

# NORTH CAROLINA

## IN THIS ISSUE



## REGISTER

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**NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM**

*The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.*

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

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**NORTH CAROLINA REGISTER**  
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volume & issue number	issue date	last day for filing	earliest register issue for publication of text	earliest date for public hearing	non-substantial economic impact			substantial economic impact			270 <sup>th</sup> day from issue date
					end of required comment period	deadline to submit to RRC for review at next meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next meeting	first legislative day of the next regular session	
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## EXPLANATION OF THE PUBLICATION SCHEDULE

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

### GENERAL

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

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

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

### FILING DEADLINES

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

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

### NOTICE OF RULE-MAKING PROCEEDINGS

**END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS:** This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.

**EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT:** The date of the next issue following the end of the comment period.

### 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**  
**(1) RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:** An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

**(2) RULE WITH SUBSTANTIAL ECONOMIC IMPACT:** An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.

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

**FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:** This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

**EXECUTIVE ORDER**

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**EXECUTIVE ORDER NO. 50  
AMENDING EXECUTIVE ORDER NO. 32  
NC COMMISSION ON BUSINESS LAWS AND THE ECONOMY**

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

Section 1 of Executive Order No. 32 issued by Michael F. Easley on October 4, 2002, is hereby amended as follows:

Section 1. Establishment and Composition.

The North Carolina Commission on Business Laws and the Economy is hereby composed of thirty-four members, appointed by the Governor.

Except as amended herein, all provisions of Executive Order No. 32 shall remain in full force and effect.

Done in the Capital City of Raleigh, North Carolina, this the 28th day of April, 2003.

\_\_\_\_\_  
Michael F. Easley  
Governor

ATTEST:

\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State

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

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**CHAPTER 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES**

**Notice of Rule-making Proceedings** is hereby given by the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rule Affected by this Rule-making:** 10A NCAC 27G .4200 - Other rules may be proposed in the course of the rule-making process.

**Authority for the Rule-making:** G.S. 122C-26; 143B-147

**Statement of the Subject Matter:** Rules for the licensure of prevention services.

**Reason for Proposed Action:** Session Law 2002-126 requires the proposal of rules for the licensure of prevention programs to ensure quality of service delivery in local communities.

**Comment Procedures:** Comments from the public shall be directed to Cindy Kornegay, 3018 Mail Service Center, Raleigh, NC 27699-3018, phone (919) 733-7011, fax (919) 733-9455, and email cindy.kornegay@ncmail.net.

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS**

**CHAPTER 02 - BOARD OF ARCHITECTURE**

**Notice of Rule-making Proceedings** is hereby given by the North Carolina Board of Architecture in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rule Affected by this Rule-making:** 21 NCAC 02 .0108, .0303 - Other rules may be proposed in the course of the rule-making process.

**Authority for the Rule-making:** G.S. 83A-4; 83A-7

**Statement of the Subject Matter:** Required fees, licensure by reciprocity

**Reason for Proposed Action:** To increase the annual renewal fee, and to provide for conditional reciprocal registration, providing that the applicant meets certain conditions.

**Comment Procedures:** Comments from the public shall be directed to Cathe Evans, Executive Director, 127 West Hargett St., Suite 304, Raleigh, NC 27601, phone (919) 733-9544, and fax (919) 733-1272.

*This Section includes temporary rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code and includes, from time to time, proposed temporary rules and a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.*

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

**Rule-making Agency:** *Social Services Commission*

**Rule Citation:** *10 NCAC 41F .0601, .0807; 41N .0102, .0209; 41S .0101, .0201-.0202*

**Effective Date:** *July 1, 2003*

**Findings Reviewed and Approved by:** *Beecher R. Gray*

**Authority for the rulemaking:** *G.S. 131D-10.5; 143B-153*

**Reason for Proposed Action:** *Adherence to notice and hearing requirements would be contrary to the public interest since any delay would cause the State to be out of compliance with mandates of the General Assembly, affecting children currently in out of home placement and family foster homes, child-placing agencies and residential child care facilities throughout North Carolina. The temporary amendment of these rules will ensure the Division implements these requirements in the specified timeframes. To accomplish the State requirements, rule changes/additions are required to define ownership of facilities or agencies; deny licensure of a new service if any license has been revoked or a violation received for a specified time period; and to report ownership information. These changes should ensure not only that children are better protected in out of home care, but that family foster homes, child-placing agencies and facilities are held more accountable to the State for the quality of services they provide to the State's most vulnerable citizens.*

**Comment Procedures:** *Comments from the public shall be directed to Vandella Bradley, APA Coordinator, Social Services Commission, Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-2401, phone (919) 733-3055, and email vandella.bradley@ncmail.net.*

**CHAPTER 41 - CHILDREN'S SERVICES**

**SUBCHAPTER 41F - LICENSING OF FAMILY FOSTER HOMES**

**SECTION .0600 – DEFINITION**

**~~10 NCAC 41F .0601~~ 10A NCAC 70E .0301 DEFINITIONS**

The following ~~definition~~ definitions shall apply to the rules in ~~Subchapters 41F, 41N, 41O and 41P~~ Chapter 70:

- (a) Agency means a county department of social services or a private child placing agency that is duly authorized by law to receive children for purposes of placement in family foster homes or adoptive homes.
- (b) Owner means any individual who is a co-owner, partner or shareholder holding an ownership or controlling interest of five percent

or more of the applicant entity. Owner includes a "principal" or "affiliate" of the agency.

*History Note: Authority G.S. 131D, Art. 1A; 143B-153; S.L. 2002-164; Eff. July 1, 1982; Temporary Amendment Eff. February 1, 2002; Amended Eff. July 18, 2002; Temporary Amendment Eff. July 1, 2003.*

**SECTION .0800 - LICENSING REGULATIONS AND PROCEDURES**

**~~10 NCAC 41F .0807~~ 10A NCAC 70E .0506 REVOCATION OR DENIAL**

- (a) Licenses may be revoked when an agency duly authorized by law to investigate allegations of abuse or neglect finds the foster parent has abused or neglected a child.
- (b) Revocation of a license may also occur when the foster family home is not in compliance with licensing standards.
- (c) Revocation shall be based on the following:
  - (1) a child's circumstances;
  - (2) a child's permanency plan;
  - (3) the nature of the non-compliance; and
  - (4) the circumstances of the placement.
- (d) Foster parents must be made aware of the reasons for the agency's decision to revoke a license.
- (e) Foster parents must submit their license to the agency for it to be returned to the Division of Social Services, Children's Services Section.
- (f) Licensure shall be denied to an applicant when an applicant meets any of the following conditions:
  - (1) Owns a facility or agency licensed under G.S. 122C or G.S. 131D and that facility or agency had its license revoked;
  - (2) Owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C; or
  - (3) Owns a facility or agency licensed under G.S. 122C or G.S. 131D and that facility or agency had its license suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a) or G.S. 131D, Article 1A.
- (g) The restriction on licensure shall be in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h), incorporated by reference. A copy of these statutes may be obtained through the internet at <http://www.ncleg.net/Statutes/Statutes.html>.
- (~~h~~) Appeal procedures specified in ~~10 NCAC 41A .0107~~ 10A NCAC 70L .0102, WAIVER OF LICENSING RULES AND APPEAL PROCEDURES, shall be applicable for persons seeking an appeal to the Department's decision to revoke or deny a license. If the action is reversed on appeal, the applicant may

re-apply for licensure and may be approved back to the date of the denied application if all qualifications are met.

*History Note: Authority G.S. 131D-10.5; 143B-153; S.L. 2002-164; Eff. July 1, 1982; Amended Eff. May 1, 1990; February 1, 1986; Temporary Amendment Eff. February 1, 2002; Amended Eff. July 18, 2002; Temporary Amendment Eff. July 1, 2003.*

**SUBCHAPTER 70F - CHILD PLACING AGENCIES: MATERNITY HOMES AND CHILDREN'S CAMPS**

**SECTION .0100 – GENERAL**

**10 NCAC 41N.010210A NCAC 70F .0102 LICENSURE**

(a) Licenses issued shall be in effect for a maximum of two years unless suspended or revoked. Appeal procedures specified in ~~40 NCAC 41A .0107~~ 10A NCAC 70L .0102 shall apply for persons seeking an appeal of the licensing authority's decision to deny, suspend, or revoke a license.

(b) Licensure shall be denied to an applicant when an applicant meets any of the following conditions:

- (1) Owns a facility or agency licensed under G.S. 122C or G.S. 131D and that facility or agency had its license revoked;
- (2) Owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C; or
- (3) Owns facility or agency licensed under G.S. 122C or G.S. 131D and that facility or agency had its license suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a) or G.S. 131D, Article 1A.

(c) The restriction on licensure shall be in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h), incorporated by reference. A copy of these statutes may be obtained through the internet at <http://www.ncleg.net/Statutes/Statutes.html>.

*History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153; S.L. 2002-164; Eff. February 1, 1986; Amended Eff. July 18, 2002; July 1, 1990; Temporary Amendment Eff. July 1, 2003.*

**SECTION .0200 - ORGANIZATION AND ADMINISTRATION**

**10 NCAC 41N.020910A NCAC 70F .0205 RESPONSIBILITY TO LICENSING AUTHORITY**

- (a) The agency shall annually submit to the licensing authority the information and materials to document compliance and to support issuance of a license.
- (b) The agency shall submit to the licensing authority an annual statistical report of program activities.
- (c) The agency shall provide written notification immediately to the licensing authority of change in the administrator.

(d) When the agency receives a report alleging abuse or neglect in a home supervised or a facility operated by the agency, the agency shall immediately notify the legal custodian and the licensing authority.

(e) The agency shall submit to the licensing authority, within 30 days of the case decision, a report on the circumstances of the allegation and results of the investigation of the allegation of abuse or neglect. This report, along with other information the licensing authority may require, shall be reviewed and evaluated by the licensing authority and used in consultation and technical assistance with the agency and the county department of social services conducting the investigation to assist them in providing services to protect children in placement.

(f) When there is a death of a child in placement in a home supervised by the agency, the director or his designee shall immediately notify the licensing authority.

(g) In the case of ownership, the agency shall provide to the licensing authority at the time of license application the following information:

- (1) the legal name and social security number of each individual who is an owner;
- (2) written notification of a change in the legal name of any owner. The notification must be received within 30 business days following the change; and
- (3) written notification of a change in individuals holding an interest of at least five percent. The notification must be received no later than 30 business days following the change.

(h) The agency shall contact the mental health area program or county program responsible for the catchment area where services are being provided within 24 hours that a child may require MH/SAS/DD services.

(i) If the agency is monitored by a mental health area program or county program, the agency shall provide data to the mental health area program or county program as required for monitoring and reporting to the General Assembly.

*History Note: Authority G.S. 131D-1; 131D-10.5; 143B-153; S.L. 2002-164; Eff. February 1, 1986; Amended Eff. July 18, 2002; July 1, 1990; Temporary Amendment Eff. July 1, 2003.*

**SUBCHAPTER 70I - MINIMUM LICENSING STANDARDS FOR RESIDENTIAL CHILD CARE**

**SECTION .0100 - LICENSING STANDARDS: RESIDENTIAL CAMPS PROVIDING FOSTER CARE FOR CHILDREN**

**10 NCAC 41S.010110A NCAC 70I .0101 LICENSING ACTIONS**

- (a) License.
  - (1) The Department of Health and Human Services shall issue a license when it determines that the residential child-care facility is in compliance with rules in Subchapters ~~41S 70I~~ and ~~41F 70J~~.
  - (2) A license may remain in effect for one year.



TEMPORARY RULES

- (3) The Department of Health and Human Services shall automatically provide a 90 day grace period at the expiration date of the license.
(4) If licensure materials are submitted after the license expires, but within the 90 day grace period, the Department of Health and Human Services may issue a license one year from the expiration date of the previous license.

(b) Changes in any information on the license.

- (1) The Department of Health and Human Services shall change a license during the period of time it is in effect if the change is in compliance with rules in Subchapters 44S 70I and 44T 70J.
(2) The Department of Health and Human Services shall not change a license during the 90 day grace period.
(3) A residential child-care facility must notify the Children's Services Section in writing of its request for a change in license, including such information as is necessary to assure that the change is in compliance with the rules in Subchapters 44S 70I and 44T 70J.

(c) Termination.

- (1) When a residential child-care facility voluntarily discontinues child caring operations, either temporarily or permanently, the residential child care facility must notify the Children's Services Section in writing of the date, reason and anticipated length of closing.
(2) If a license is not renewed by the end of the 90 day grace period, the Department of Health and Human Services shall automatically terminate the license.

(d) Adverse Licensure Action.

- (1) The Department of Health and Human Services shall deny, suspend or revoke a license when a residential child-care facility is not in compliance with the rules in Subchapters 44S 70I and 44T 70J and it determines that compliance cannot be accomplished within a reasonable time as established by the Children's Services Section of the Division of Social Services.
(2) The Department of Health and Human Services shall notify a residential child-care facility in writing of the decision to deny, suspend or revoke a license.
(3) Appeal procedures specified in 40 NCAC 41A .010710A NCAC 70L .0107, WAIVER OF LICENSING RULES AND APPEAL PROCEDURES, are applicable for persons seeking an appeal to the Department's decision to deny, suspend or revoke a license.

(e) Licensure Restriction.

- (1) Licensure shall be denied when an applicant meets any of the following conditions:
(A) Owns a facility or agency licensed under G.S. 122C or G.S. 131D and

that facility or agency had its license revoked;

(B) Owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C; or

(C) Owns a facility or agency licensed under G.S. 122C or G.S. 131D and that facility or agency had its license suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a) or G.S. 131D, Article 1A.

(2) The restriction on licensure shall be in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h), incorporated by reference. A copy of these statutes may be obtained through the internet at http://www.ncleg.net/Statutes/Statutes.html.

History Note: Authority G.S. 131D-10.5; 143B-153; S.L. 2002-164; Eff. July 1, 1999 (See S. L. 1999, c. 237, s. 11.30); Temporary Amendment Eff. July 1, 2003.

SECTION .0200 - MINIMUM LICENSURE STANDARDS

10 NCAC 41S.020110A NCAC 70I.0201 DEFINITIONS

In addition to the definitions found in G.S. 131D-10.2, the following definitions apply to the rules in Subchapters 44S 70I and 44T 70J.

- (1) Case Plan means a written document, the Family Services Case Plan, which describes the social and child welfare services and activities to be provided by the county department of social services or other state and local agencies for the purpose of achieving a permanent family relationship for the child.
(2) Child-Caring Institution means a residential child-care facility utilizing permanent buildings located on one site for 10 or more foster children.
(3) Children's Foster Care Camp means a residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting.
(4) Direct Service Personnel means staff responsible for the direct services provided to children and their families including, but not limited to, child-care workers, residential counselors, house/teaching parents, social workers, recreation and education staff.
(5) Director means the person who is in charge of the agency and who is responsible for developing and supervising the program of residential child care and services.
(6) Emergency Shelter Care means 24 hour care provided in a residential child-care facility for a period not to exceed 90 days, in accordance

- with ~~40 NCAC 41T .020010A~~ NCAC 70J .0200.
- (7) Family Time means specific period arranged for a child who resides in a residential child-care facility to spend with kin either on-site or away from the residential child-care facility.
- (8) Foster Child means an individual less than 18 years of age who has not been emancipated under North Carolina law, or one who is 18 to 21 years of age and continues to reside in the residential child-care facility, who is dependent, neglected, abandoned, destitute, orphaned, delinquent, or otherwise in need of care away from home and not held in detention.
- (9) Full License means a license issued for one year when all minimum licensing requirements are met.
- (10) Group Home means a residential child-care facility operated either under public or private auspices which receives for 24-hour care no more than nine children. This number includes the caregivers' own relatives residing in the home under the ages of 18. The composition of the group shall include no more than two children under the age of two, four children under the age of six, and six children under the age of 12. A group home shall not provide day care, nor shall it be available to adults in the community who wish to rent rooms.
- (11) Individualized Service Plan means a written document which describes a child's needs, goals and objectives in a residential child-care facility and the direct services staff tasks and assignments to meet a child's and family's needs, goals and objectives.
- (12) License means permission granted in writing to a corporation, agency or county government by the Department of Health and Human Services to engage in the provision of full-time child care or child-placing activities based upon an initial determination, and annually thereafter, that such corporation, agency, or a county government has met and complied with minimum standards set forth in this Subchapter.
- (13) Owner means any individual who is a co-owner, partner or shareholder holding an ownership or controlling interest of five percent or more of the applicant entity. Owner includes a "principal" or "affiliate" of the residential child care facility.
- ~~(13)~~(14) Private Agency Residential Child-Care Facility means a residential child-care facility under the auspices of a licensed child-placing agency or another private residential child-care facility.
- ~~(14)~~(15) Private Residential Child-Care-Facility means a residential child-care facility under the control, management and supervision of a

- private non-profit or for-profit corporation, sole proprietorship or partnership which operates independently of a licensed child-placing agency or any other residential child-care facility.
- ~~(15)~~(16) Provisional License means a license issued for a maximum of six months enabling a facility to operate while some below standard component of the program is being corrected. A provisional license for the same below standard program component shall not be renewed.
- ~~(16)~~(17) Public Agency Residential Child-Care Facility means a residential child-care facility under the control, management or supervision of a county department of social services.
- ~~(17)~~(18) Public Residential Child-Care Facility means a residential child-care facility under the control, management or supervision of a county government other than a county department of social services.
- ~~(18)~~(19) Visiting Resource means volunteers from the community whose homes children visit on the weekends, holiday or vacations.
- ~~(19)~~(20) Volunteer means a person working in a staff position for an agency who is not paid.

*History Note: Authority G.S. 131D-10.5; 143B-153; S.L. 2002-164; Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30); Amended Eff. July 18, 2002; Temporary Amendment Eff. July 1, 2003.*

**10 NCAC 41S .020210A NCAC 70I .0202**  
**RESPONSIBILITY TO DIVISION OF SOCIAL SERVICES**

- (a) The residential child-care facility shall annually submit to the Division of Social Services the information and materials required by rules in Subchapters ~~44S 70I~~ and ~~44T 70I~~ to document compliance and to support issuance of a license.
- (b) The residential child-care facility shall submit to the Division of Social Services an annual statistical report of program activities as required in Subchapters ~~44S 70I~~ and ~~44T 70J~~.
- (c) The residential child-care facility shall provide written notification to the Division of Social Services of a change in the director.
- (d) The office of a residential child-care facility shall be maintained in North Carolina. The licensee shall carry out activities under the North Carolina license from this office.
- (e) The current license of a residential child-care facility shall be posted at all times in a conspicuous place within the facility.
- (f) When there is a report alleging abuse or neglect in a residential child-care facility, the director or his designee shall immediately notify the Division of Social Services.
- (g) The residential child-care facility shall submit to the Division of Social Services a report on the circumstances of the allegation and results of the investigation of the allegation of abuse or neglect. This report, along with other information, shall be reviewed and evaluated by the Division of Social Services and used in consultation and technical assistance to the

residential child-care facility to improve services to protect children in placement in the residential child-care facility.

(h) The residential child-care facility shall have and follow policies and procedures for handling any suspected incidents of child abuse or neglect involving staff. The policies and procedures must include:

- (1) A provision for reporting any allegations of abuse or neglect to the appropriate county department of social services for investigation in accordance with G.S. 7B-301.
- (2) A provision for recording any suspected incident of abuse or neglect and for promptly reporting it to the executive director or to the governing body or advisory board.
- (3) A provision for promptly notifying the Division of Social Services of any allegations of abuse or neglect of any child in care.
- (4) A provision for preventing a recurrence of the alleged incident pending investigation.
- (5) A provision for written notification to the Division of Social Services of any findings of such an investigation of child abuse or neglect, specifying only whether there was substantiation or unsubstantiation of the case.

(i) When there is a death of a child who is a resident of a residential child-care facility, the director or his designee shall immediately notify the licensing authority.

(j) In the case of ownership, the residential child care facility shall provide to the licensing authority at the time of license application the following information:

- (1) the legal name and social security number of each individual who is an owner;
- (2) written notification of a change in the legal name of any owner. The notification must be received within 30 business days following the change; and
- (3) written notification of a change in individuals holding an interest of at least five percent. The notification must be received no later than 30 business days following the change.

(k) The residential child care facility shall contact the mental health area program or county program responsible for the catchment area where services are being provided within 24 hours that a child may require MH/SAS/DD services.

