role of the local forensic evaluator in the capacity to proceed
8 evaluation process;
9 (2) Procedures for conducting interviews including evaluation for the presence of mental disorders, intellectual
10 or developmental disabilities, substance abuse (mh/dd/sa) disorders, or other relevant conditions;
11 (3) Components of reports to be submitted to the court;
12 (4) Process for reporting findings to the court; and
13 (5) An examination at the conclusion of the training which assesses comprehension of the training material and
14 an understanding of the duties of a local forensic evaluator.

15 (b) Each local forensic evaluator is required to complete a minimum of four hours of required annual continuing
16 education modules provided by the Pre-Trial Evaluation Center by December 31 of each calendar year.

17 (c) Local forensic evaluators shall be exempt from the continuing education requirement in the calendar year in
18 which they are first certified and must completed the annual continuing education requirement by December 31
19 of the following year and each calendar year thereafter.

20 (d) Continuing education module topics may include:

- 21 (1) Evaluation skills training to enhance skills acquired through the initial local forensic evaluator training;
22 (2) Changes in existing laws and current practices; and
23 (3) Evaluation of mh/dd/sa populations.

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25 *History Note: Authority G.S. 15A-1002; 143B-147;*

26 *Eff. July 1, 1982;*

27 *Amended ~~Eff.~~ Eff. November 1, 2016; May 1, 1990.*

1 **10A NCAC 27H .0205 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0205 ~~PERIOD OF REGISTRATION~~ LME-MCO OVERSIGHT OF FORENSIC**
4 **EVALUATOR PROGRAM**

5 ~~Registration shall continue to be valid unless registration is terminated as specified in Rule .0206 of this Section.~~

6 (a) The LME-MCO shall ensure there is a sufficient number of local certified forensic evaluators to conduct
7 forensic evaluations in its catchment area.

8 (b) Each LME-MCO shall maintain a list of local certified forensic evaluators who are currently employed or
9 contracted by the LME-MCO and includes the mh/dd/sa populations for which each evaluator has reported
10 having expertise to conduct forensic evaluations.

11 (c) The LME-MCO shall verify that each local forensic evaluator meets the requirements set forth in Rules .0203
12 and .0204 of this Section.

13 (d) The LME-MCO shall notify the Pre-Trial Evaluation Center of any changes which would result in termination
14 of certification per Rule .0206 of this Section.

15 (e) The LME-MCO shall maintain a log of local forensic evaluations done in each county within its catchment area
16 and provide that log to the Pre-Trial Evaluation Center on a monthly basis.

17 (f) The LME-MCO shall identify potentially qualified individuals to enroll in training for certification to replace
18 any evaluator whose certification has been terminated or to increase the number of evaluators due to increased
19 numbers of evaluations logged.

20 (g) The LME-MCO shall establish a mechanism to ensure a quality management process is included in the LME-
21 MCO's Quality Improvement System for oversight of the local certified forensic evaluators in its catchment area
22 that includes:

23 (1) Identifying an individual who is a local certified forensic evaluator who will monitor the overall quality
24 and outcomes of the reports of forensic evaluations completed by other local forensic evaluators; and

25 (2) Establishing a procedure for responding to questions or concerns related to the quality of reports of
26 forensic evaluations completed by local certified forensic evaluators in its catchment area.

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28 *History Note: Authority G.S. 15A-1002; 143B-147;*

29 *Eff. July 1, 1982;*

30 *Amended ~~Eff.~~ Eff. November 1, 2016; May 1, 1990.*

1 **10A NCAC 27H .0206 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0206 TERMINATION OF ~~REGISTRATION~~ CERTIFICATION**

4 ~~A Forensic Evaluator Registration will be declared~~ The LME-MCO shall declare a forensic evaluator certification
5 void when:

6 (1) the evaluator notifies the LME-MCO in writing that he no longer ~~desires~~ wishes to be ~~registered~~ certified; and
7 perform the duties required by an evaluator;

8 (2) the evaluator is no longer employed by, or under contract with, an ~~area program;~~ LME-MCO or

9 (3) the evaluator no longer meets the ~~registration eligibility requirements;~~ requirements set forth in Rule .0203 of
10 this Section.

11 (4) the evaluator fails to complete annual continuing education modules as set forth in Rule .0204 of this Section; or

12 (5) the evaluator fails to perform any of the duties described in Rule .0207 of this Section.

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14 *History Note: Authority G.S. 15A-1002; 143B-147;*

15 *Eff. July 1, 1982;*

16 *Amended ~~Eff.~~ Eff. November 1, 2016; May 1, 1990.*

1 **10A NCAC 27H .0207 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0207 DUTIES OF ~~REGISTERED~~ CERTIFIED FORENSIC EVALUATOR**

4 When ordered by the court, the local certified forensic evaluator shall conduct a forensic evaluation or ~~a screening~~
5 examination of the defendant and ~~report to the court~~ in accordance with G.S. 15A-1002 ~~whether:~~ shall submit a
6 report that:

7 (1) ~~there is sufficient question of mental or emotional disorder to recommend inpatient evaluation or treatment; or is~~
8 limited to evaluation of capacity to proceed to trial and does not address criminal responsibility, legal insanity, or
9 diminished capacity;

10 (2) ~~there is sufficient information to recommend that the defendant does have capacity to proceed and further~~
11 ~~evaluation is not indicated.~~ Indicates the opinion of the evaluator that the defendant clearly has the capacity to
12 proceed, that the defendant clearly lacks the capacity to proceed, or that the evaluator is unable to form a clear
13 opinion;

14 (3) addresses the likelihood that the defendant will gain capacity if, in the opinion of the evaluator, the defendant
15 clearly lacks the capacity to proceed; and

16 (4) recommends a full evaluation at the Pre-Trial Evaluation Center if the evaluator is unable to form a clear
17 opinion and the defendant is charged with a felony.

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19 *History Note: Authority G.S. 15A-1002; 143B-147;*

20 *Eff. July 1, 1982;*

21 *Amended ~~Eff.~~ Eff. November 1, 2016; May 1, 1990.*