(l) If the residential child care facility is monitored by a mental health area program or county program, the residential child care facility shall provide data to the mental health area program or county program as required for monitoring and reporting to the General Assembly.

*History Note: Authority G.S. 131D-10.5; 143B-153; S.L. 2002-164; Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30); Amended Eff. July 18, 2002; Temporary Amendment Eff. July 1, 2003.*

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**Rule-making Agency:** *Division of Medical Assistance*

**Rule Citation:** *10 NCAC 50B .0312*

**Effective Date:** *April 21, 2003*

**Findings Reviewed and Approved by:** *Beecher R. Gray*

**Authority for the rulemaking:** *G.S. 108A-54*

**Reason for Proposed Action:** *As a cost savings measure to enable the State to balance its budget, the Division suggested these changes as allowed by federal law. Delay in implementation of a temporary rule would mean that the State could not realize the cost savings because taxes would have to be raised or other revenue found to balance the State's budget. The optional transfer of resource policy was approved by the General Assembly as a cost savings measure. It is anticipated to save \$23,959 in State dollars this fiscal year, and an additional \$833,933 in the 2004 SFY. The delay in implementation of this policy was in order to update the automation system to handle the new requirement. Additionally, this change brings this service item in line with requirements already in place for persons seeking nursing facility services.*

**Comment Procedures:** *Written comments should be submitted to Kris M. Horton, Rule-making Coordinator, 1985 Umstead Drive, 2504 Mail Service Center, Raleigh, NC 27699-2504. Fax: (919) 733-6608.*

**CHAPTER 50 - MEDICAL ASSISTANCE**

**SUBCHAPTER 50B - ELIGIBILITY DETERMINATION**

**SECTION .0300 - CONDITIONS FOR ELIGIBILITY**

**10 NCAC 50B .0312 TRANSFER OF RESOURCES**

In accordance with 42 U.S.C. 1396p(c), an individual who transfers resources and receives compensation that is less than the fair market value may be ineligible to receive nursing facility ~~services.~~ services or in-home health services and supplies.

- (1) As provided for by P.L. 100-360, Section 303(g) amended by P.L. 100-485, Section 608(d)(16)(D), the provisions of 42 U.S.C. 1396p(c) shall be effective for all transfers of resources, including transfers of tenancy-in-common interest in real property, when requesting nursing facility services, for a level of care in a medical institution equivalent to that of a nursing facility services, or for home and community-based services, except transfers between spouses, occurring on or after July 1, 1988. The provisions of 42 U.S.C. 1396p(c) shall be effective for transfers between spouses, occurring on or after October 1, 1989.
- (2) As allowed under 42 U.S.C. 1396p(c)(2)(D), the provisions of 42 U.S.C. 1396p(c) for ineligibility for nursing services due to transfer of resources shall not be applied:
  - (a) To individuals who transferred resources after July 1, 1988 and before March 15, 1989 and were

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found eligible prior to March 15, 1989;

(b) When it is determined by the agency's judgment that the applicant or recipient is a victim of fraud and did not take the action with the intent of becoming eligible for Medicaid.

(3) In accordance with 42 U.S.C. 1396p (c), an Aged, Blind, or Disabled individual (42 CFR 435.120) or Qualified Medicare Beneficiary as described in (1905(p)(1) in a private living arrangement who transfers resources and receives compensation that is less than fair market value may be ineligible to receive in-home health services and supplies (1905(a)(7) and 1905(a)(24). These provisions do not apply to optional State Supplements (42 CFR 435.130). The provisions of 42 U.S.C. 1396p (c) shall be effective for all transfers occurring on or after February 1, 2003. As allowed under 42 U.S.C. 1396p (c), the provisions for ineligibility for these services due to transfer of resources shall not be applied:

(a) To the individuals referred in (2)(a) of this Rule who transferred resources prior to February 1, 2003, and were found eligible either before or after February 1, 2003.

(b) When it is determined by the agency's judgment that the applicant/recipient is a victim of fraud.

History Note: Authority G.S. 108A-54; 108A-58; P.L. 100-360; P.L. 100-485; 42 U.S.C. 1396p(c); 42 C.F.R. 435.121; 42 C.F.R. 435.840; 42 C.F.R. 435.841; 42 C.F.R. 435.845; S.L. 2002-126; Eff. September 1, 1984; Amended Eff. December 1, 1991; August 1, 1990; Temporary Amendment Eff. April 21, 2003; March 1, 2003.

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Editor's Note: This publication will serve as Notice of Proposed Temporary Rule-making as required by G.S. 150B-21.1(a) and SL 2002-260.

Rule-making Agency: NC Medical Care Commission

Rule Citation: 10A NCAC 13F .0204-.0205, .0207, .0210-.0211, .0302, .0304, .0401, .0406-.0407, .0501-.0502, .0504-.0508, .0512, .0703, .0801-.0802, .0902, .1204, .1210; 13G .0204-.0205, .0207, .0211, .0302, .0405-.0406, .0504-.0508, .0512, .0702, .0801-.0802, .0902-.0903, .1007, .1205, .1211

Authority for the rulemaking: S.L. 2002-260 (HB 1777)

Public Hearing:

Date: June 17, 2003

Time: 1:00 p.m.

Location: Division of Facility Services, Room 201, Council Building, Dorothea Dix Campus, 701 Barbour Drive, Raleigh, NC

Reason for Proposed Action: Session Law 2002-260 (HB 1777) authorizes the NC Medical Care Commission to "adopt temporary rules and permanent rules to amend Subchapter 42C and Subchapter 42D of Title 10 of the North Carolina Administrative Code." Prior to adoption, the legislation requires the Commission to (a) consult with persons who may be interested in the subject matter of the temporary rule, (b) notify persons on the mailing list of its intent to adopt a temporary rule, (c) publish the proposed text of the temporary rule in the NC Register, (d) hold at least one public hearing, and (e) accept written comments for at least 30 days after the publication of the proposed text. This rule-making action satisfies items (c), (d), and (e).

Comment Procedures: Comments from the public shall be directed to Mark Benton, Chief of Budget and Planning, NC Division of Facility Services, 2701 Mail Service Center, Raleigh, NC 27699-2701 and email mark.benton@ncmail.net. Comments shall be received through June 16, 2003.

CHAPTER 13 – NC MEDICAL CARE COMMISSION

SUBCHAPTER 13F - LICENSING OF HOMES FOR THE AGED AND INFIRM

SECTION .0200 – LICENSING

10A NCAC 13F .0204 APPLICATION TO LICENSE AN EXISTING BUILDING

~~The requirements in 10 NCAC 42C .3301 shall control for this Subchapter, except that:~~

- ~~(1) Three sets of schematic floor plans or blueprints of the building are to be sent to the Division of Facility Services;~~
- ~~(2) Form DSS 1514 (Fire and Building Safety Inspection Report) must be used; and~~
- ~~(3) Form DHS 1213 (Sanitation Report) must be used with facilities licensed for 13 or more residents.~~

(a) An application for a license to operate a family care home for adults in an existing building where no alterations are necessary shall be made at the county department of social services.

(b) The following forms and reports shall be submitted through the county department of social services to the Division of Facility Services:

- (1) the Initial License Application;
- (2) a photograph of each side of the existing structure and two sets of schematic floor plans or blueprints of the building showing the floor plan; type of construction; location, size and height of windows; location and type of heating system; the use of basement and attic; location of doors and closets; and other requested details;

- (3) the Fire and Building Safety Inspection Report to be submitted with completion of construction or renovation; and
- (4) the Sanitation Report or a permit to begin operation from the sanitary division of the county health department.

(c) If it does not appear that the licensure requirements for the home can be met, the county department of social services shall so inform the applicant, indicating in writing the reason, and give the applicant an opportunity to withdraw the application. Upon the applicant's request, the application shall be completed and submitted to the Division of Facility Services for consideration.

(d) The Division of Facility Services shall notify the applicant and the county department of social services of any required changes.

(e) Following review of application, references and all forms, a pre-licensing visit shall be made by a consultant of the Division of Facility Services.

(f) The consultant shall report his findings and recommendations to the Division of Facility Services which shall promptly notify, in writing, the applicant and the county department of social services of the action taken.

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**10A NCAC 13F .0205 APPLICATION TO LICENSE A NEWLY CONSTRUCTED OR RENOVATED BUILDING**

(a) The requirements in 10A NCAC 13G .0205 shall control for this Subchapter, except that:

- (1) Three sets of schematic floor plans or blueprints are to be sent to the Division of Facility Services; and
- (2) A pre-licensing visit and subsequent recommendation will be made by a program consultant and a construction consultant of the Division of Facility Services in all cases involving a home for the aged and disabled.

(b) In addition to the requirements in Rule .0205 of this Subchapter, all new construction, additions and renovations to existing buildings must meet the full requirements of the North Carolina Building Code for institutions and the sanitation requirements of the Division of Environmental Health as well as the rules of this Subchapter.

(a) An application for a license to operate a home which is to be constructed, added to or renovated shall be made at the county department of social services where the home is to be located.

(b) For information on the forms and reports to be submitted by the county department of social services to the Division of Facility Services, see Rule .0204(b) of this Subchapter. All of these forms and reports apply to a home which is to be constructed, added to or renovated, including two sets of schematic floor plans or blueprints, and photographs of each side of the building for renovations or additions.

(c) If it does not appear that the licensure requirements for the home can be met, the county department of social services shall so inform the applicant, indicating in writing the reason, and give the applicant an opportunity to withdraw the application. Upon the applicant's request, the application shall be completed and submitted to the Division of Facility Services for consideration.

(d) Upon receipt of copies of approval letters from the Department of Insurance and the Division of Environmental Health in the North Carolina Department of Environment and Natural Resources, indicating the applicant's plans are in full compliance with the applicable requirements of the North Carolina State Building Code and the sanitation requirements of the Division of Environmental Health, the Division of Facility Services shall make the final determination as to whether the rules of this Subchapter have been met and, if so, shall give written approval and authorization to begin construction.

(e) Any changes made during construction shall require the approval of the Division of Facility Services to assure that licensing requirements are maintained.

(f) A pre-licensing visit and subsequent recommendation shall be made by a program consultant and a construction consultant of the Division of Facility Services in conjunction with the adult homes specialist of the county department of social services.

(g) All new construction, additions and renovations to existing buildings shall meet the requirements of the North Carolina Building Code for institutions and the sanitation requirements of the Division of Environmental Health as well as the rules of this Subchapter.

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**10A NCAC 13F .0207 CHANGE OF LICENSEE**

When a ~~currently licensed administrator~~ licensee wishes to sell or lease the home to another, the following procedure is required:

- (1) The ~~administrator must~~ licensee shall notify the county department of social services that a change is desired. When there is a plan for a change of ~~administrator~~ licensee and another person applies to operate the home immediately, the ~~administrator must~~ licensee shall notify the county department and the residents or their responsible persons. It is the responsibility of the county department to talk with the residents, giving them the opportunity to make other plans if they so desire.
- (2) ~~The applicant must meet the qualifications for administrator as specified in Rule .2001 of this Subchapter.~~
- (3)(2) The county department of social services will submit all forms and reports specified in Rule .3301 .0204 (c) of this Subchapter, with the exception of Subparagraph (2), to the Division of Facility Services.
- (4)(3) The Division of Facility Services will review the records of the facility and, if necessary, visit the home.
- (5)(4) The ~~administrator~~ licensee and prospective ~~applicant~~ licensee will be advised by the Division of Facility Services of any changes which must be made to he building before licensing to a new licensee can be recommended.

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**10A NCAC 13F .0210 TERMINATION OF LICENSE**

~~The requirements in 10 NCAC 42C .3403 shall control for this Subchapter. In addition, the license of a home for the aged and disabled will automatically terminate when the home is licensed to provide a higher level of care or a combination of a higher level of care and domiciliary home care.~~

~~(a) The Division of Facility Services shall take action to terminate the license when one of the following situations exist:~~

- ~~(1) change of ownership of the adult care home business; or~~
- ~~(2) change of location of home.~~

~~(b) The license is not transferable or assignable.~~

~~(c) The unexpired license shall be returned to the state Division of Facility Services by the county department of social services with the following information:~~

- ~~(1) reason for closing;~~
- ~~(2) date of closing; and~~
- ~~(3) plans made for residents.~~

~~(d) When the licensee voluntarily closes the home, a signed statement to this effect shall be submitted to the county department of social services who shall immediately forward the statement to the Division of Facility Services. The licensee or his designee shall give at least 30 days prior notice of the closing to the county department of social services and the residents or their responsible persons.~~

~~(e) The license of an adult care home shall be terminated when the home is licensed to provide a higher level of care or a combination of a higher level of care and adult care home level of care.~~

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**10A NCAC 13F .0211 CLOSING OF HOME**

(a) When there is a planned change of ~~administrator~~the licensee and the home is to continue operating without interruption, the ~~administrator~~licensee ~~must~~ shall notify the county department of social services and the residents or their responsible persons. It is the responsibility of the county department of social services to discuss the change with the residents and offer assistance to any residents who wish to leave the home.

(b) If the ~~home~~the licensee plans to terminate ~~it's~~the license, the ~~administrator~~licensee ~~must~~ shall provide at least 30 days prior notice to the county department of social services and the residents or their responsible persons.

(c) If the home's license is revoked or terminated, the county department of social services ~~will~~shall notify the residents and provide them with assistance in moving to licensed homes or other living arrangements.

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**SECTION .0300 - PHYSICAL PLANT**

**10A NCAC 13F .0302 CONSTRUCTION**

(a) Any building licensed for the first time ~~must~~shall meet the requirements of the North Carolina State Building Code for new construction as well as all of the rules of this Section. No horizontal exits shall be permitted in newly constructed facilities or new additions to existing facilities.

(b) In a facility licensed before April 1, 1984, the building ~~must~~ shall meet and be maintained to meet all the requirements for new construction required by the North Carolina State Building

Code in effect at the time the building was constructed. Where code requirements require a modification of the building's structural system, an alternative method may be used to meet the intent of the code.

(c) In a facility licensed before April 1, 1984 and constructed prior to January 1, 1975, the building, in addition to meeting the requirements of the North Carolina State Building Code in effect at the time the building was constructed, shall be provided with the following:

- (1) A fire alarm system with pull stations near each exit and sounding devices which are audible throughout the building must be provided.
- (2) Products of combustion (smoke) U/L listed detectors in all corridors. The detectors must be no more than 60 feet from each other and no more than 30 feet from any end wall.
- (3) Heat detectors or products of combustion detectors in all storage rooms, kitchens, living rooms, dining rooms and laundries.
- (4) All detection systems interconnected with the fire alarm system.
- (5) Emergency power for the fire alarm system, heat detection system, and products of combustion detection system. The emergency power for these systems may be a manual start system capable of monitoring the building for 24 hours and sound the alarm for five minutes at the end of that time. The emergency power for the emergency lights shall be a manual start generator or a U/L approved trickle charge battery system capable of providing light for 1-1/2 hours when normal power fails.

(d) The building ~~must~~shall meet sanitary requirements as determined by the North Carolina Division of ~~Health Services~~Environmental Health.

(e) Effective July 1, 1987, resident bedrooms and resident services shall not be permitted on the second floor of any facility licensed prior to April 1, 1984 and classified as two-story wood frame construction by the North Carolina State Building Code.

(f) The facility shall have current sanitation and fire and building safety inspection reports which shall be maintained in the facility and available for review.

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**10A NCAC 13F .0304 HOUSEKEEPING AND FURNISHINGS**

(a) The requirements in 10A NCAC 13G .0314 shall control for this Subchapter, except that ~~a home for the aged and disabled an adult care home~~must shall have an approved sanitary classification at all times in a home with 12 beds or less and ~~must~~shall have a ~~sanitary~~sanitation grade of 90 or above at all times in a home with 13 beds or more.

(b) In addition to the requirements in 10A NCAC 13G .0314, the dining room in homes for the aged and disabled ~~must~~shall have small tables serving from two to eight persons.

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**SECTION .0400 - STAFF QUALIFICATIONS**

**10A NCAC 13F .0401 CERTIFICATION OF ADMINISTRATOR**

The administrator of an adult care home licensed on or after January 1, 2000, shall be certified by the Department under the provisions of ~~G.S. 90, Article 20A~~ G.S. 90, Article 20A, and according to Rules .2401-.2403 of this Subchapter.

Authority G.S. 90-288; 131D-2; 143B-165; S.L. 1999-0334; S.L. 1999-0443; 2002-0160.

**10A NCAC 13F .0406 TEST FOR TUBERCULOSIS**

~~(a) The administrator shall be tested for tuberculosis disease within 90 days before employment and annually thereafter. There shall be documentation on file in the home that the administrator is free of tuberculosis disease that poses a direct threat to the health or safety of others.~~

~~(b)(a) All other staff and any live-in non-residents shall be tested for tuberculosis disease within 90 days before or seven days after employment or living in the home, and annually thereafter, prior to or upon employment or living in the facility in compliance with control measures adopted by the Commission for Health Services as specified in 15A NCAC 19A .0205 10A NCAC 41A .0205 including subsequent amendments and editions. Copies of the rule are available at no charge by contacting the Department of Health and Human Services, Tuberculosis Control Program, 1902 Mail Service Center, Raleigh, NC 27699-1902. There shall be documentation on file in the home that each person is free of tuberculosis disease that poses a direct threat to the health or safety of others.~~

~~(b) Only licensed nurses shall administer and read tuberculin skin tests.~~

~~(c) There shall be documentation on file in the home that each person is free of tuberculosis disease that poses a direct threat to the health or safety of others.~~

~~(e) Tests for tuberculosis disease shall comply with the control measures adopted by the Commission for Health Services as specified in 15A NCAC 19A .0205 including subsequent amendments and editions. Copies of the rule are available at no charge by contacting the Department of Environment, Health, and Natural Resources Tuberculosis Control Branch, Post Office Box 27687, Raleigh, North Carolina 27611-7687.~~

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.

**10A NCAC 13F .0407 OTHER STAFF REQUIREMENTS**

(a) In addition to the ~~personnel~~ staff requirements set forth in Rules .0401, .0402, and .0404 of this Subchapter, additional competent staff shall be employed, as needed, to assure good housekeeping, supervision and personal care of the residents.

(b) In homes where there are minor children, aged or infirm relatives of the administrator or other management staff residing, the number of extra staff shall be determined by the capacity for which the home is licensed plus the minors and relatives who require care and supervision.

(c) The Division of Facility Services shall make the final determination of the need for additional staff, based on the home's licensed capacity; the number of live-in minors and relatives requiring care; the condition, needs and ambulation capacity of the residents; and the layout of the building.

(d) Each staff member shall have a well-defined job description that reflects actual duties and responsibilities, signed by the administrator and the employee.

(e) Each staff member shall be able to apply all of the home's accident, fire safety and emergency procedures for the protection of the residents.

(f) Each staff member authorized by the administrator to have access to confidential resident information shall be informed of the confidential nature of the information and shall protect and preserve such information from unauthorized use and disclosure. G.S. 131D-2(b)(4), G.S. 131D-21(6), and G.S. 131D-21.1 govern the disclosure of such information.

(g) Each staff member shall encourage and assist the residents in the exercise of the rights guaranteed under the Adult Care Home Residents' Bill of Rights. No staff member shall hinder or interfere with the proper performance of duty of a lawfully appointed Adult Care Home Community Advisory Committee.

(h) Each staff member left alone with the residents shall be 18 years or older.

~~(i) By January 1, 2001, each facility shall have at least one staff person on the premises at all times who has successfully completed within the last 24 months a course on cardiopulmonary resuscitation (CPR) and choking management, including Heimlich maneuver, provided by the American Heart Association, the American Red Cross or a trainer with documented certification as a trainer in these procedures unless the only staff person on-site has been deemed physically incapable of performing these procedures by a licensed physician. For the purpose of this Rule, successfully completed means demonstrating competency, as evaluated by the instructor, in performing the Heimlich maneuver and cardiopulmonary resuscitation. Documentation of successful completion of the course shall be on file and available for review in the facility. The facility shall not have a policy prohibiting staff from administering CPR to residents except those residents with physician orders for no resuscitation or no CPR.~~

~~(j)(i) Staff who transport residents shall maintain a valid driver's license.~~

~~(k)(j) If licensed practical nurses are employed by the facility, there shall be continuous availability of a registered nurse consistent with Rules 21 NCAC 36 .0224(I) and 21 NCAC 36 .0225.~~

Note: The practice of licensed practical nurses is governed by their occupational licensing laws.

Authority G.S. 131D-2; 131D-4.5; 143B-153; 143B-165; S.L. 1999-0334; 2002-0160.

**SECTION .0500 - STAFF ORIENTATION, TRAINING, COMPETENCY AND CONTINUING EDUCATION**

**10A NCAC 13F .0501 PERSONAL CARE TRAINING AND COMPETENCY**

~~(a) The facility shall assure that staff who perform or directly supervise staff who perform personal care tasks listed in Paragraph (h) of this Rule successfully complete a 45-hour training program, including competency evaluation, approved by the Department according to Rule .1411 of this Section. Directly supervise means being on duty in the facility to oversee or direct the performance of staff duties.~~

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~~(b) The facility shall assure that staff who perform or directly supervise staff who perform personal care tasks listed in Paragraph (i) of this Rule successfully complete a 80-hour training program, including competency evaluation, approved by the Department according to Rule .1411 of this Section and comparable to the State approved Nurse Aide I training.~~

~~(c) The facility shall assure that training specified in Paragraphs (a) and (b) of this Rule is successfully completed within six months after hiring for staff hired after July 1, 2000. Staff hired prior to July 1, 2000, shall have completed at least a 40-hour training program for the performance or supervision of tasks listed in Paragraph (i) of this Rules or a 75-hour training program for the performance or supervision of tasks listed in Paragraph (j) of this Rule. The 40 and 75-hour training shall meet all the requirements of this Rule except for the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule.~~

~~(d) The Department shall have the authority to extend the six-month time frame specified in Paragraph (c) of this Rule up to six additional months for a maximum allowance of 12 months for completion of training upon submittal of documentation to the Department by the facility showing good cause for not meeting the six month time frame.~~

~~(e) Exemptions from the training requirements of this Rule are as follows:~~

~~(1) The Department shall exempt staff from the 45-hour training requirement upon successful completion of a competency evaluation approved by the Department according to Rule .1411 of this Section if staff have been employed to perform or directly supervise personal care tasks listed in Paragraph (h) and the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule in a comparable long-term care setting for a total of at least 12 months during the three years prior to January 1, 1996, or the date they are hired, whichever is later.~~

~~(2) The Department shall exempt staff from the 80-hour training requirement upon successful completion of a 15-hour refresher training and competency evaluation program or a competency evaluation program approved by the Department according to Rule .1411 of this Section if staff have been employed to perform or directly supervise personal care tasks listed in Paragraph (i) and the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule in a comparable long-term care setting for a total of at least 12 months during the three years prior to January 1, 1996, or the date they are hired, whichever is later.~~

~~(3) The Department shall exempt staff from the 45 and 80-hour training and competency evaluation who are licensed health professionals or listed on the N.C. Nurse Aide Registry.~~

~~(f) The facility shall maintain documentation of the training and competency evaluations of staff required by the rules of this Subchapter. The documentation shall be filed in an orderly~~

~~manner and made available for review by representatives of the Department.~~

~~(g) The facility shall assure that staff who perform or directly supervise staff who perform personal care tasks listed in Paragraphs (h) and (i) and the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule receive on-the-job training and supervision as necessary for the performance of individual job assignments prior to meeting the training and competency requirements of this Rule.~~

~~(h) For the purposes of this Rule, personal care tasks which require a 45-hour training program include, but are not limited to the following:~~

- ~~(1) assist residents with toileting and maintaining bowel and bladder continence;~~
- ~~(2) assist residents with mobility and transferring;~~
- ~~(3) provide care for normal, unbroken skin;~~
- ~~(4) assist with personal hygiene to include mouth care, hair and scalp grooming, care of fingernails, and bathing in shower, tub, bed-basin;~~
- ~~(5) trim hair;~~
- ~~(6) shave resident;~~
- ~~(7) provide basic first aid;~~
- ~~(8) assist residents with dressing;~~
- ~~(9) assist with feeding residents with special conditions but no swallowing difficulties;~~
- ~~(10) assist and encourage physical activity;~~
- ~~(11) take and record temperature, pulse, respiration, routine height and weight;~~
- ~~(12) trim toenails for residents without diabetes or peripheral vascular disease;~~
- ~~(13) perineal care;~~
- ~~(14) apply condom catheters;~~
- ~~(15) turn and position;~~
- ~~(16) collect urine or fecal specimens;~~
- ~~(17) take and record blood pressure if a registered nurse has determined and documented staff to be competent to perform this task;~~
- ~~(18) apply and remove or assist with applying and removing prosthetic devices for stable residents if a registered nurse, licensed physical therapist or licensed occupational therapist has determined and documented staff to be competent to perform the task; and~~
- ~~(19) apply or assist with applying ace bandages, TED's and binders for stable residents if a registered nurse has determined and documented staff to be competent to perform the task.~~

~~(i) For the purposes of this Rule, personal care tasks which require a 80-hour training program are as follows:~~

- ~~(1) assist with feeding residents with swallowing difficulty;~~
- ~~(2) assist with gait training using assistive devices;~~
- ~~(3) assist with or perform range of motion exercises;~~
- ~~(4) empty and record drainage of catheter bag;~~
- ~~(5) administer enemas;~~
- ~~(6) bowel and bladder retraining to regain continence;~~
- ~~(7) test urine or fecal specimens;~~



- (8) use of physical or mechanical devices attached to or adjacent to the resident which restrict movement or access to one's own body used to restrict movement or enable or enhance functional abilities;
- (9) non sterile dressing procedures;
- (10) force and restrict fluids;
- (11) apply prescribed heat therapy;
- (12) care for non-infected pressure ulcers; and
- (13) vaginal douches.

(j) For purposes of this Rule, the interpersonal skills and behavioral interventions include, but are not limited to the following:

- (1) recognition of residents' usual patterns of responding to other people;
- (2) individualization of appropriate interpersonal interactions with residents;
- (3) interpersonal distress and behavior problems;
- (4) knowledge of and use of techniques, as alternatives to the use of restraints, to decrease residents' intrapersonal and interpersonal distress and behavior problems;
- (5) knowledge of procedures for obtaining consultation and assistance regarding safe, humane management of residents' behavioral problems.

(a) The facility shall assure that staff who provide or directly supervise staff who provide personal care to residents successfully complete an 80-hour personal care training and competency evaluation program, established by the Department. Directly supervise means being on duty in the facility to oversee or direct the performance of staff duties. Copies of the 80-hour training and competency evaluation program are available at no charge by contacting the Division of Facility Services, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708.

(b) The facility shall assure that training specified in Paragraph (a) of this Rule is successfully completed within six months after hiring for staff hired after July 1, 2003. Documentation of the successful completion of the 80-hour training and competency evaluation program shall be maintained in the facility and available for review.

(c) The Department shall exempt staff from the 80-hour training and competency evaluation program who are:

- (1) licensed health professionals;
- (2) listed on the Nurse Aide Registry; or
- (3) documented as having successfully completed a 40-45 hour or 75-80 hour training program or competency evaluation program approved by the Department since January 1, 1996.

(d) The facility shall assure that staff who perform or directly supervise staff who perform personal care receive on-the-job training and supervision as necessary for the performance of individual job assignments prior to meeting the training and competency requirements of this Rule. Documentation of the on-the-job training shall be maintained in the facility and available for review.

Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334.

10 A NCAC 13F .0502 PERSONAL CARE TRAINING

CONTENT AND INSTRUCTORS

(a) ~~The 45-hour training specified in Rule .1410 of this Section shall consist of at least 24 hours of classroom instruction, and the remaining hours shall be supervised practical experience. Competency evaluation shall be conducted in each of the following areas:~~

- (1) personal care skills;
- (2) cognitive, behavioral and social care for all residents and including interventions to reduce behavioral problems for residents with mental disabilities; and
- (3) residents' rights as established by G.S. 131D-21.

(b)(a) The 80-hour training specified in Rule .1410 .0501 of this Section shall consist of at least 34 hours of classroom instruction and at least 34 hours of supervised practical experience. Competency evaluation shall be conducted in each of the following areas:

- (1) observation and documentation;
- (2) basic nursing skills, including special health-related tasks;
- (3) personal care skills;
- (4) cognitive, behavioral and social care for all residents and, including interventions to reduce behavioral problems for residents with mental disabilities;
- (5) basic restorative services; and
- (6) residents' rights as established by G.S. 131D-21.

(c)(b) The following requirements shall apply to the 45 and 80-hour training specified in Rule .1410 .0501 of this Section:

- (1) The training shall be conducted by an individual or a team of instructors with a coordinator. The supervisor of practical experience and instructor of content having to do with personal care tasks or basic nursing skills shall be a registered nurse with a current, unencumbered license in North Carolina and with two years of clinical or direct patient care experience working in a health care, home care or long term care setting. The program coordinator and any instructor of content that does not include instruction on personal care tasks or basic nursing skills shall be a registered nurse, licensed practical nurse, physician, gerontologist, social worker, psychologist, mental health professional or other health professional with two years of work experience in adult education or in a long term care setting; or a four-year college graduate with four years of experience working in the field of aging or long term care for adults.
- (2) A trainee participating in the classroom instruction and supervised practical experience in the setting of the trainee's employment shall not be considered on duty and counted in the staff-to-resident ratio.
- (3) Training shall not be offered without a qualified instructor on site.

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- (4) Classroom instruction shall include the opportunity for demonstration and practice of skills.
- (5) Supervised practical experience shall be conducted in a licensed adult care home or in a facility or laboratory setting comparable to the work setting in which the trainee will be performing or supervising the personal care skills.
- (6) All skills shall be performed on humans except for intimate care skills, such as perineal and catheter care, which may be conducted on a mannequin.
- (7) There shall be no more than 10 trainees for each instructor for the supervised practical experience.
- (8) A written examination prepared by the instructor shall be used to evaluate the trainee's knowledge of the content portion of the classroom training. The trainee shall score at least 70 on the written examination. Oral testing shall be provided in the place of a written examination for trainees lacking reading or writing ability.
- (9) The trainee shall satisfactorily perform all of the personal care skills required in the training program, specified in Rule .1410(h) and the skills specified in Rule .1410(j) of this Section for the 45-hour training and in Rules .1410(h), (i) and (j) of this Section for the 80-hour training. The instructor shall use a skills performance checklist for this competency evaluation. ~~that includes, at least, all those skills specified in Rules .1410(h) and (j) of this Section for the 45-hour training and all those skills specified in Rules .1410(h), (i) and (j) of this Section for the 80-hour training.~~ Satisfactory performance of the personal care skills and interpersonal and behavioral intervention skills means that the trainee performed the skill unassisted; explained the procedure to the resident; explained to the instructor, prior to or after the procedure, what was being done and why it was being done in that way; and incorporated the principles of good body mechanics, medical asepsis and resident safety and privacy.
- (10) The training provider shall issue to all trainees who successfully complete the training a certificate, signed by the registered nurse who conducted the skills competency evaluation, stating that the trainee successfully completed the 45 or 80-hour training. The trainee's name shall be on the certificate. The training provider shall maintain copies of the certificates and the skills evaluation checklists for a minimum of five years.

~~(d)(c)~~ An individual, agency or organization seeking to provide the 45 or 80-hour training and competency evaluation specified in Rule .1410 .0501 of this Section shall submit the following information to the Adult Care Licensure Section of the Division

of Facility Services:—an application which is available at no charge from the Division of Facility Services, Adult Care Licensure Section, 2708 Mail Service Center Raleigh, North Carolina ~~27699-2708;~~ 27699-2708.

- ~~(1) — an application which is available at no charge by contacting the Division of Facility Services, Adult Care Licensure Section, 2708 Mail Service Center Raleigh, North Carolina 27699-2708;~~
- ~~(2) — a statement of training program philosophy;~~
- ~~(3) — a statement of training program objectives for each content area;~~
- ~~(4) — a curriculum outline with specific hours for each content area;~~
- ~~(5) — teaching methodologies, a list of texts or other instructional materials and a copy of the written exam or testing instrument with an established passing grade;~~
- ~~(6) — a list of equipment and supplies to be used in the training;~~
- ~~(7) — procedures or steps to be completed in the performance of the personal care and basic nursing skills;~~
- ~~(8) — sites for classroom and supervised practical experience, including the specific settings or rooms within each site;~~
- ~~(9) — resumes of all instructors and the program coordinator, including current RN certificate numbers as applicable;~~
- ~~(10) — policy statements that address the role of the registered nurse, instructor to trainee ratio for the supervised practical experience, retention of trainee records and attendance requirements;~~
- ~~(11) — a skills performance checklist as specified in Subparagraph (c)(9) of this Rule; and~~
- ~~(12) — a certificate of successful completion of the training program.~~

~~(e) The following requirements shall apply to the competency evaluation for purposes of exempting adult care home staff from the 45 or 80-hour training as required in Rule .1410 of this Section:~~

- ~~(1) — The competency evaluation for purposes of exempting adult care home staff from the 45 or 80-hour training shall consist of the satisfactory performance of personal care skills according to the requirement in Subparagraph (c)(9) of this Rule.~~
- ~~(2) — Any person who conducts the competency evaluation for exemption from the 45 or 80-hour training shall be a registered nurse with the same qualifications specified in Subparagraph (c)(1) of this Rule.~~
- ~~(3) — The competency evaluation shall be conducted in a licensed adult care home or in a facility or laboratory setting comparable to the work setting in which the participant will be performing or supervising the personal care skills.~~
- ~~(4) — All skills being evaluated shall be performed on humans except for intimate care skills such~~

as perineal and catheter care, which may be performed on a mannequin.

- (5) ~~The person being competency evaluated in the setting of the person's employment shall not be considered on duty and counted in the staff to resident ratio.~~
- (6) ~~An individual, agency or organization seeking to provide the competency evaluation for training exemption purposes shall complete an application available at no charge from the Division of Facility Services, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, North Carolina 27699-2708 and submit it to the Adult Care Licensure Section along with the following information:~~
  - (A) ~~resume of the person performing the competency evaluation, including the current RN certificate number;~~
  - (B) ~~a certificate, with the signature of the evaluating registered nurse and the participant's name, to be issued to the person successfully completing the competency evaluation;~~
  - (C) ~~procedures or steps to be completed in the performance of the personal care and basic nursing skills;~~
  - (D) ~~skills performance checklist as specified in Subparagraph (c)(9) of this Rule;~~
  - (E) ~~a site for the competency evaluation; and~~
  - (F) ~~a list of equipment, materials and supplies.~~

Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334; 2002-0160.

**10A NCAC 13F .0504 COMPETENCY VALIDATION FOR LICENSED HEALTH PROFESSIONAL SUPPORT TASKS**

(a) The facility shall assure that non-licensed personnel and licensed personnel not practicing in their licensed capacity as governed by their practice act and occupational licensing laws are competency validated by return demonstration for any personal care task specified in Paragraph (a)(1-28) of Rule .0903 of this Subchapter prior to staff performing the task.

(b) Competency validation shall be performed by the following licensed health professionals:

- (1) A registered nurse shall validate the competency of staff who perform personal care tasks specified in Paragraph (a)(1-28) of Rule .0903 of this Subchapter.
- (2) In lieu of a registered nurse, a registered respiratory therapist may validate the competency of staff who perform personal care tasks specified in Subparagraph (a)(6), (11), (16), (18), (19) and (21) of Rule .0903 of this Subchapter.
- (3) In lieu of a registered nurse, a registered pharmacist may validate the competency of staff who perform the personal care task

specified in Subparagraph (a)(8) of Rule .0903 of this Subchapter

- (4) In lieu of a registered nurse, an occupational therapist or physical therapist may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(22-27) of Rule .0903 of this Subchapter.

(c) Competency validation of staff, according to Paragraph (a) of this Rule, for the licensed health professional support tasks specified in Paragraph (a) of Rule .0903 of this Subchapter and the performance of these tasks is limited exclusively to these tasks.

Authority G.S. 131D-2; 143B-165; S.L. 2002-0160.

**10A NCAC 13F .0505 TRAINING ON CARE OF DIABETIC RESIDENTS**

(a) The facility shall assure that training on the care of residents with diabetes is provided to unlicensed staff prior to the administration of insulin as follows:

- (1) Training shall be provided by a registered nurse, registered pharmacist or prescribing practitioner.
- (2) Training shall include at least the following:
  - (A) basic facts about diabetes and care involved in the management of diabetes;
  - (B) insulin action;
  - (C) insulin storage;
  - (D) mixing, measuring and injection techniques for insulin administration;
  - (E) treatment and prevention of hypoglycemia and hyperglycemia, including signs and symptoms;
  - (F) blood glucose monitoring; universal precautions; and
  - (G) appropriate administration times.

Authority G.S. 131D -2; 143B-165; S.L. 2002-0160.

**10A NCAC 13F .0506 TRAINING ON PHYSICAL RESTRAINTS**

(a) The facility shall assure that all staff responsible for caring for residents with medical symptoms that warrant restraints are trained and competency validated on the use of alternatives to physical restraint use and on the care of residents who are physically restrained.

(b) Training and competency validation shall be provided by a registered nurse and shall include the following:

- (1) alternatives to physical restraints;
- (2) types of physical restraints;
- (3) medical symptoms that warrant physical restraint;
- (4) negative outcomes from using physical restraints;
- (5) correct application of physical restraints;
- (6) monitoring and caring for residents who are restrained; and
- (7) the process of reducing restraint time by using alternatives.

(c) Competency validation for correct application of restraints shall be by return demonstration.

*Authority G.S. 131D-2; 143B-165; S.L. 2002-0160.*

**10A NCAC 13F .0507 TRAINING ON CPR**

Each facility shall have at least one staff person on the premises at all times who has successfully completed within the last 24 months a course on cardio-pulmonary resuscitation and choking management, including the Heimlich maneuver, provided by the American Heart Association, the American Red Cross or a trainer with documented certification as a trainer on these procedures, unless the only staff person on site has been deemed physically incapable of performing these procedures by a licensed physician. Successfully completed means having demonstrated competency, as evaluated by the instructor, in performing cardiopulmonary resuscitation and the Heimlich maneuver.

*Authority G.S. 131D-2; 143B-165; S.L. 2002-0160.*

**10A NCAC 13F .0508 ASSESSMENT TRAINING**

The person or persons designated by the administrator to perform resident assessments as required by Rule .0801 of this Subchapter shall successfully complete training according to an instruction manual on resident assessment established by the Department before performing the required assessments. Registered nurses are exempt from the assessment training. The instruction manual on resident assessment is available on the internet website, <http://facility-services.state.nc.us/gcpage.htm>, or it may be purchased from the Division of Facility Services, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708.

*Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L.2002-0160.*

**10A NCAC 13F .0512 DOCUMENTATION OF TRAINING AND COMPETENCY VALIDATION**

The facility shall maintain documentation of the training and competency validation of staff required by the rules of this Section in the facility and available for review.

*Authority G.S. 131D-2; 143B-165; S.L. 2002-0160.*

**SECTION .0700 - ADMISSION AND DISCHARGE**

**10A NCAC 13F .0703 TUBERCULOSIS TEST AND MEDICAL EXAMINATION**

(a) Each resident shall be tested for tuberculosis disease before or upon admission to the facility in compliance with the control measures adopted by the Commission for Health Services as specified in 10A NCAC 41A .0205 including subsequent amendments and editions. Copies of the rule are available at no charge by contacting the Department of Health and Human Services, Tuberculosis Control Program, 1902 Mail Service Center, Raleigh, North Carolina 27699-1902.

(b) Each resident shall have a medical examination prior to admission to the facility and annually thereafter. The results of the complete examination are to be entered on Form FL-2 or MR-2. The examining date recorded on the FL-2 or MR-2 must be no more than 90 days prior to the person's admission or

readmission to the home. The FL-2 or MR-2 must be in the facility before admission or readmission or accompany the resident upon admission or readmission and be reviewed by the administrator or supervisor-in-charge before admission or readmission. If the information on the form is not clear or is insufficient, the administrator or supervisor-in-charge must contact the physician for clarification in order to determine if the services of the facility can meet the individual's needs. The completed Form FL-2 or MR-2 must be filed in the resident's record in the home.

(c) The administrator must make arrangements for any resident, who has been an inpatient of a psychiatric facility within 12 months before entering the home and who does not have a current plan for psychiatric care, to be examined by a local physician or a physician in a mental health center within 30 days after admission and to have a plan for psychiatric follow-up care when indicated.

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**SECTION .0800 - RESIDENT ASSESSMENT AND CARE PLAN**

**10A NCAC 13F .0801 RESIDENT ASSESSMENT**

(a) The facility shall assure that an ~~admission~~-assessment of each resident is completed as follows:

- (1) within 72 hours of admitting the resident;
- (2) within 30 days following admission of the resident;
- (3) within 10 days following a significant change in condition according to Paragraph (c) of this Rule; and
- (4) at least annually if there have been no significant changes in the resident's condition requiring assessment according to Paragraph (c) of this Rule.

(b) The facility shall assure the ~~using~~-use of an assessment instrument ~~approved~~-established by the Department or an instrument approved by the Department based on it containing at least the same information as required on the established instrument. Effective January 1, 2002, in addition to the admission assessment within 72 hours, an evaluation of each resident shall be completed within 30 calendar days from the date of admission and annually thereafter using the Resident Assessment Instrument as approved by the Department. The evaluation within 30 calendar days of admission and annually thereafter-The assessment instrument is a functional assessment to determine a resident's level of functioning to include ~~routines, preferences, needs, mood and~~ psychosocial well-being, cognitive status and physical functioning in activities of daily living. Activities of daily living are personal functions essential for the health and well-being of the resident which are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating. The ~~evaluation assessment~~ within 30 calendar days of admission and annually thereafter shall indicate if the resident requires referral to the resident's physician or other appropriate licensed health care professional or community resource.

(b)(c) The facility shall assure a ~~reassessment~~-an assessment of a resident is completed within 10 days of a significant change in the resident's condition using the assessment instrument required

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~~in Paragraph (b) of this Rule to be completed within 72 hours of resident admission prior to January 1, 2002 and the Resident Assessment Instrument thereafter.~~ For the purposes of this Subchapter, significant change in the resident's condition is defined as follows:

- (1) Significant change is one or more of the following:
  - (A) deterioration in two or more activities of daily living;
  - (B) change in ability to walk or transfer;
  - (C) change in the ability to use one's hands to grasp small objects;
  - (D) deterioration in behavior or mood to the point where daily problems arise or relationships have become problematic;
  - (E) no response by the resident to the treatment for an identified problem;
  - (F) initial onset of unplanned weight loss or gain of five percent of body weight within a 30-day period or 10 percent weight loss or gain within a six-month period;
  - (G) threat to life such as stroke, heart condition, or metastatic cancer;
  - (H) emergence of a pressure ulcer at Stage II or higher;
  - (I) a new diagnosis of a condition likely to affect the resident's physical, mental, or psychosocial well-being over a prolonged period of time such as initial diagnosis of Alzheimer's disease or diabetes;
  - (J) improved behavior, mood or functional health status to the extent that the established plan of care no longer matches what is needed;
  - (K) new onset of impaired decision-making;
  - (L) continence to incontinence or indwelling catheter; or
  - (M) the resident's condition indicates there may be a need to use a restraint and there is no current restraint order for the resident.
- (2) Significant change is not any of the following:
  - (A) changes that suggest slight upward or downward movement in the resident's status;
  - (B) short-term changes that resolve with or without intervention;
  - (C) changes that arise from easily reversible causes;
  - (D) a short-term acute illness or episodic event;
  - (E) a well-established, predictive, cyclical pattern; or
  - (F) steady improvement under the current course of care.

~~(e)(d)~~ If a resident experiences a significant change as defined in Paragraph ~~(b)~~ (c) of this Rule, the facility shall refer the

resident to the resident's physician or other appropriate licensed health professional such as a mental health professional, nurse practitioner, physician assistant or registered nurse in a timely manner consistent with the resident's condition but no longer than 10 days from the significant change, and document the referral in the resident's record.

~~(d)(e)~~ The assessment to be completed within 72 hours and the evaluation to be completed within 30 calendar days of admission and annually thereafter as required in Paragraph (a) of this Rule assessments and any reassessment as required in Paragraph (a) of this Rule and any reassessment as required in Paragraph (b) of this Rule shall be completed and signed by the administrator or a person designated by the administrator to perform resident assessments or reassessments.

~~(e)~~ The facility administrator or a person designated by the administrator to perform resident assessments and reassessments using the Resident Assessment Instrument shall successfully complete training provided by the Department on assessing residents before performing the required assessments or reassessments using the Resident Assessment Instrument as required in Paragraph (a) of this Rule. Registered nurses are exempt from the assessment training. Documentation of assessment training shall be maintained in the facility and available for review.

Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334.

**10A NCAC 13F .0802 RESIDENT CARE PLAN**

(a) The facility shall assure a care plan is developed for each resident in conjunction with the ~~initial~~ resident assessment to be completed within 30 days following admission, and revised as needed based on annual assessments and any reassessments of the resident. For the purposes of this Subchapter, The care plan is an individualized, written program of personal care for each resident.

(b) The care plan shall be revised as needed based on further assessments of the resident according to Rule .0801 of this Subchapter.

~~(b)(c)~~ The care plan shall include the following:

- (1) a statement of the care or service to be provided based on the assessment or reassessment; and
- (2) frequency of the service provision.

~~(e)(d)~~ The assessor shall sign the care plan upon its completion.

~~(d)(e)~~ The facility shall assure that the resident's physician authorizes personal care services and certifies the following by signing and dating the care plan within 15 calendar days of completion of the assessment:

- (1) the resident is under the physician's care; and
- (2) the resident has a medical diagnosis with associated physical or mental limitations that justify the personal care services specified in the care plan.

Authority G.S. 131D-2; 131D-4.3; 131D-4.5; 143B-153; 143B-165; S.L. 99-0334; S.L. 2002-0160.

**SECTION .0900 - RESIDENT CARE AND SERVICES**

**10A NCAC 13F .0902 HEALTH CARE**

(a) The administrator is responsible for providing occasional or incidental medical care, such as providing therapeutic diets, rotating positions of residents confined to bed, and applying heat pads.

(b) The resident or his responsible person shall be allowed to choose a physician to attend to him.

(c) Immediate arrangements shall be made by the administrator with the resident or his responsible person for the resident to secure another physician when he cannot remain under the care of his own physician. The name, address and telephone number of the resident's physician shall be recorded on the Resident Register.

(d) If a resident is hospitalized, a completed FL-2 or patient transfer form shall be obtained before the resident can be readmitted to the facility.

(e) Between annual medical examinations there may be a need for a physician's care. The resident's health services record is to be used by the physician to report any drugs prescribed and any treatment given or recommended for minor illnesses.

(f) All contacts (office, home or telephone) with the resident's physician shall be recorded on the resident's health services record which is to be retained in the resident's record in the home. The physician's orders shall be included in the resident's health services record including telephone orders initialed by staff and signed by the physician within 15 days from the date the order is given.

(g) Until January 1, 2001, the following restraint requirements shall apply. The use of a physical restraint refers to the application of a mechanical device to a person to limit movement for therapeutic or protective reasons, excluding siderails for safety reasons. Residents shall be physically restrained only as provided for in the Declaration of Residents' Rights, G.S. 131D-21(5), and in accordance with the following:

- (1) The use of physical restraints is allowed only with a written order from a licensed physician. If the order is obtained from a physician other than the resident's attending physician, the attending physician shall be notified of the order within seven days.
- (2) In emergency situations the administrator or supervisor-in-charge shall make the determination relative to necessity for the type and duration of the physical restraint to use until a physician is contacted. Contact shall be made within 24 hours.
- (3) The physician shall specify in the restraint order the medical need for the physical restraint, the type to be used, the period of time it is to be used, and the time intervals it is to be checked, loosened, or removed.
- (4) The current order for the physical restraint shall be on or attached to Form FL-2 or Form MR-2 (upon entering the home) or the Report of Health Services to Residents Form, or approved equivalent (for subsequent orders).
- (5) The physician ordering the physical restraint shall update the restraint order at a minimum of every six months.
- (6) If the resident's physician changes after admission to the home, the physician who is to

attend the resident shall update and sign the existing restraint order.

(h) Effective January 1, 2001, the following restraint requirements shall apply. The use of physical restraints refers to the application of a physical or mechanical device attached to or adjacent to the resident's body that the resident cannot remove easily which restricts freedom of movement or normal access to one's body and includes bed rails when used to keep the resident from voluntarily getting out of bed as opposed to enhancing mobility of the resident while in bed. Residents shall be physically restrained only in accordance with the following:

- (1) The facility shall prohibit the use of physical restraints for discipline or convenience and limit restraint use to circumstances in which the resident has medical symptoms that warrant the use of restraints. Medical symptoms may include, but are not limited to, the following: confusion with risk of falls; and risk of abusive or injurious behaviors to self or others.
- (2) Alternatives to physical restraints that would provide safety to the resident and prevent a potential for decline in the resident's functioning shall be provided prior to restraining the resident and documented in the medical record. Alternatives may include, but are not limited to, the following: providing restorative care to enhance abilities to stand safely and to walk, providing a device that monitors attempts to rise from chair or bed, placing the bed lower to the floor, providing frequent staff monitoring with periodic assistance in toileting and ambulation and offering fluids, providing activities, providing supportive devices such as wedge cushions, controlling pain and providing a calm relaxing environment with minimal noise and confusion.
- (3) If alternatives to physical restraints have failed and the resident's medical symptoms warrant the use of physical restraints, the facility shall assure that the resident is restrained with the least restrictive restraint that would provide safety.
- (4) When physical restraints are used, the facility shall engage in a systemic and gradual process towards reducing restraint time by using alternatives.
- (5) The administrator shall assure the development and implementation of written policies and procedures in the use of alternatives to physical restraints and in the care of residents who are physically restrained.
  - (A) The administrator shall consult with a registered nurse in developing policies and procedures for alternatives to physical restraints and in the care of residents who are physically restrained.
  - (B) Policies and procedures for alternatives to physical restraints and

- the use of physical restraints shall comply with requirements of this section. Orientation of these policies and procedures shall be provided to staff responsible for the care of residents who are restrained or require alternatives to restraints.
- (6) The administrator shall assure that each resident with medical symptoms that warrant the use of physical restraints is assessed and a care plan is developed. This assessment and care planning shall be completed prior to the resident being restrained; except in emergency situations. This assessment and care planning must meet any additional requirements in Section .0800 of this Subchapter.
- (A) The assessment shall include consideration of the following:
- (i) Medical symptoms that warrant the use of a physical restraint;
  - (ii) How the medical symptoms affect the resident;
  - (iii) When the medical symptoms were first observed;
  - (iv) How often the medical symptoms occur; and
  - (v) Alternatives that have been provided and the resident's response.
- (B) The care plan shall be individualized and indicate specific care to be given to the resident. The care plan shall include consideration of the following:
- (i) Alternatives and how the alternatives will be used;
  - (ii) The least restrictive type of physical restraint that would provide safety; and
  - (iii) Care to be provided to the resident during the time the resident is restrained.
- (C) The assessment and care planning shall be completed through a team process. The team must consist of, but is not limited to, the following: the supervisor or a personal care aide, a registered nurse and the resident's representative. If the resident's representative is not present, there must be documented evidence that the resident's representative was notified and declined an invitation to attend.
- (7) The resident's right to participate in his or her care and to refuse treatment includes the right to accept or refuse restraints. For the resident to make an informed choice about the use of physical restraints, negative outcomes, benefits and alternatives to restraint use shall be explained to the resident. Potential negative outcomes include incontinence, decreased range of motion, decreased ability to ambulate, increased risk of pressure ulcers, symptoms of withdrawal or depression and reduced social contact. In the case of a resident who is incapable of making a decision, the resident's representative shall exercise this right based on the same information that would have been provided to the resident. However, the resident's representative cannot give permission to use restraints for the sake of discipline or staff convenience or when the restraint is not necessary to treat the resident's medical symptoms.
- (8) The resident or the resident representative involvement in the restraint decision shall be documented in the resident's medical record. Documentation shall include the following:
- (A) The resident or the resident's representative shall sign and date a statement indicating they have been informed as required above.
  - (B) The statement shall indicate the resident's or the resident's representative's decision in restraint use, either consent for or a desire not to use restraints.
  - (C) The consent shall include the type of restraint to be used and the medical symptoms for use.
- (9) When a physical restraint is warranted and consent has been given, a physician's order shall be written. The following requirements apply to the physician's order:
- (A) The use of physical restraints is allowed only with a written order from a licensed physician. If the order is obtained from a physician other than the resident's attending physician, the attending physician shall be notified of the order within seven days.
  - (B) In emergency situations, the administrator or supervisor-in-charge shall make the determination relative to necessity for the type and duration of the physical restraint to use until a physician is contacted. Contact shall be made within 24 hours.
  - (C) The physician shall specify in the restraint order the medical need for the physical restraint, the type to be used, the period of time it is to be

- used, and the time intervals it is to be checked and removed.
- (D) The current order for the physical restraint shall be on or attached to Form FL-2 or Form MR-2 (upon entering the home) or the Report of Health Services to Residents Form, or approved equivalent (for subsequent orders).
  - (E) The physician ordering the physical restraint shall update the restraint order at a minimum of every three months.
  - (F) If the resident's physician changes after admission to the home, the physician who is to attend the resident shall update and sign the existing restraint order.
- (10) The physical restraint shall be applied correctly according to manufacture's instructions and the physician's order.
  - (11) The resident shall be checked and released from the physical restraint and care provided as stated in the care plan; at least every 15 minutes for checks and at least every 2 hours for release.
  - (12) Alternatives shall be provided in an effort to reduce restraint time.
  - (13) All instances of physical restraint use shall be documented and shall include at least the following:
    - (A) Alternatives to physical restraints that were provided and the resident's response;
    - (B) Type of physical restraint that was used;
    - (C) Medical symptoms warranting the use of the physical restraint;
    - (D) Time and duration of the physical restraint;
    - (E) Care that was provided to the resident during the restraint use; and
    - (F) Behaviors of the resident during the restraint use.
  - (14) Physical restraints shall be applied only by staff who have received training and who have been validated for competency by a registered nurse on the proper use of restraints. Training and competency validation on restraints shall occur before staff members apply restraints. Competency validation of restraint use by a registered nurse shall be completed annually. This Rule is consistent with the requirements in Rules .0501 and .0903 of this Subchapter.
  - ~~(15) The administrator shall assure that training in the use of alternatives to physical restraints and in the care of residents who are physically restrained is provided to all staff responsible for caring for residents with medical symptoms that warrant restraints. Training~~

shall be provided by a registered nurse and shall include the following:

- ~~(A) Alternatives to physical restraints;~~
- ~~(B) Types of physical restraints;~~
- ~~(C) Medical symptoms that warrant physical restraints;~~
- ~~(D) Negative outcomes from using physical restraints;~~
- ~~(E) Correct application of physical restraints;~~
- ~~(F) Monitoring and caring for residents who are restrained; and~~
- ~~(G) Process of reducing restraint time by using alternatives.~~

- (i) The administrator shall have specific written instructions recorded as to what to do in case of sudden illness, accident, or death of a resident.
- (j) There shall be an adequate supply of first aid supplies available in the home for immediate use.
- (k) The administrator shall make arrangements with the resident, his responsible person, the county department of social services or other appropriate party for appropriate health care as needed to enable the resident to be in the best possible health condition.

Authority G.S. 131D-2; 143B-165; S.L. 99-0334; 2002-0160.

**10A NCAC 13F .0903 LICENSED HEALTH PROFESSIONAL SUPPORT**

(a) The facility shall assure that an appropriate licensed health professional ~~a registered nurse, licensed under G.S. 90, Article 9A,~~ participates in the on-site review and evaluation of the residents' health status, care plan and care provided for residents requiring, but not limited to, one or more of the following personal care tasks: ~~The review and evaluation shall be completed within the first 30 days of admission or within 30 days from the date a resident develops the need for the task and at least quarterly thereafter.~~

- (1) applying and removing ace bandages, ted hose, ~~and binders, and braces and splints;~~
- (2) feeding techniques for residents with swallowing problems;
- (3) bowel or bladder training programs to regain continence;
- (4) enemas, suppositories and vaginal douches;
- (5) positioning and emptying of the urinary catheter bag and cleaning around the urinary catheter;
- (6) chest physiotherapy or postural drainage;
- (7) clean dressing changes, excluding packing wounds and application of prescribed enzymatic debriding agents;
- (8) collecting and testing of fingerstick blood samples;
- (9) care of well-established colostomy or ileostomy (having a healed surgical site without sutures or drainage);
- (10) care for pressure ulcers up to and including a Stage II pressure ulcer which is a superficial ulcer presenting as an abrasion, blister or shallow crater;



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- (11) inhalation medication by machine;
- (12) ~~forcing and restricting fluids;~~
- ~~(12)(13) maintaining accurate intake and output data;~~
- ~~(13)(14) medication administration through a well-established gastrostomy feeding tube (having a healed surgical site without sutures or drainage and through which a feeding regimen has been successfully established);~~
- ~~(14)(15) medication administration through injection;~~  
Note: Unlicensed staff may only administer subcutaneous injections as stated in Rule .1004(q) of this Subchapter;
- ~~(15)(16) oxygen administration and monitoring;~~
- ~~(16)(17) the care of residents who are physically restrained and the use of care practices as alternatives to restraints;~~
- ~~(17)(18) oral suctioning;~~
- ~~(18)(19) care of well-established tracheostomy, not to include indo-tracheal suctioning; or~~
- ~~(19)(20) administering and monitoring of gastrostomy-tube feedings through a well-established gastrostomy tube (see description in Subparagraph (14) of this Rule);~~
- ~~(21) the monitoring of continuous positive air pressure devices (CPAP and BIPAP);~~
- ~~(22) application of prescribed heat therapy;~~
- ~~(23) application and removal of prosthetic devices except as used in early post-operative treatment for shaping of the extremity;~~
- ~~(24) ambulation using assistive devices that requires physical assistance;~~
- ~~(25) range of motion exercises;~~
- ~~(26) any other prescribed physical or occupational therapy;~~
- ~~(27) transferring semi-ambulatory or non-ambulatory residents; or~~
- ~~(28) tasks performed by a nurse aide II according to the scope of practice as established in the Nursing Practice Act and rules promulgated under that act in 21 NCAC 36.~~

(b) The appropriate licensed health professional, as required in Paragraph (a) of this Rule, is:

- (1) a registered nurse licensed under G.S. 90, Article 9A, for tasks listed in Subparagraphs (a)(1)-(28) of this Rule;
- (2) and an occupational therapist licensed under G.S. 90, Article 18D or physical therapist licensed under G.S. 90-270.24, Article 18B for tasks listed in Subparagraphs (a)(22) to (27) of this Rule; or
- (3) a registered nurse licensed under G.S. 90, Article 9A, for tasks that can be performed by a nurse aide II according to the scope of practice as established in the Nursing Practice Act and rules promulgated under that act in 21 NCAC 36.

~~(b) The facility shall assure that a registered nurse, occupational therapist licensed under G.S. 90, Article 18D or physical therapist licensed under G.S. 90-270.24, Article 18B, participates in the on-site review and evaluation of the residents' health status, care plan and care provided within the time frames~~

~~specified in Paragraph (a) of this Rule for those residents who require one or more of the following personal care tasks:~~

- ~~(1) application of prescribed heat therapy;~~
- ~~(2) application and removal of prosthetic devices except as used in early post-operative treatment for shaping of the extremity;~~
- ~~(3) ambulation using assistive devices;~~
- ~~(4) range of motion exercises;~~
- ~~(5) any other prescribed physical or occupational therapy; or~~
- ~~(6) transferring semi-ambulatory or non-ambulatory residents.~~

~~(c) The facility shall not provide care to residents with conditions or care needs as stated in G.S. 131D 2(a1).~~

~~(d)(c) The facility shall assure that participation by a registered nurse, occupational therapist or physical therapist in the on-site review and evaluation of the residents' health status, care plan and care provided, as required in Paragraph (a) of this Rule, is completed within the first 15 days of admission or within 15 days from the date a resident develops the need for the task and at least quarterly thereafter, and includes the following:~~

- ~~(1) assuring that licensed practical nurses and non-licensed personnel providing care and performing the tasks are competency validated according to Paragraph (e) of this Rule;~~
- (1) performing a physical assessment of the residents as related to their diagnosis and their the resident's diagnosis and or current condition requiring one or more of the tasks specified in Paragraph (a) of this Rule;
- (2) evaluating the resident's progress to care being provided;
- (3) recommending changes in the care of the resident as needed based on the physical assessment and evaluation of the progress of the resident; and
- (4) documenting the activities in Subparagraphs (1) through (3) of this Paragraph.

~~(d) The facility shall assure action is taken in response to the licensed health professional review and documented, and that the physician or appropriate health professional is informed of the recommendations when necessary.~~

~~(e) The facility shall assure that licensed practical nurses and non-licensed personnel are trained and competency validated for personal care tasks specified in Paragraphs (a) and (b) of this Rule. Competency validation shall be completed prior to staff performing the personal care task and documentation shall be in the facility and readily available.~~

~~(f) Staff shall be competency validated by the following health professionals:~~

- ~~(1) A registered nurse shall validate the competency of staff who perform personal care tasks specified in Paragraph (a) of this Rule. In lieu of a registered nurse, a registered respiratory therapist may validate the competency of staff who perform personal care tasks (6), (11), (15), (17), (18), and specified in Paragraph (a) of this Rule. In lieu of a registered nurse, a registered pharmacist may validate the competency of staff who~~

~~perform personal care task (8) specified in Paragraph (a) of this Rule.~~

- ~~(2) A registered nurse, occupational therapist or physical therapist shall validate the competency of staff who perform personal care tasks specified in Paragraph (b)(1-6) of this Rule.~~

~~(g) The facility shall assure that training on the care of residents with diabetes is provided to unlicensed staff prior to the administration of insulin as follows and documented:~~

- ~~(1) Training shall be provided by a registered nurse, registered pharmacist.~~
- ~~(2) Training shall include at least the following:~~
  - ~~(A) basic facts about diabetes and care involved in the management of diabetes;~~
  - ~~(B) insulin action;~~
  - ~~(C) insulin storage;~~
  - ~~(D) mixing, measuring and injection techniques for insulin administration;~~
  - ~~(E) treatment and prevention of hypoglycemia and hyperglycemia, including signs and symptoms;~~
  - ~~(F) blood glucose monitoring; and~~
  - ~~(G) universal precautions; and~~
  - ~~(H) appropriate administration times.~~

~~(h) The facility shall assure that staff who perform personal care tasks listed in Paragraphs (a) and (b) of this Rule are at least annually observed providing care to residents by a licensed registered nurse or other appropriate licensed health professional, as specified in Paragraph (d) of this Rule, who is employed by the facility or under contract or agreement, individually or through an agency, with the facility. Annual competency validation shall be documented and readily available for review.~~

*Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334; 2002-0160.*

**SECTION .1200 - POLICIES, RECORDS AND REPORTS**

**10A NCAC 13F .1204 POPULATION REPORT**

~~The administrator or supervisor in charge shall submit by January 31 of each year an annual population report for the previous calendar year to the county department of social services. If the home closes during the year, the administrator or supervisor in charge shall report for the previous calendar year to date of closing.~~

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**10A NCAC 13F .1210 WRITTEN POLICIES AND PROCEDURES**

~~The facility shall ensure the development, implementation and availability of written policies and procedures that comply with applicable rules of this Subchapter, on the following:~~

- ~~(1) admission and discharge;~~
- ~~(2) ordering, receiving, storage, discontinuation, disposition and administration of medications, including self-administration, in consultation with a licensed health professional who is~~

authorized to dispense or administer medications;

- (3) performance of any applicable licensed health professional support tasks listed in Rule .0903 of this Subchapter, in consultation with the appropriate licensed health professional according to Rule .0903 of this Subchapter;
- (4) use of alternatives to physical restraints and the care of residents who are physically restrained, in consultation with a registered nurse;
- (5) accident, fire safety, disaster and emergency procedures, including administration of cardiopulmonary resuscitation except to residents with physician orders for no resuscitation or no CPR;
- (6) infection control;
- (7) refunds and settlement of cost of care;
- (8) handling of resident funds;
- (9) death of resident;
- (10) missing resident;
- (11) reporting of accident or incident resulting in injury to resident;
- (12) supervision of wandering residents;
- (13) management of physical aggression or assault by a resident;
- (14) handling of resident grievances;
- (15) visitation in the facility by guests;
- (16) smoking and alcohol use;
- (17) temporary leave of residents from the facility;
- (18) holding a resident's bed if the resident leaves with the intent of returning to the facility;
- (19) pets or companion animals;
- (20) resident's use of own furniture and personal belongings;
- (21) transportation; and
- (22) confidentiality of resident information.

*Authority 131D -2; 143B-165; S.L. 2002-0160.*

**SUBCHAPTER 13G - LICENSING OF FAMILY CARE HOMES**

**SECTION .0200 - LICENSING**

**10A NCAC 13G .0204 APPLICATION TO LICENSE AN EXISTING BUILDING**

(a) An application for a license to operate a family care home for adults in an existing building where no alterations are necessary shall be made at the county department of social services.

~~(b) A designated social worker will discuss the county's need for homes, the applicant's interest, qualifications, and plan of operation, and make a study of the administrator and home.~~

~~(e)(b)~~ The following forms and reports shall be submitted through the county department of social services to the state Division of Facility Services:

- (1) the Initial License Application;
- (2) Form DSS-1861 (Recommendation for License);

- ~~(3)~~ Form DSS 1864 (Request for Medical Information);
- ~~(4)(2)~~ a photograph of each side of ~~an~~the existing structure and one set of schematic floor plans or blueprints of the building showing the floor plan; type of construction; location, size and height of windows; location and type of heating system; the use of basement and attic; location of doors and closets; and other requested details;
- ~~(5)(3)~~ Form DSS 6191 or DSS 1451 (the Fire and Building Safety Inspection Report) to be submitted with completion of construction or renovation; and
- ~~(6)(4)~~ Form DHS-2094 (the Sanitation Report) or a permit to begin operation from the sanitary division of the county health department.

~~(4)(c)~~ If during the study of the administrator and the home it does not appear that qualifications of the administrator or requirements for the home can be met, the county department of social services ~~will~~shall so inform the applicant, indicating in writing the reason, and give the applicant an opportunity to withdraw the application. Upon the applicant's request, the application ~~will~~shall be completed and submitted to the Division of Facility Services for consideration.

~~(e)(d)~~ The Division of Facility Services ~~will~~shall notify the applicant and the county department of social services of approval or disapproval of the materials outlined in Subparagraph (c)(4) of this Rule and of any required changes.

~~(f)(e)~~ Following review of application, references and all forms, a pre-licensing visit ~~will~~shall be made by a consultant of the ~~state~~ Division of Facility Services.

~~(g)(f)~~ The consultant ~~will~~shall report his findings and recommendations to the Division of Facility Services which shall promptly notify, in writing, the applicant and the county department of social services of the action taken.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.

**10A NCAC 13G .0205 APPLICATION TO LICENSE A NEWLY CONSTRUCTED OR RENOVATED BUILDING**

- (a) An application for a license to operate a home which is to be constructed, added to or renovated must be made at the county department of social services where the home is to be located.
- (b) For information on the forms and reports to be submitted by the county department of social services to the Division of Facility Services, see Rule ~~3301~~0204(e) ~~0204~~(b) of this Subchapter. All of these forms and reports apply to a home which is to be constructed, added to or renovated, including one set of schematic floor plans or blueprints, and photographs of each side of the building for renovations or additions.
- (c) If ~~during the study of the administrator and the home~~ it does not appear that ~~qualifications of the administrator or the licensure~~ requirements for the home can be met, the county department of social services will so inform the applicant, indicating in writing the reason, and give the applicant an opportunity to withdraw the application. Upon the applicant's request, the application will be completed and submitted to the Division of Facility Services for consideration.
- (d) Upon receipt of copies of approval letters from the Department of Insurance and the Division of Environmental

Health in the North Carolina Department of Environment, ~~Health~~, and Natural Resources, indicating the applicant's plans are in full compliance with the applicable requirements of the North Carolina State Building Code and the ~~sanitary-sanitation~~ requirements of the Division of Environmental Health, the Division of Facility Services will make the final determination as to whether the rules of this Subchapter have been met and, if so, will give written approval and authorization to begin construction.

(e) Any changes made during construction shall require the approval of the Division of Facility Services to assure that licensing requirements are maintained.

(f) A pre-licensing visit and subsequent recommendation will be made by a program consultant, and in some cases a construction consultant, of the Division of Facility Services, in conjunction with the adult homes specialist of the county department of social services.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.

**10A NCAC 13G .0207 CHANGE OF LICENSEE**

When a ~~currently licensed administrator-licensee~~ wishes to sell or lease the home to another, the following procedure is required:

- (1) The ~~administrator must~~licensee shall notify the county department of social services that a change is desired. When there is a plan for a change of ~~administrator-licensee~~ and another person applies to operate the home immediately, the ~~administrator must~~licensee shall notify the county department and the residents or their responsible persons. It is the responsibility of the county department to talk with the residents, giving them the opportunity to make other plans if they so desire.
- ~~(2) The applicant must meet the qualifications for administrator as specified in Rule .2001 of this Subchapter.~~
- ~~(3)(2)~~ The county department of social services will submit all forms and reports specified in Rule ~~3301~~0204(c) of this Subchapter, with the exception of Subparagraph (2), to the Division of Facility Services.
- ~~(4)(3)~~ The Division of Facility Services will review the records of the facility and, if necessary, visit the home.
- ~~(5)(4)~~ The ~~administrator-licensee~~ and prospective ~~applicant-licensee~~ will be advised by the Division of Facility Services of any changes which must be made to the building before licensing to a new licensee can be recommended.
- ~~(6)(5)~~ Frame or brick veneer buildings over one story in height with resident services and accommodations on the second floor will not be considered for re-licensure.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.

**10A NCAC 13G .0211 CLOSING OF HOME**

(a) When there is a planned change of ~~administrator~~ the licensee and the home is to continue operating without interruption, the ~~administrator~~ licensee must shall notify the county department of social services and the residents or their responsible persons. It is the responsibility of the county department of social services to discuss the change with the residents and offer assistance to any residents who wish to leave the home.

(b) If the ~~home~~ the licensee plans to terminate ~~it's~~ the license, the ~~administrator~~ licensee must shall provide at least 30 days prior notice to the county department of social services and the residents or their responsible persons.

(c) If the home's license is revoked or terminated, the county department of social services ~~will~~ shall notify the residents and provide them with assistance in moving to licensed homes or other living arrangements.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.

**SECTION .0300 - THE BUILDING**

**10A NCAC 13G .0302 CONSTRUCTION**

(a) The home ~~must~~ shall meet applicable requirements of ~~Volume I and IB~~ of the North Carolina State Building Code in force at the time of initial licensure.

(b) The home ~~must~~ shall be one story in height, or two stories in height and meet the following requirements:

- (1) Each floor ~~must~~ shall be less than 1800 square feet in area;
- (2) Aged or disabled persons are not to be housed on the second floor;
- (3) Required resident facilities are not to be located on the second floor;
- (4) A complete fire alarm system with pull stations on each floor and sounding devices which are audible throughout the building ~~must~~ shall be provided. The fire alarm system ~~must~~ shall be able to transmit an automatic signal to the local fire department where possible; and
- (5) Interconnected U.L. approved products of combustion detectors directly wired to the house current ~~must~~ shall be installed on each floor.

(c) The basement is not to be used for residents' storage or sleeping.

(d) The attic is not to be used for storage or sleeping.

(e) The ceiling ~~must~~ shall be at least seven and one-half feet from the floor.

(f) In facilities licensed on or after April 1, 1984, all required resident areas ~~must~~ shall be on the same floor level. Steps between levels will not be permitted.

(g) The door width ~~must~~ shall be a minimum of two feet and six inches in the kitchen, dining room, living rooms, bedrooms and bathrooms.

(h) The building ~~must~~ shall meet sanitary requirements as determined by the North Carolina Department of Environment, ~~Health,~~ and Natural Resources; Division of Environmental ~~Health Services.~~ Health.

(i) All windows ~~must~~ shall be maintained operable.

(j) The home shall have current sanitation and fire and building safety inspection reports which shall be maintained in the home and available for review.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.

**SECTION .0400 - STAFF QUALIFICATIONS**

**10A NCAC 13G .0405 TEST FOR TUBERCULOSIS**

~~(a) The administrator shall be tested for tuberculosis disease within 90 days before employment and annually thereafter. There shall be documentation on file in the home that the administrator is free of tuberculosis disease that poses a direct threat to the health or safety of others.~~

~~(b)(a) All other staff and any live-in non-residents shall be tested for tuberculosis disease within 90 days before or seven days after employment or living in the home, and annually thereafter, prior to or upon employment or living in the facility in compliance with control measures adopted by the Commission for Health Services as specified in 15A NCAC 19A .0205 10A NCAC 41A .0205 including subsequent amendments and editions. Copies of the rule are available at no charge by contacting the Department of Health and Human Services, Tuberculosis Control Program, 1902 Mail Service Center, Raleigh, NC 27699-1902. There shall be documentation on file in the home that each person is free of tuberculosis disease that poses a direct threat to the health or safety of others.~~

(b) Only licensed nurses shall administer and read tuberculin skin tests.

(c) There shall be documentation on file in the home that each person is free of tuberculosis disease that poses a direct threat to the health or safety of others.

~~(c) Tests for tuberculosis disease shall comply with the control measures adopted by the Commission for Health Services as specified in 15A NCAC 19A .0205 including subsequent amendments and editions. Copies of the rule are available at no charge by contacting the Department of Environment, Health, and Natural Resources Tuberculosis Control Branch, Post Office Box 27687, Raleigh, North Carolina 27611-7687.~~

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.

**10A NCAC 13G .0406 OTHER STAFF REQUIREMENTS**

(a) In addition to the ~~personnel~~ staff requirements set forth in Rules .0401, .0402, and .0404 of this Subchapter, additional competent staff shall be employed, as needed, to assure good housekeeping, supervision and personal care of the residents.

(b) In homes where there are minor children, aged or infirm relatives of the administrator or other management staff residing, the number of extra staff shall be determined by the capacity for which the home is licensed plus the minors and relatives who require care and supervision.

(c) The Division of Facility Services shall make the final determination of the need for additional staff, based on the home's licensed capacity; the number of live-in minors and relatives requiring care; the condition, needs and ambulation capacity of the residents; and the layout of the building.

(d) Each staff member shall have a well-defined job description that reflects actual duties and responsibilities, signed by the administrator and the employee.

(e) Each staff member shall be able to apply all of the home's accident, fire safety and emergency procedures for the protection of the residents.

(f) Each staff member authorized by the administrator to have access to confidential resident information shall be informed of the confidential nature of the information and shall protect and preserve such information from unauthorized use and disclosure. G.S. 131D-2(b)(4), G.S. 131D-21(6), and G.S. 131D-21.1 govern the disclosure of such information.

(g) Each staff member shall encourage and assist the residents in the exercise of the rights guaranteed under the Adult Care Home Residents' Bill of Rights. No staff member shall hinder or interfere with the proper performance of duty of a lawfully appointed Adult Care Home Community Advisory Committee.

(h) Each staff member left alone with the residents shall be 18 years or older.

~~(i) By January 1, 2001, each facility shall have at least one staff person on the premises at all times who has successfully completed within the last 24 months a course on cardiopulmonary resuscitation (CPR) and choking management, including Heimlich maneuver, provided by the American Heart Association, the American Red Cross or a trainer with documented certification as a trainer in these procedures unless the only staff person on-site has been deemed physically incapable of performing these procedures by a licensed physician. For the purpose of this Rule, successfully completed means demonstrating competency, as evaluated by the instructor, in performing the Heimlich maneuver and cardiopulmonary resuscitation. Documentation of successful completion of the course shall be on file and available for review in the facility. The facility shall not have a policy prohibiting staff from administering CPR to residents except those residents with physician orders for no resuscitation or no CPR.~~

~~(j)(i)~~ Staff who transport residents shall maintain a valid driver's license.

~~(k)(j)~~ If licensed practical nurses are employed by the facility, there shall be continuous availability of a registered nurse consistent with Rules 21 NCAC 36 .0224(I) and 21 NCAC 36 .0225.

Note: The practice of licensed practical nurses is governed by their occupational licensing laws.

*Authority G.S. 131D-2; 131D-4.5; 143B-153; 143B-165; S.L. 1999-0334; 2002-0160.*

**SECTION .0500 - STAFF ORIENTATION, TRAINING, COMPETENCY AND CONTINUING EDUCATION**

**10A NCAC 13G .0504 COMPETENCY VALIDATION FOR LICENSED HEALTH PROFESSIONAL SUPPORT TASKS**

(a) The facility shall assure that non-licensed personnel and licensed personnel not practicing in their licensed capacity as governed by their practice act and occupational licensing laws are competency validated by return demonstration for any personal care task specified in Paragraph (a)(1-28) of Rule .0903 of this Subchapter prior to staff performing the task.

(b) Competency validation shall be performed by the following licensed health professionals:

- (1) A registered nurse shall validate the competency of staff who perform personal

care tasks specified in Paragraphs (a)(1-28) of Rule .0903 of this Subchapter.

- (2) In lieu of a registered nurse, a registered respiratory therapist may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(6), (11), (16), (18), (19) and (21) of Rule .0903 of this Subchapter.

- (3) In lieu of a registered nurse, a registered pharmacist may validate the competency of staff who perform the personal care task specified in Subparagraph (a) (8) of Rule .0903 of this Subchapter.

- (4) In lieu of a registered nurse, an occupational therapist or physical therapist may validate the competency of staff who perform personal care tasks specified in Paragraphs (a)(22-27) of Rule .0903 of this Subchapter.

(c) Competency validation of staff, according to Paragraph (a) of this Rule, for the licensed health professional support tasks specified in Paragraph (a) of Rule .0903 of this Subchapter and the performance of these tasks is limited exclusively to these tasks.

*Authority G.S. 131D-2; 143B-165; S.L. 2002-0160.*

**10A NCAC 13G .0505 TRAINING ON CARE OF DIABETIC RESIDENTS**

(a) The facility shall assure that training on the care of residents with diabetes is provided to unlicensed staff prior to the administration of insulin as follows:

- (1) Training shall be provided by a registered nurse, registered pharmacist or prescribing practitioner.
- (2) Training shall include at least the following:
  - (A) basic facts about diabetes and care involved in the management of diabetes;
  - (B) insulin action;
  - (C) insulin storage;
  - (D) mixing, measuring and injection techniques for insulin administration;
  - (E) treatment and prevention of hypoglycemia and hyperglycemia, including signs and symptoms;
  - (F) blood glucose monitoring;
  - (G) universal precautions; and
  - (H) appropriate administration times.

*Authority G.S. 131D -2; 143B-165; S.L. 2002-0160.*

**10A NCAC 13G .0506 TRAINING ON PHYSICAL RESTRAINTS**

(a) The facility shall assure that all staff responsible for caring for residents with medical symptoms that warrant restraints are trained and competency validated on the use of alternatives to physical restraint use and on the care of residents who are physically restrained.

(b) Training and competency validation shall be provided by a registered nurse and shall include the following:

- (1) alternatives to physical restraints;

- (2) types of physical restraints;
- (3) medical symptoms that warrant physical restraint;
- (4) negative outcomes from using physical restraints;
- (5) correct application of physical restraints;
- (6) monitoring and caring for residents who are restrained; and
- (7) the process of reducing restraint time by using alternatives.

(c) Competency validation for correct application of restraints shall be by return demonstration.

Authority G.S. 131D-2; 143B-165; S.L. 2002-0160.

**10A NCAC 13G .0507 TRAINING ON CPR**

Each facility shall have at least one staff person on the premises at all times who has successfully completed within the last 24 months a course on cardio-pulmonary resuscitation and choking management, including the Heimlich maneuver, provided by the American Heart Association, the American Red Cross or a trainer with documented certification as a trainer on these procedures, unless the only staff person on site has been deemed physically incapable of performing these procedures by a licensed physician. Successfully completed means having demonstrated competency, as evaluated by the instructor, in performing cardiopulmonary resuscitation and the Heimlich maneuver.

Authority G.S. 131D-2; 143B-165; S.L. 2002-0160.

**10A NCAC 13G .0508 ASSESSMENT TRAINING**

The person or persons designated by the administrator to perform resident assessments as required by Rule .0801 of this Subchapter shall successfully complete training according to an instruction manual on resident assessment established by the Department before performing the required assessments. Registered nurses are exempt from the assessment training. The instruction manual on resident assessment is available on the internet website, <http://facility-services.state.nc.us/gcpage.htm>, or it may be purchased from the Division of Facility Services, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708.

Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L.2002-0160.

**10A NCAC 13G .0512 DOCUMENTATION OF TRAINING AND COMPETENCY VALIDATION**

The facility shall maintain documentation of the training and competency validation of staff required by the rules of this Section in the facility and available for review.

Authority G.S. 131D-2; 143B-165; S.L. 2002-0160.

**SECTION .0700 - ADMISSION AND DISCHARGE**

**10A NCAC 13G .0702 TUBERCULOSIS TEST AND MEDICAL EXAMINATION**

(a) Each resident shall have a medical examination and be tested for tuberculosis disease before or upon admission to the home and annually thereafter. Tests for tuberculosis disease

~~shall comply in compliance~~ with the control measures adopted by the Commission for Health Services as specified in 15A NCAC 19A .0205 including subsequent amendments and editions. Copies of the rule are available at no charge by contacting the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services, Tuberculosis Control Branch Program, 1902 Mail Service Center, Post Office Box 27687, Raleigh, North Carolina 27611-7687 27699-1902.

(b) Each resident shall have a medical examination prior to admission to the home and annually thereafter. The results of the complete examination are to be entered on Form FL-2 or MR-2. The examining date recorded on the FL-2 or MR-2 must be no more than 90 days prior to the person's admission or readmission to the home. The FL-2 or MR-2 must be in the facility before admission or readmission or accompany the resident upon admission or readmission and be reviewed by the administrator or supervisor-in-charge before admission or readmission. If the information on the form is not clear or is insufficient, the administrator or supervisor-in-charge must contact the physician for clarification in order to determine if the services of the facility can meet the individual's needs. The completed Form FL-2 or MR-2 must be filed in the resident's record in the home.

(c) The administrator must make arrangements for any resident, who has been an inpatient of a psychiatric facility within 12 months before entering the home and who does not have a current plan for psychiatric care, to be examined by a local physician or a physician in a mental health center within 30 days after admission and to have a plan for psychiatric follow-up care when ~~indicated~~ indicated, using Form DSS 1867 or an equivalent record.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.

**SECTION .0800 - RESIDENT ASSESSMENT AND CARE PLAN**

**10A NCAC 13G .0801 RESIDENT ASSESSMENT**

(a) The facility shall assure that an ~~admission~~-assessment of each resident is completed as follows:

- (1) within 72 hours of admitting the resident;
- (2) within 30 days following admission of the resident;
- (3) within 10 days following a significant change in condition according to Paragraph (c) of this Rule; and
- (4) at least annually if there have been no significant changes in the resident's condition requiring assessment according to Paragraph (c) of this Rule.

(b) The facility shall assure the ~~using~~ use of an assessment instrument ~~approved~~ established by the Department or an instrument approved by the Department based on it containing at least the same information as required on the established instrument. Effective January 1, 2002, in addition to the admission assessment within 72 hours, an evaluation of each resident shall be completed within 30 calendar days from the date of admission and annually thereafter using the Resident Assessment Instrument as approved by the Department. The evaluation within 30 calendar days of admission and annually thereafter. The assessment instrument is a functional assessment

to determine a resident's level of functioning to include  ~~routines, preferences, needs, mood and~~ psychosocial well-being, cognitive status and physical functioning in activities of daily living. Activities of daily living are personal functions essential for the health and well-being of the resident which are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating. The  ~~evaluation assessment within 30 calendar days of admission and annually thereafter~~ shall indicate if the resident requires referral to the resident's physician or other appropriate licensed health care professional or community resource.

~~(b)(c)~~ The facility shall assure  ~~a reassessment an assessment~~ of a resident is completed within 10 days of a significant change in the resident's condition using the assessment instrument required in Paragraph (b) of this Rule  ~~to be completed within 72 hours of resident admission prior to January 1, 2002 and the Resident Assessment Instrument thereafter.~~ For the purposes of this Subchapter, significant change in the resident's condition is defined as follows:

- (1) Significant change is one or more of the following:
  - (A) deterioration in two or more activities of daily living;
  - (B) change in ability to walk or transfer;
  - (C) change in the ability to use one's hands to grasp small objects;
  - (D) deterioration in behavior or mood to the point where daily problems arise or relationships have become problematic;
  - (E) no response by the resident to the treatment for an identified problem;
  - (F) initial onset of unplanned weight loss or gain of five percent of body weight within a 30-day period or 10 percent weight loss or gain within a six-month period;
  - (G) threat to life such as stroke, heart condition, or metastatic cancer;
  - (H) emergence of a pressure ulcer at Stage II or higher;
  - (I) a new diagnosis of a condition likely to affect the resident's physical, mental, or psychosocial well-being over a prolonged period of time such as initial diagnosis of Alzheimer's disease or diabetes;
  - (J) improved behavior, mood or functional health status to the extent that the established plan of care no longer matches what is needed;
  - (K) new onset of impaired decision-making;
  - (L) continence to incontinence or indwelling catheter; or
  - (M) the resident's condition indicates there may be a need to use a restraint and there is no current restraint order for the resident.
- (2) Significant change is not any of the following:

- (A) changes that suggest slight upward or downward movement in the resident's status;
- (B) short-term changes that resolve with or without intervention;
- (C) changes that arise from easily reversible causes;
- (D) a short-term acute illness or episodic event;
- (E) a well-established, predictive, cyclical pattern; or
- (F) steady improvement under the current course of care.

~~(e)(d)~~ If a resident experiences a significant change as defined in Paragraph ~~(b)~~ (c) of this Rule, the facility shall refer the resident to the resident's physician or other appropriate licensed health professional such as a mental health professional, nurse practitioner, physician assistant or registered nurse in a timely manner consistent with the resident's condition but no longer than 10 days from the significant change, and document the referral in the resident's record.

~~(d)(e)~~ The  ~~assessment to be completed within 72 hours and the evaluation to be completed within 30 calendar days of admission and annually thereafter as required in Paragraph (a) of this Rule assessments and any reassessment as required in Paragraph (a) of this Rule and any reassessment as required in Paragraph (b) of this Rule~~ shall be completed and signed by the  ~~administrator or a person designated by the administrator to perform resident assessments. or reassessments.~~

~~(e)~~ The facility  ~~administrator or a person designated by the administrator to perform resident assessments and reassessments using the Resident Assessment Instrument shall successfully complete training provided by the Department on assessing residents before performing the required assessments or reassessments, using the Resident Assessment Instrument as required in Paragraph (a) of this Rule. Registered nurses are exempt from the assessment training. Documentation of assessment training shall be maintained in the facility and available for review.~~

Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334.

**10A NCAC 13G .0802 RESIDENT CARE PLAN**

(a) The facility shall assure a care plan is developed for each resident in conjunction with the  ~~initial~~ resident assessment to be completed within 30 days following admission, and revised as needed based on annual assessments and any reassessments of the resident. For the purposes of this Subchapter, The care plan is an individualized, written program of personal care for each resident.

(b) The care plan shall be revised as needed based on further assessments of the resident according to Rule .0801 of this Subchapter.

~~(b)(c)~~ The care plan shall include the following:

- (1) a statement of the care or service to be provided based on the assessment or reassessment; and
- (2) frequency of the service provision.

~~(e)(d)~~ The assessor shall sign the care plan upon its completion.

~~(d)(e)~~ The facility shall assure that the resident's physician authorizes personal care services and certifies the following by

signing and dating the care plan within 15 calendar days of completion of the assessment:

- (1) the resident is under the physician's care; and
- (2) the resident has a medical diagnosis with associated physical or mental limitations that justify the personal care services specified in the care plan.

*Authority G.S. 131D-2; 131D-4.3; 131D-4.5; 143B-153; 143B-165; S.L. 99-0334; S.L. 2002-0160;*

**SECTION .0900 - RESIDENT CARE AND SERVICES**

**10A NCAC 13G .0902 HEALTH CARE**

(a) The administrator is responsible for providing occasional or incidental medical care, such as providing therapeutic diets, rotating positions of residents confined to bed, and applying heat pads.

(b) The resident or his responsible person shall be allowed to choose a physician to attend to him.

(c) Immediate arrangements shall be made by the administrator with the resident or his responsible person for the resident to secure another physician when he cannot remain under the care of his own physician. The name, address and telephone number of the resident's physician shall be recorded on the Resident Register.

(d) If a resident is hospitalized, a completed HL-2 or patient transfer form shall be obtained before the resident can be readmitted to the facility.

(e) Between annual medical examinations there may be a need for a physician's care. The resident's health services record is to be used by the physician to report any drugs prescribed and any treatment given or recommended for minor illnesses.

(f) All contacts (office, home or telephone) with the resident's physician shall be recorded on the resident's health services record which is to be retained in the resident's record in the home. The physician's orders shall be included in the resident's health services record including telephone orders initiated by staff and signed by the physician within 15 days from the date the order is given.

(g) Until January 1, 2001, the following restraint requirements shall apply. The use of a physical restraint refers to the application of a mechanical device to a person to limit movement for therapeutic or protective reasons, excluding siderails for safety reasons. Residents shall be physically restrained only as provided for in the Declaration of Residents' Rights, G.S. 131D-21(5), and in accordance with the following:

- (1) The use of physical restraints is allowed only with a written order from a licensed physician. If the order is obtained from a physician other than the resident's attending physician, the attending physician shall be notified of the order within seven days.
- (2) In emergency situations the administrator or supervisor-in-charge shall make the determination relative to necessity for the type and duration of the physical restraint to use until a physician is contacted. Contact shall be made within 24 hours.
- (3) The physician shall specify in the restraint order the medical need for the physical

restraint, the type to be used, the period of time it is to be used, and the time intervals it is to be checked, loosened, or removed.

(4) The current order for the physical restraint shall be on or attached to Form FL-2 or Form MR-2 (upon entering the home) or the Report of Health Services to Residents Form, or approved equivalent (for subsequent orders).

(5) The physician ordering the physical restraint shall update the restraint order at a minimum of every six months.

(6) If the resident's physician changes after admission to the home, the physician who is to attend the resident shall update and sign the existing restraint order.

(h) Effective January 1, 2001, the following restraint requirements shall apply. The use of physical restraints refers to the application of a physical or mechanical device attached to or adjacent to the resident's body that the resident cannot remove easily which restricts freedom of movement or normal access to one's body and includes bed rails when used to keep the resident from voluntarily getting out of bed as opposed to enhancing mobility of the resident while in bed. Residents shall be physically restrained only in accordance with the following:

(1) The facility shall prohibit the use of physical restraints for discipline or convenience and limit restraint use to circumstances in which the resident has medical symptoms that warrant the use of restraints. Medical symptoms may include, but are not limited to, the following: confusion with risk of falls; and risk of abusive or injurious behaviors to self or others.

(2) Alternatives to physical restraints that would provide safety to the resident and prevent a potential for decline in the resident's functioning shall be provided prior to restraining the resident and documented in the medical record. Alternatives may include, but are not limited to, the following: providing restorative care to enhance abilities to stand safely and to walk, providing a device that monitors attempts to rise from chair or bed, placing the bed bwer to the floor, providing frequent staff monitoring with periodic assistance in toileting and ambulation and offering fluids, providing activities, providing supportive devices such as wedge cushions, controlling pain and providing a calm relaxing environment with minimal noise and confusion.

(3) If alternatives to physical restraints have failed and the resident's medical symptoms warrant the use of physical restraints, the facility shall assure that the resident is restrained with the least restrictive restraint that would provide safety.

(4) When physical restraints are used, the facility shall engage in a systemic and gradual process towards reducing restraint time by using alternatives.



- (5) The administrator shall assure the development and implementation of written policies and procedures in the use of alternatives to physical restraints and in the care of residents who are physically restrained.
- (A) The administrator shall consult with a registered nurse in developing policies and procedures for alternatives to physical restraints and in the care of residents who are physically restrained.
- (B) Policies and procedures for alternatives to physical restraints and the use of physical restraints shall comply with requirements of this section. Orientation of these policies and procedures shall be provided to staff responsible for the care of residents who are restrained or require alternatives to restraints. This orientation shall be provided as part of the training required prior to staff providing care to residents who are restrained or require alternatives to restraints.
- (6) The administrator shall assure that each resident with medical symptoms that warrant the use of physical restraints is assessed and a care plan is developed. This assessment and care planning shall be completed prior to the resident being restrained; except in emergency situations. This assessment and care planning must meet any additional requirements in Section .0800 of this Subchapter.
- (A) The assessment shall include consideration of the following:
- (i) Medical symptoms that warrant the use of a physical restraint;
  - (ii) How the medical symptoms affect the resident;
  - (iii) When the medical symptoms were first observed;
  - (iv) How often the medical symptoms occur; and
  - (v) Alternatives that have been provided and the resident's response.
- (B) The care plan shall be individualized and indicate specific care to be given to the resident. The care plan shall include consideration of the following:
- (i) Alternatives and how the alternatives will be used;
  - (ii) The least restrictive type of physical restraint that would provide safety; and
  - (iii) Care to be provided to the resident during the time the resident is restrained.
- (C) The assessment and care planning shall be completed through a team process. The team must consist of, but is not limited to, the following: the supervisor or a personal care aide, a registered nurse and the resident's representative. If the resident's representative is not present, there must be documented evidence that the resident's representative was notified and declined an invitation to attend.
- (7) The resident's right to participate in his or her care and to refuse treatment includes the right to accept or refuse restraints. For the resident to make an informed choice about the use of physical restraints, negative outcomes, benefits and alternatives to restraint use shall be explained to the resident. Potential negative outcomes include incontinence, decreased range of motion, decreased ability to ambulate, increased risk of pressure ulcers, symptoms of withdrawal or depression and reduced social contact. In the case of a resident who is incapable of making a decision, the resident's representative shall exercise this right based on the same information that would have been provided to the resident. However, the resident's representative cannot give permission to use restraints for the sake of discipline or staff convenience or when the restraint is not necessary to treat the resident's medical symptoms.
- (8) The resident or the resident representative involvement in the restraint decision shall be documented in the resident's medical record. Documentation shall include the following:
- (A) The resident or the resident's representative shall sign and date a statement indicating they have been informed as required above.
  - (B) The statement shall indicate the resident's or the resident's representative's decision in restraint use, either consent for or a desire not to use restraints.
  - (C) The consent shall include the type of restraint to be used and the medical symptoms for use.
- (9) When a physical restraint is warranted and consent has been given, a physician's order shall be written. The following requirements apply to the physician's order:
- (A) The use of physical restraints is allowed only with a written order from a licensed physician. If the order is obtained from a physician other than the resident's attending physician, the attending physician shall be notified of the order within seven days.

- (B) In emergency situations, the administrator or supervisor-in-charge shall make the determination relative to necessity for the type and duration of the physical restraint to use until a physician is contacted. Contact shall be made within 24 hours.
- (C) The physician shall specify in the restraint order the medical need for the physical restraint, the type to be used, the period of time it is to be used, and the time intervals it is to be checked and removed.
- (D) The current order for the physical restraint shall be on or attached to Form FL-2 or Form MR-2 (upon entering the home) or the Report of Health Services to Residents Form, or approved equivalent (for subsequent orders).
- (E) The physician ordering the physical restraint shall update the restraint order at a minimum of every three months.
- (F) If the resident's physician changes after admission to the home, the physician who is to attend the resident shall update and sign the existing restraint order.
- (10) The physical restraint shall be applied correctly according to manufacturer's instructions and the physician's order.
- (11) The resident shall be checked and released from the physical restraint and care provided as stated in the care plan; at least every 15 minutes for checks and at least every 2 hours for release.
- (12) Alternatives shall be provided in an effort to reduce restraint time.
- (13) All instances of physical restraint use shall be documented and shall include at least the following:
- (A) Alternatives to physical restraints that were provided and the resident's response;
  - (B) Type of physical restraint that was used;
  - (C) Medical symptoms warranting the use of the physical restraint;
  - (D) Time and duration of the physical restraint;
  - (E) Care that was provided to the resident during the restraint use; and
  - (F) Behaviors of the resident during the restraint use.
- (14) Physical restraints shall be applied only by staff who have received training and who have been validated for competency by a registered nurse on the proper use of restraints. Training and competency validation on restraints shall occur before staff members apply restraints.
- Competency validation of restraint use by a registered nurse shall be completed annually. This Rule is consistent with the requirements in Rules .0501 and .0903 of this Subchapter.
- ~~(15) The administrator shall assure that training in the use of alternatives to physical restraints and in the care of residents who are physically restrained is provided to all staff responsible for caring for residents with medical symptoms that warrant restraints. Training shall be provided by a registered nurse and shall include the following:~~
- ~~(A) Alternatives to physical restraints;~~
  - ~~(B) Types of physical restraints;~~
  - ~~(C) Medical symptoms that warrant physical restraints;~~
  - ~~(D) Negative outcomes from using physical restraints;~~
  - ~~(E) Correct application of physical restraints;~~
  - ~~(F) Monitoring and caring for residents who are restrained; and~~
  - ~~(G) Process of reducing restraint time by using alternatives.~~
- (i) The administrator shall have specific written instructions recorded as to what to do in case of sudden illness, accident, or death of a resident.
- (j) There shall be an adequate supply of first aid supplies available in the home for immediate use.
- (k) The administrator shall make arrangements with the resident, his responsible person, the county department of social services or other appropriate party for appropriate health care as needed to enable the resident to be in the best possible health condition.

*Authority G.S. 131D-2; 143B-165; S.L. 99-0334; 2002-0160.*

**10A NCAC 13G .0903 LICENSED HEALTH PROFESSIONAL SUPPORT**

(a) The facility shall assure that an appropriate licensed health professional ~~a registered nurse, licensed under G.S. 90, Article 9A,~~ participates in the on-site review and evaluation of the residents' health status, care plan and care provided for residents requiring, but not limited to, one or more of the following personal care tasks: ~~The review and evaluation shall be completed within the first 30 days of admission or within 30 days from the date a resident develops the need for the task and at least quarterly thereafter.~~

- (1) applying and removing ace bandages, ted hose, ~~and binders, and braces and splints;~~
- (2) feeding techniques for residents with swallowing problems;
- (3) bowel or bladder training programs to regain continence;
- (4) enemas, suppositories and vaginal douches;
- (5) positioning and emptying of the urinary catheter bag and cleaning around the urinary catheter;
- (6) chest physiotherapy or postural drainage;

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- (7) clean dressing changes, excluding packing wounds and application of prescribed enzymatic debriding agents;
- (8) collecting and testing of fingerstick blood samples;
- (9) care of well-established colostomy or ileostomy (having a healed surgical site without sutures or drainage);
- (10) care for pressure ulcers up to and including a Stage II pressure ulcer which is a superficial ulcer presenting as an abrasion, blister or shallow crater;
- (11) inhalation medication by machine;
- (12) forcing and restricting fluids;
- ~~(12)~~(13) maintaining accurate intake and output data;
- ~~(13)~~(14) medication administration through a well-established gastrostomy feeding tube (having a healed surgical site without sutures or drainage and through which a feeding regimen has been successfully established);
- ~~(14)~~(15) medication administration through injection;  
Note: Unlicensed staff may only administer subcutaneous injections as stated in Rule .1004(q) of this Subchapter;
- ~~(15)~~(16) oxygen administration and monitoring;
- ~~(16)~~(17) the care of residents who are physically restrained and the use of care practices as alternatives to restraints;
- ~~(17)~~(18) oral suctioning;
- ~~(18)~~(19) care of well-established tracheostomy, not to include indo-tracheal suctioning; or
- ~~(19)~~(20) administering and monitoring of gastrostomy tube feedings through a well-established gastrostomy tube (see description in Subparagraph (13) of this Rule);
- (21) the monitoring of continuous positive air pressure devices (CPAP and BIPAP);
- (22) application of prescribed heat therapy;
- (23) application and removal of prosthetic devices except as used in early post-operative treatment for shaping of the extremity;
- (24) ambulation using assistive devices that requires physical assistance;
- (25) range of motion exercises;
- (26) any other prescribed physical or occupational therapy;
- (27) transferring semi-ambulatory or non-ambulatory residents; or
- (28) tasks performed by a nurse aide II according to the scope of practice as established in the Nursing Practice Act and rules promulgated under that act in 21 NCAC 36.

(b) The appropriate licensed health professional, as required in Paragraph (a) of this Rule, is:

- (1) a registered nurse licensed under G.S. 90, Article 9A, for tasks listed in Subparagraphs (a)(1)-(28) of this Rule;
- (2) and an occupational therapist licensed under G.S. 90, Article 18D or physical therapist licensed under G.S. 90-270.24, Article 18B for

tasks listed in Subparagraphs (a)(22) to (27) of this Rule; or

- (3) a registered nurse licensed under G.S. 90, Article 9A, for tasks that can be performed by a nurse aide II according to the scope of practice as established in the Nursing Practice Act and rules promulgated under that act in 21 NCAC 36.

~~(b) The facility shall assure that a registered nurse, occupational therapist licensed under G.S. 90, Article 18D or physical therapist licensed under G.S. 90-270.24, Article 18B, participates in the on-site review and evaluation of the residents' health status, care plan and care provided within the time frames specified in Paragraph (a) of this Rule for those residents who require one or more of the following personal care tasks:~~

- ~~(1) application of prescribed heat therapy;~~
- ~~(2) application and removal of prosthetic devices except as used in early post-operative treatment for shaping of the extremity;~~
- ~~(3) ambulation using assistive devices;~~
- ~~(4) range of motion exercises;~~
- ~~(5) any other prescribed physical or occupational therapy; or~~
- ~~(6) transferring semi-ambulatory or non-ambulatory residents.~~

~~(c) The facility shall not provide care to residents with conditions or care needs as stated in G.S. 131D 2(a1).~~

~~(d)(c) The facility shall assure that participation by a registered nurse, occupational therapist or physical therapist in the on-site review and evaluation of the residents' health status, care plan and care provided, as required in Paragraph (a) of this Rule, is completed within the first 15 days of admission or within 15 days from the date a resident develops the need for the task and at least quarterly thereafter, and includes the following:~~

- ~~(1) assuring that licensed practical nurses and non-licensed personnel providing care and performing the tasks are competency validated according to Paragraph (e) of this Rule;~~
- (1) performing a physical assessment of the residents as related to their diagnosis and their the resident's diagnosis and or current condition requiring one or more of the tasks specified in Paragraph (a) of this Rule;
- (2) evaluating the resident's progress to care being provided;
- (3) recommending changes in the care of the resident as needed based on the physical assessment and evaluation of the progress of the resident; and
- (4) documenting the activities in Subparagraphs (1) through (3) of this Paragraph.

~~(d) The facility shall assure action is taken in response to the licensed health professional review and documented, and that the physician or appropriate health professional is informed of the recommendations when necessary.~~

~~(e) The facility shall assure that licensed practical nurses and non-licensed personnel are trained and competency validated for personal care tasks specified in Paragraphs (a) and (b) of this Rule. Competency validation shall be completed prior to staff performing the personal care task and documentation shall be in the facility and readily available.~~

(f) Staff shall be competency validated by the following health professionals:

- (1) ~~A registered nurse shall validate the competency of staff who perform personal care tasks specified in Paragraph (a) of this Rule. In lieu of a registered nurse, a registered respiratory therapist may validate the competency of staff who perform personal care tasks (6), (11), (15), (17), (18), and specified in Paragraph (a) of this Rule. In lieu of a registered nurse, a registered pharmacist may validate the competency of staff who perform personal care task (8) specified in Paragraph (a) of this Rule.~~
- (2) ~~A registered nurse, occupational therapist or physical therapist shall validate the competency of staff who perform personal care tasks specified in Paragraph (b)(1-6) of this Rule.~~

(g) ~~The facility shall assure that training on the care of residents with diabetes is provided to unlicensed staff prior to the administration of insulin as follows and documented:~~

- (1) ~~Training shall be provided by a registered nurse, registered pharmacist.~~
- (2) ~~Training shall include at least the following:~~
  - (A) ~~basic facts about diabetes and care involved in the management of diabetes;~~
  - (B) ~~insulin action;~~
  - (C) ~~insulin storage;~~
  - (D) ~~mixing, measuring and injection techniques for insulin administration;~~
  - (E) ~~treatment and prevention of hypoglycemia and hyperglycemia, including signs and symptoms;~~
  - (F) ~~blood glucose monitoring; and~~
  - (G) ~~universal precautions; and~~
  - (H) ~~appropriate administration times.~~

(h) ~~The facility shall assure that staff who perform personal care tasks listed in Paragraphs (a) and (b) of this Rule are at least annually observed providing care to residents by a licensed registered nurse or other appropriate licensed health professional, as specified in Paragraph (d) of this Rule, who is employed by the facility or under contract or agreement, individually or through an agency, with the facility. Annual competency validation shall be documented and readily available for review.~~

*Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334.*

**SECTION .1000 – MEDICATIONS**

**10 NCAC 13G .1007 MEDICATION DISPOSITION**

- (a) Medications shall be released to or with a resident upon discharge if the resident has a physician's order to continue the medication. Prescribed medications are the property of the resident and shall not be given to, or taken by, other staff or residents according to Rule .1004(o) of this Subchapter.
- (b) Medications, excluding controlled medications, that are expired, discontinued, prescribed for a deceased resident or

deteriorated shall be stored separately from actively used medications until disposed of.

(c) ~~Medications, excluding controlled medications, shall be destroyed at the facility or returned to a pharmacy within 90 days of the expiration or discontinuation of medication or following the death of the resident.~~

(d) ~~All medications destroyed at the facility shall be destroyed by the administrator or the administrator's designee and witnessed by a pharmacist, a dispensing practitioner, or their designee. The destruction shall be conducted so that no person can use, administer, sell or give away the medication.~~

(e)(d) ~~Records of medications destroyed or returned to the pharmacy shall include the resident's name, the name and strength of the medication, the amount destroyed or returned, the method of destruction if destroyed in the facility and the signature of the administrator or the administrator's designee and the signature of the pharmacist, dispensing practitioner or their designee. These records shall be maintained by the facility for a minimum of one year.~~

(f)(e) ~~A dose of any medication prepared for administration and accidentally contaminated or not administered shall be destroyed at the facility according to the facility's policies and procedures.~~

*Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334; 2002-0160.*

**SECTION .1200 - POLICIES, RECORDS AND REPORTS**

**10A NCAC 13G .1205 POPULATION REPORT**

~~The administrator or supervisor in charge shall submit by January 31 of each year an annual population report for the previous calendar year to the county department of social services. If the home closes during the year, the administrator or supervisor in charge shall report for the previous calendar year to date of closing.~~

*Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160.*

**10A NCAC 13G .1211 WRITTEN POLICIES AND PROCEDURES**

The facility shall ensure the development, implementation and availability of written policies and procedures that comply with applicable rules of this Subchapter, on the following:

- (1) admission and discharge;
- (2) ordering, receiving, storage, discontinuation, disposition and administration of medications, including self-administration, in consultation with a licensed health professional who is authorized to dispense or administer medications;
- (3) performance of any applicable licensed health professional support tasks listed in Rule .0903 of this Subchapter, in consultation with the appropriate licensed health professional according to Rule .0903 of this Subchapter;
- (4) use of alternatives to physical restraints and the care of residents who are physically restrained, in consultation with a registered nurse;
- (5) accident, fire safety, disaster and emergency procedures, including administration of

**TEMPORARY RULES**

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- cardiopulmonary resuscitation except to residents with physician orders for no resuscitation or no CPR;
- (6) infection control;
- (7) refunds and settlement of cost of care;
- (8) handling of resident funds;
- (9) death of resident;
- (10) missing resident;
- (11) reporting of accident or incident resulting in injury to resident;
- (12) supervision of wandering residents;
- (13) management of physical aggression or assault by a resident;
- (14) handling of resident grievances;

- (15) visitation in the facility by guests;
- (16) smoking and alcohol use;
- (17) temporary leave of residents from the facility;
- (18) holding a resident's bed if the resident leaves with the intent of returning to the facility;
- (19) pets or companion animals;
- (20) resident's use of own furniture and personal belongings;
- (21) transportation; and
- (22) confidentiality of resident information.

*Authority G.S. 131D -2; 143B-165; S.L. 2002-0160.*

## RULES REVIEW COMMISSION

*This Section contains information for the meeting of the Rules Review Commission on Thursday, May 15, 2003, 10:00 a.m. at 1307 Glenwood Avenue, Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments by Friday, May 9, 2003 to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.*

### RULES REVIEW COMMISSION MEMBERS

#### Appointed by Senate

Jim R. Funderburke - 1st Vice Chair  
David Twiddy - 2nd Vice Chair  
Thomas Hilliard, III  
Robert Saunders

#### Appointed by House

Jennie J. Hayman - Chairman  
Graham Bell  
Dr. Walter Futch  
Dr. John Tart

### RULES REVIEW COMMISSION MEETING DATES

May 15, 2003  
June 19, 2003                      July 17, 2003  
August 21, 2003                      September 18, 2003  
October 16, 2003

### RULES REVIEW COMMISSION

APRIL 17, 2003

#### MINUTES

The Rules Review Commission met on Thursday morning, April 17, 2003, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present: Graham Bell, Walter Futch, Thomas Hilliard, Robert Saunders, John Tart, and David Twiddy.

Staff members present were: Joseph DeLuca, Staff Director; Bobby Bryan, Rules Review Specialist; and Lisa Johnson.

The following people attended:

Lebeed Kady	NC Hazardous Waste
Tom Mickey	NC Veterinary Medical Board
Thomas Allen	DENR/DAQ
Michael Rhodes	DENR/DEH
Allan Russ	Secretary of State
Tom West	Poyner & Spruill, LLP
David Hance	DENR/DAQ
Sue Caviness	State Board of Refrigeration Examiners
Barbara Hines	State Board of Refrigeration Examiners
Dedra Alston	DENR
David McLeod	NC Department of Agriculture
Emily Lee	NC Department of Transportation

### APPROVAL OF MINUTES

The meeting was called to order at 10:29 a.m. with Commissioner Twiddy presiding. Commissioners Bell, Futch, Saunders, and Tart were present when the meeting commenced. When Commissioner Hilliard arrived, staff reviewed what had been presented up to that point and the meeting proceeded. No action was taken until a quorum was present. Mr. Twiddy asked for any discussion, comments, or corrections concerning the minutes of the March 20, 2003, meeting. The minutes were approved as written.

### FOLLOW-UP MATTERS

2 NCAC 52C .0701: Department of Agriculture – The Commission approved the rewritten rule submitted by the agency.

15A NCAC 13A .0109; .0113: Commission for Health Services – The Commission approved the rewritten rules submitted by the agency.

## **RULES REVIEW COMMISSION**

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15A NCAC 18A .2606: Commission for Health Services – This rewritten rule was approved conditioned upon receiving technical change by the end of the day. The technical change was subsequently received.

18 NCAC 2 .0103: Secretary of State – The Commission approved the repeal of this rule submitted by the agency.

18 NCAC 6 .1501: Secretary of State – The Commission approved the rewritten rule submitted by the agency.

21 NCAC 50 .0103: Board of Examiners for Plumbing, Heating & Fire Sprinkler Contractors – The agency asked the Commission to return the rule to the agency. The rule will be returned.

### **LOG OF FILINGS**

Chairman Twiddy presided over the review of the log and all rules were approved unanimously with the following exceptions:

10 NCAC 26H .0404: DHHS/Medical Care Commission - The Commission objected to the rule due to ambiguity. Items (1) and (2) seem contradictory. It is not clear if the base date for establishing fees is January 1, 1988 or May 1, 1989. The added provision to Item 3 is unclear. It is not clear what increasing fees based on access to care means. In (4), it is not clear how the “estimated average charge” is determined. In (5), it is not clear how high is “too high.”

15A NCAC 27 .0301: DENR/Well Contractors Certification Commission – The Commission objected to the rule due to ambiguity. In (f)(3)(A), (B) and (C), it is not clear what are the standards for approval of the courses of study and programs.

21 NCAC 60 .0311: NC Board of Refrigeration Examiners - The Commission objected to the rule due to lack of statutory authority. In (a), there is no authority cited for the Board to tell a municipality what it must include on a permit.

21 NCAC 66 .0206: NC Veterinary Medical Board - The Commission objected to the rule due to ambiguity. In (3), it is not clear what standards the Board will use in exempting licensees or registrants from the credit requirements on account of sickness, etc. It is also not clear what standards they will use in determining how much to exempt.

### **COMMISSION PROCEDURES AND OTHER BUSINESS**

The meeting adjourned at 11:05 a.m.

The next meeting of the Commission is Thursday, May 15, 2003 at 10:00 a.m.

Respectfully submitted,  
Lisa Johnson

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## **AGENDA RULES REVIEW COMMISSION May 15, 2003**

- I. Call to Order and Opening Remarks
- II. Review of minutes of last meeting
- III. Follow Up Matters
  - State Building Commission – 1 NCAC 30D .0302 Objection 03/20/03 (Bryan)
  - DENR/Well Contractors Certification Commission – 15A NCAC 27 .0301 Objection 04/17/03 (Bryan)
  - NC Board of Refrigeration Examiners – 21 NCAC 60 .0311 Objection 04/17/03 (Bryan)
  - NC Veterinary Medical Board – 21 NCAC 66 .0206 Objection 04/17/03 (Bryan)
  - Department of Administration – 1 NCAC 35 .0101; .0103; .0201-.0205; .0301; .0302; .0304-.0306; .0308; .0309 Carried over to June meeting 12/19/02 (DeLuca)
  - Cultural Resources Commission – 7 NCAC 4S .0104 Objection 12/21/00 (DeLuca)
  - Board of Elections – 8 NCAC Chapter 1-12 Extend Period of Review 01/16/03 (DeLuca) To be considered at October Meeting
  - Board of Pharmacy – 21 NCAC 46 .1812 Carried over to June meeting 11/21/02 (DeLuca)
  - Board of Pharmacy – 21 NCAC 46 .2502 Carried over to June meeting 11/21/02 (DeLuca)
- IV. Review of rules (Log Report #197)
- V. Commission Business
- VI. Next meeting: June 19, 2003

## CONTESTED CASE DECISIONS

*This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698. Also, the Contested Case Decisions are available on the Internet at the following address: <http://www.ncoah.com/hearings>.*

### OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge*

JULIAN MANN, III

*Senior Administrative Law Judge*

FRED G. MORRISON JR.

### ADMINISTRATIVE LAW JUDGES

*Sammie Chess Jr.*

*Beecher R. Gray*

*Melissa Owens Lassiter*

*James L. Conner, II*

*Beryl E. Wade*

*A. B. Elkins II*

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><u>ALCOHOL BEVERAGE CONTROL COMMISSION</u></b>				
NC ABC Commission v. Issa Fuad Shaikh T/A Variety Pic Up #14	01 ABC 0874	Conner	12/03/02	
NC ABC Commission v. Acme Retail, Inc. T/A Handy Pantry	01 ABC 1325	Chess	05/21/02	
Randall Ralph Casey T/A Maynards Entertainment v. NC ABC Comm.	01 ABC 1396	Wade	06/26/02	
NC ABC Commission v. Headlights, Inc. T/A Headlights	01 ABC 1473	Wade	06/28/02	
NC ABC Commission v. Jerry Lynn Johnson T/A E & J Millenium	02 ABC 0115	Conner	10/23/02	
Roy Hoyt Durham, Lisa Chambers Durham t/a Lincoln House v. NC ABC Commission	02 ABC 0157	Mann	12/03/02	
Edward L. Mumford v. NC Alcoholic Control Commission	02 ABC 0264	Conner	08/29/02	
NC ABC Commission v. WDB, Inc. T/A Twin Peeks	02 ABC 0517	Conner	07/15/02	
Jrs Nigh Hawk, James Theron Lloyd Jr v. NC ABC Commission	02 ABC 0629	Chess	11/19/02	17:13 NCR 1116
NC ABC Commission v. Cevastiano Hernandes T/A Cristy Mexican Store	02 ABC 0667	Gray	10/17/02	
NC ABC Commission v. Easy Street Bistro, Inc. T/A Raleigh Live	02 ABC 0781	Wade	10/23/02	
Scott Patrick Windsor T/A Depot v. NC Alcoholic Beverage Comm.	02 ABC 0909	Hunter	02/26/03	
NC ABC Commission v. Pantana Bob's, Inc., T/A Pantana Bob's	02 ABC 1145	Mann	03/28/03	
Lloyd Jarreau v. NC Alcoholic Beverage Control Commission	03 ABC 0050	Morrison	04/22/03	
<b><u>APPRAISAL BOARD</u></b>				
NC Appraisal Board v. Thomas G. Hildebrandt, Jr.	02 APB 0130	Chess	08/20/02	17:06 NCR 563
<b><u>CEMETARY COMMISSION</u></b>				
Lee Memory Gardens, Inc. v. NC Cemetary Commission	02 COM 0126	Gray	09/19/02	
<b><u>UTILITIES COMMISSION</u></b>				
Tracy Woody v. State of NC Utilities Commission	02 COM 1004	Morrison	08/26/02	
<b><u>CRIME CONTROL AND PUBLIC SAFETY</u></b>				
Hattie Holt v. Crime Victims Compensation Commission	00 CPS 1067	Conner	05/30/02	
Carol Peebles v. Crime Victims Compensation Commission	02 CPS 0180	Gray	02/05/03	
Linda Hawley v. Crime Victims Compensation Commission	02 CPS 0121	Conner	06/14/02	
Lial McKoy v. Crime Victims Compensation Commission	02 CPS 0394	Chess	07/26/02	
Elbert Reid, Jr. v. Crime Victims Compensation Commission	02 CPS 0431	Conner	11/13/02	
Francis Michael McLaurin on behalf of B.W. McLaurin v. Crime Victims Compensation Commission	02 CPS 0760	Chess	11/19/02	
Willie Ray Lucas v. Crime Victims Compensation Commission	02 CPS 0770	Wade	01/06/03	
Claudia White v. Crime Victims Compensation Commission	02 CPS 0894	Conner	01/08/03	
Patricia Ann Pitts v. Gaston Co. Courthouse, Judge Jesse Caldwell	02 CPS 1134	Morrison	04/08/03	
Phyllis Ponder Duren v. Crime Victims Compensation Commission	02 CPS 1173	Gray	11/06/02	
Judith Simpson v. Crime Victims Compensation Commission	02 CPS 1317	Chess	03/17/03	17:21 NCR 1970
Brenda S. DuBois on behalf of victim Priscilla Bryant v. Dept. of Crime Control & Public Safety, Div. of Victim Comp. Services	02 CPS 1332	Lassiter	09/20/02	
William S. McLean v. Crime Victims Compensation Commission	02 CPS 1600	Lassiter	11/18/02	
<b><u>ADMINISTRATION</u></b>				
Jeffrey Thomas Farmer v. GACPD (Governor's Advocacy for Persons With Disabilities)	03 DOA 0300	Lassiter	04/21/03	

### AGRICULTURE



## CONTESTED CASE DECISIONS

All Creatures Great & Small v. NC Dept. of Ag. & Con. Svcs. 01 DAG 1398 Gray 04/02/03

### HEALTH AND HUMAN SERVICES

A list of Child Support Decisions may be obtained by accessing the OAH Website: [www.ncoah.com/decisions](http://www.ncoah.com/decisions).

Lisa Williams v. NC DHHS, Div. of Soc. Svc., Child Supp. Enf. Sec.	01 DCS 2351	Elkins	10/28/02	17:11 NCR 1024
Chiffon R Robeson, Ronald V Robeson v DHHS, Div. of Child Dev.	00 DHR 1030	Gray	02/28/03	
Thelma Street v. NC DHHS	01 DHR 0303	Reilly	09/17/02	
Mary Edge v. DHHS, Div. of Child Development	01 DHR 0720	Gray	04/01/03	
Emilia E Edgar v. DHHS, Div. of Facility Services	01 DHR 1356	Hunter	09/09/02	
Joyce Jeanette Jones v. DHHS, Div. of Facility Services	02 DHR 1663	Conner	11/15/02	
Evelia Williams v. NC DHHS	01 DHR 1750	Conner	07/15/02	
Jacob Jones v. NC DHHS, Div. of Medical Assistance	01 DHR 2169	Wade	10/04/02	
Kathy Mumford v. DHHS, Div. of Facility Services	01 DHR 2253	Chess	07/26/02	
Brenda L. McQueen v. DHHS, Div. of Facility Services	01 DHR 2321	Morrison	10/17/02	
Tammy Baldwin v. DHHS, Div. of Facility Services	01 DHR 2329	Morrison	10/16/02	
Pamela S Vuncannon v. DHHS, Div of Child Development	01 DHR 2332	Chess	11/18/02	
James Bell v. NC DHHS, Div. of Facility Services	01 DHR 2340	Elkins	06/27/02	
Adam Syare v. NCDHHS, Div. of MH/DD/SAS, Southeastern Regional Mental Health Center	01 DHR 2352	Conner	06/21/02	
Ramiro Ramos v. NC DHHS and Chris Hoke, State Registrar	01 DHR 2366	Conner	09/11/02	
Effie M. Williams v. NC Department of Health and Human Services	02 DHR 0001	Gray	08/08/02	
Kathy Denise Urban v. NC DHHS, Div. of Facility Services	02 DHR 0055	Hunter	09/10/02	
Betty Carr v. DHHS, Div. of Facility Services	02 DHR 0070	Mann	09/10/02	
Sarah D. Freeman & Tony J. Freeman v. Guilford Co. Mental Health, The Guilford Center	02 DHR 0083	Chess	06/07/02	
Ursula Philomena Nwapa v. DHHS	02 DHR 0091	Wade	12/18/02	
Lollipop's Learning Tree #2, Lori Kirkling, ID #32001062 v. DHHS,	02 DHR 0095	Gray	02/28/03	
Albemarle Home Care & Ginger Parrish, PhD v. DHHS, Div. of Medical Assistance	02 DHR 0142	Conner	07/22/02	
Shonta R. Fox v. Dept. of Health & Human Services	02 DHR 0218	Conner	11/08/02	
Franklin Shane Early v. DHHS, Walter B Jones, ADATC	02 DHR 0239	Gray	04/01/03	
Birgit James v. Dept. of Health & Human Services	02 DHR 0255	Connor	07/01/02	
Geraldine Rountree Cooper v. DHHS, Div. of Facility Services	02 DHR 0267	Elkins	07/15/02	
Gemela Kidada Davis v. DHHS, Div. of Facility Services	02 DHR 0283	Lassiter	02/24/03	
Unieca Richardson v. DHHS, Division of Facility Services	02 DHR 0286	Chess	06/17/02	
Greg McKinney & Virgie Elaine McKinney v. DHHS	02 DHR 0301	Mann	08/01/02	
Jerry Dean Webber v. DHHS, Broughton Hospital	02 DHR 0306	Conner	08/28/02	
Donna R Anderson v. DHHS, Broughton Hospital	02 DHR 0340	Gray	08/01/02	
Notisha Utley v. DHHS, Division of Facility Services	02 DHR 0379	Conner	07/26/02	
Isa Spaine v. Department of Health & Human Services	02 DHR 0403	Chess	06/24/02	
Debra A. Browner v. DHHS, Broughton Hospital	02 DHR 0405	Conner	08/28/02	
Vernon Farley v. DHHS, Div. of Medical Assistance	02 DHR 0450	Gray	01/29/03	
NC Community Association v. DHHS, Off. of Economic Opportunity	02 DHR 0497	Morrison	12/11/02	17:14 NCR 1200
Bill & Suzy Crawford for (NEELY) Crawford v. DHHS	02 DHR 0539	Wade	12/18/02	
Mooreville Hospital Management Associates, Inc. d/b/a Lake Norman Regional Medical Center v. DHHS, Div. of Facility Services, Cert. of Need Section	02 DHR 0541	Chess	08/07/02	
Wayne Douglas Temples v. DHHS, NC Off. of Emer. Med. Svcs.	02 DHR 0543	Morrison	10/09/02	
Mark Thomas v. DHHS, Div. of Facility Services	02 DHR 0555	Chess	10/17/02	
Eli Maxwell v. DHHS, Div. of Facility Services, Health Care Registry	02 DHR 0556	Lassiter	08/08/02	
Robin Lee Arnold v. DHHS, Div. of Facility Services	02 DHR 0558	Conner	08/15/02	
Laura Sheets v. DHHS, Div. of Facility Services	02 DHR 0569	Conner	10/17/02	
Terry A. Bolick v. DHHS	02 DHR 0618	Conner	02/26/03	
Evelyn Denise Humphrey v. DHHS, Div. of Facility Services	02 DHR 0624	Morrison	08/08/02	
Amy D McFarland v DHHS, Div. of Facility Services	02 DHR 0647	Wade	03/28/03	
Sara E Parker v. DHHS	02 DHR 0659	Gray	04/17/03	
James Parks v. Dept. of Health and Human Services	02 DHR 0680	Morrison	08/07/02	
Andrea Green, Parent, on behalf of her minor child, Andrew Price v. The Durham Clinic	02 DHR 0682	Gray	11/07/02	
Lisa Murphy v. DHHS, Division of Facility Services	02 DHR 0694	Mann	07/26/02	
Vernessa B Pittman v. DHHS	02 DHR 0734	Chess	11/21/02	
Mary's Family Care #2, Beulah Spivey v. OAH	02 DHR 0735	Morrison	08/27/02	
Clinita Faye Hooker v. DHHS, Div. of Facility Services	02 DHR 0748	Lassiter	01/02/03	
Miranda Lynn Stewart v. DHHS, Div. of Facility Services	02 DHR 0791	Mann	11/08/02	17:12 NCR 1086
Hazel Chea v. Department of Health & Human Services	02 DHR 0795	Mann	06/11/02	
Jeffrey Wayne Radcliff v. DHHS	02 DHR 0838	Conner	12/16/02	
Mr. Mohamed Mohamed v. DHHS, Women's & Children's Health (WIC Program)	02 DHR 0866	Chess	10/02/02	
Mooreville Hospital Management Assoc, Inc. d/b/a Lake Norman Reg. Med. Ctr v. DHHS, Div. of Fac. Svcs, CON Section, Robert J Fitzgerald in his official capacity as Director of the Div of Fac Svcs, and Lee B Hoffman in her official capacity as Chief of the CON Section and The Presbyterian Hospital and the Town of Huntersville	02 DHR 0888	Morrison	11/26/02	17:13 NCR 1120
Cleon A Gibbs v. Division of Medical Assistance (DMA)	02 DHR 0901	Elkins	12/16/02	
Martha L Cox v. DHHS, Div. of Facility Services	02 DHR 0935	Morrison	10/25/02	
Tracy Woody v. Coop Ex. Svc, Coll of Ag & Life Sc Family & Consumer Svcs, In-Home Breastfeeding Support Program & Nash Co.	02 DHR 0944	Morrison	09/25/02	

**CONTESTED CASE DECISIONS**

Dept. of Social Svcs, Child Protective Svcs & State WIC Program for Nash County			
Stacy L Pleaze-Wilson v. DHHS, Health Care Personnel Registry	02 DHR 0973	Wade	01/31/03
Sheryl L Hoyle v. DHHS, Div. of Facility Services	02 DHR 1009	Conner	10/24/02
Carmelita T. England v. Ms. Lisa Moor, Chief Advocate, Black Mtn Ctr.	02 DHR 1033	Chess	08/15/02
Gloria Dean Gaston v. Office of Administrative Hearings	02 DHR 1081	Morrison	07/26/02
Teresa King v. Division of Mental Health	02 DHR 1154	Chess	12/19/02
Maria Goretti Obialor v. DHHS, Div. of Facility Services	02 DHR 1187	Mann	09/11/02
Lashanda Skinner v. DHHS	02 DHR 1190	Lassiter	09/09/02
Robert A. Thomas v. DHHS, Div. of Facility Services	02 DHR 1254	Lassiter	09/13/02
Janet Cook v. Division of Medical Assistance	02 DHR 1272	Lassiter	11/15/02
Shirley's Development Center, Shirley Campbell v. State of DHHS, Div. of Child Development	02 DHR 1309	Morrison	10/08/02
Joann V Blakeney v. Piedmont Behavior Healthcare	02 DHR 1319	Conner	12/16/02
Jack Irizarry v. DHHS, Div. of Facility Services, Adult Care License Sec.	02 DHR 1331	Elkins	02/19/03
Timothy W Andrews for Ridgecrest Retirement LLC v. DHHS, Div of Facility Services	02 DHR 1417	Elkins	11/26/02
Psychiatric Solutions, Inc. d/b/a Holly Hill Hospital v. Div. of Medical Assistance, DHHS	02 DHR 1499	Elkins	12/12/02
Evy's Group Care v. DHHS, Div. of Mental Health, Program Accountability	02 DHR 1462	Gray	01/27/03
LatissueMcRae v. Dept Health Care Personnel Registry Section	02 DHR 1533	Lassiter	01/14/03
Marquell's Enrichment Center for Edith James & Wilhelmenia Bridges v. Div. of Child Dev. Regulatory Services Section	02 DHR 1537	Gray	01/27/03
Betty J. Hastings v. Office of Administrative Hearings	02 DHR 1592	Lassiter	02/11/03
Twakeena Rachel Simmons v. Office of Administrative Hearings	02 DHR 1626	Chess	01/13/03
Peggy Renee Smith v. DHHS, Div. of Facility Svcs, Hlth Care Per Reg	02 DHR 1683	Lassiter	11/13/02
Queen Esther Hampton Fant v DHHS, Div. of Facility Services	02 DHR 1751	Elkins	03/07/03
Sherry D Tucker v. DHHS, Div. of Facility Services	02 DHR 1753	Mann	01/02/03
Mary A. Johnson v. DHHS	02 DHR 1885	Wade	03/13/03
Donna Stillie v. Nurse Registry for CAN's	02 DHR 1940	Chess	01/15/03
Opportunities Industrialization Center of America, Inc. (via counsel, David C. Smith) v. DHHS	02 DHR 1982	Chess	01/27/03
Shirley Suggs v. DHHS, Division of Facility Services	02 DHR 2038	Gray	02/13/03
Ziad El-Hilou, A&T Food v. Food & Nutrition Service – USDA, and DHHS	02 DHR 2165	Elkins	01/08/03
Donna W. Roach v. DHHS	02 DHR 2187	Chess	03/07/03
Heather Lail v DHHS, Health Care Personnel Registry	03 DHR 0014	Gray	02/26/03
Antonia Oates for Allan Jamal Meadows v. DHHS, Div. of Med. Asst.	03 DHR 0115	Lassiter	04/17/03
Opportunity House, Anthony P Moore v. Div. of Fac. Svcs., Mental Health Licensure & Cert Sec, W Jeff Horton - Chief	03 DHR 0213	Lassiter	04/17/03
Baxter Douglas Fleming v. DHHS, Division of Public Health. Of Fac. Svcs.	03 DHR 0264	Lassiter	04/21/03
Janice Terry v. NC Nurse Aide I Registry	03 DHR 0321	Lassiter	04/21/03

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San Antoni Equipment Co. v. NC Department of Administration	02 DOA 0430	Chess	06/26/02
James J. Lewis v. DOA, Gov. Advocacy Council for Persons w/Disabilities	02 DOA 0545	Chess	08/26/02

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Darren P Botticelli v. DOJ, Company Police Program	02 DOJ 0898	Lassiter	03/20/03
Sara E Parker v. Consumer Protection [sic] & Rosemary D. Revis	02 DOJ 1038	Gray	08/08/02

***Alarm Systems Licensing Board***

Seth Paul Barham v. Alarm System Licensing Board	02 DOJ 0552	Gray	06/12/02
Christopher Michael McVicker v. Alarm Systems Licensing Board	02 DOJ 0731	Gray	06/07/02
Jeffery Lee Garrett v. Alarm Systems Licensing Board	02 DOJ 0908	Morrison	08/06/02
Robert Bradley Tyson v. Alarm Systems Licensing Board	02 DOJ 1266	Morrison	10/09/02
Larry Thomas Medlin Jr. v. Alarm Systems Licensing Board	02 DOJ 1433	Lassiter	11/19/02
Lottie M Campbell v. Alarm Systems Licensing Board	02 DOJ 1602	Mann	11/27/02
Katherine Claire Willis v Alarm Systems Licensing Board	02 DOJ 1953	Gray	03/04/03
John Courtney Rose v Alarm Systems Licensing Board	02 DOJ 1954	Morrison	12/19/02
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***Private Protective Services Board***

Anthony Davon Webster v. Private Protective Services Board	01 DOJ 1857	Gray	06/07/02
Benita Lee Luckey v. Private Protective Services Board	02 DOJ 0530	Elkins	07/12/02
Orlando Carmichael Wall v. Private Protective Services Board	02 DOJ 0729	Gray	06/18/02
Randall G. Bryson v. Private Protective Services Board	02 DOJ 0730	Gray	06/07/02
Barry Snadon, Sr. v. Private Protective Services Board	02 DOJ 0907	Elkins	07/12/02
Gregory Darnell Martin v. Private Protective Services Board	02 DOJ 0916	Morrison	08/06/02
Marvin Ray Johnson v. Private Protective Services Board	02 DOJ 0945	Morrison	08/06/02
Quincey Adam Morning v. Private Protective Services Board	02 DOJ 1084	Morrison	08/06/02
Philip Garland Cameron v. Private Protective Services Board	02 DOJ 1258	Morrison	09/06/02
Jamaal Ahkiem Gittens v. Private Protective Services Board	02 DOJ 1260	Conner	01/08/03
Desantis Lamarr Everett v. Private Protective Services Board	02 DOJ 1259	Morrison	09/06/02
Junius Buddy Weaver Jr v. Private Protective Services Board	02 DOJ 1432	Morrison	11/21/02
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***Sheriffs' Education & Training Standards Commission***

Kevin Warren Jackson v. Sheriffs' Education & Training Stds. Comm.	01 DOJ 1587	Chess	07/16/02
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Andrew Arnold Powell Jr v. Criminal Justice & Training Stds. Comm.	01 DOJ 1771	Chess	11/26/02
Jonathan P. Steppe v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0004	Mann	06/28/02
Jeffrey Beckwith v. Criminal Justice & Training Stds. Comm.	02 DOJ 0057	Gray	07/15/02
Thomas B. Jernigan v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0089	Conner	06/25/02
Clarence Raymond Adcock v. Criminal Justice Ed. & Trng. Stds. Comm.	02 DOJ 0104	Chess	09/09/02
Joseph Garth Keller v. Criminal Justice & Trng. Stds. Comm.	02 DOJ 0170	Gray	09/11/02
Frances Sherene Hayes v. Criminal Justice & Training Stds. Comm.	02 DOJ 0171	Mann	06/04/02
Katrina L. Moore v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0304	Reilly	07/17/02
Michael A Carrion v. Criminal Justice Educ. & Trng Stds. Comm.	02 DOJ 0416	Conner	09/25/02
Wallace A. Hough, Jr. v. Criminal Justice & Training Stds. Comm.	02 DOJ 0474	Morrison	08/08/02
Jerome Martrice Johnson v. Criminal Justice Educ. & Trng. Stds. Comm.	02 DOJ 0484	Elkins	09/23/02
Antonio Fitzgerald McNeil v. Criminal Justice Educ. & Trng. Stds. Comm.	02 DOJ 0526	Wade	09/25/02
Wanda L Grant v. Sheriffs' Education & Training Standards Comm.	02 DOJ 0602	Mann	10/18/02
Bentrell Blocker v. Sheriffs' Educ. & Training Stds. Commission	02 DOJ 0603	Chess	11/15/02
Sharon L. Joyner v. Sheriffs' Educ. & Training Stds. Commission	02 DOJ 0604	Morrison	09/05/02
Debra E. Taylor v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0605	Wade	11/05/02
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John R. Tucker v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0632	Morrison	06/26/02
Eddie Kurt Newkirk v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 0870	Gray	08/28/02
Marshall Decarlos Williams v. Criminal Justice Educ. & Trng. Stds. Comm.	02 DOJ 1039	Conner	12/16/02
Mike Doyle Colvin Jr v. Sheriffs' Educ. & Training Standards Comm.	02 DOJ 1122	Chess	10/25/02
Dennis Damon Foster v. Sheriffs' Educ. & Training Stds. Comm.	02 DOJ 1162	Mann	10/18/02
Vickie Renee Kirkland v. Sheriffs' Educ. & Training Stds. Comm.	02 DOJ 1163	Gray	10/14/02
Joseph Ray Johnson v. Criminal Justice & Training Stds. Comm.	02 DOJ 1420	Wade	06/27/02
Charles S Grainger v. Criminal Justice Educ. & Training Stds. Comm.	02 DOJ 1584	Wade	02/07/03
Mark A Faucette Sr. v. Criminal Justice & Training Stds. Comm	02 DOJ 1585	Chess	01/02/03
Ralph Joseph Abramo, Jr v. Sheriffs' Educ. & Training Standards Comm.	02 DOJ 2299	Conner	04/08/03
Helen Marie Williams v. Sheriffs' Education & Training Stds. Comm.	02 DOJ 1788	Gray	03/10/03
Ricky Hargrove v. Criminal Justice Education & Training Stds. Comm.	02 DOJ 1946	Elkins	01/26/03
Christopher John Hubacker v Criminal Justice Ed. & Trng. Stds. Comm.	02 DOJ 2118	Morrison	03/21/03
<b><u>TAX REVIEW BOARD</u></b>			
Michael W. May v. Tax Review Board	03 DST 0192	Chess	04/08/03
<b><u>DEPARTMENT OF PUBLIC INSTRUCTION</u></b>			
Melvin Quincy Etheridge v. Department of Public Instruction	02 EDC 1174	Mann	02/11/03
<b><u>ENVIRONMENT AND NATURAL RESOURCES</u></b>			
Enviro-Soil, Inc. v. St. of NC DENR, Div. of Env. Management	94 EHR 1296	Gray	12/03/02
Town of Belville v. NC DENR, Div. of Coastal Management	96 EHR 0598	Gray	07/29/02
Michael & Nancy Lindsey & Donna M Lisenby in her capacity as The Catawba Riverkeeper & Brian McCarty, Cynthia Moore Jones, Mike Glover, Hubert Rowe Hass Jr, Paula G Martin, Lynn Teeter, Mark E Sleeper, & Carol and Larry Webb v. NC DENR, Div. of Water Quality and Hydraulics, LTD.	00 EHR 0365 <sup>5</sup>	Conner	11/21/02
Ronald Gold Overcash v. DENR, Div. of Waste Management	00 EHR 0662 <sup>10</sup>	Wade	04/04/03
Michael & Nancy Lindsey & Donna M Lisenby in her capacity as The Catawba Riverkeeper & Brian McCarty, Cynthia Moore Jones, Mike Glover, Hubert Rowe Hass Jr, Paula G Martin, Lynn Teeter, Mark E Sleeper, & Carol and Larry Webb v. NC DENR, Div. of Water Quality and Hydraulics, LTD.	00 EHR 1475 <sup>5</sup>	Conner	11/21/02
Thompkenn Farms, Inc. Farm #82-683 and Thompkenn Farm, Inc. Farm #1	01 EHR 0182 <sup>4</sup>	Conner	11/04/02
Squires Enterprises, Inc. v. NC DENR (LQS00-091)	01 EHR 0300	Mann	09/23/02
Thompkenn Farms, Inc. Farm #82-683 and Thompkenn Farm, Inc. Farm #1	01 EHR 0312 <sup>2</sup>	Conner	11/04/02
Stoneville Furniture Co., Inc. v. NC DENR, Div. of Air Quality	01 EHR 0976	Chess	07/16/02
SRF Dev. Corp. v. NC DENR, Div. of Land Resources	01 EHR 1040 <sup>3</sup>	Gray	10/02/02
SRF Dev. Corp. v. NC DENR, Div. of Land Resources	01 EHR 1402 <sup>3</sup>	Gray	10/02/02
Rhett & Julie Taber, Robert W. Sawyer, John T. Talbert, Stephen Bastian, Dr. Ernest Brown, Thomas Read, Keith Brown, Fred Johnston, James L. Dickens, James T. Coin, Eleanor Coin & James Vaughn v. NC DENR, Div. of Coastal Management	01 EHR 1512	Conner	09/11/02
Grassy Creek Neighborhood Alliance Inc v. DHHS, Div. of Waste Mgmt, & City of Winston Salem & City/County Utility Commission	01 EHR 1585	Mann	02/07/03
Lucy, Inc. George Chemall v. NC DENR, Div. of Waste Management	01 EHR 1695	Morrison	10/22/02
Town of Ocean Isle Beach v. NC DENR	01 EHR 1885	Chess	07/31/02
Citizens Against the Asphalt Plant, a chapter of Blue Ridge Environmental Defense League, Inc., a NC Corp. v. DENR, Div. of Air Quality and John L Pace Enterprises, Inc. d/b/a Tarheel Paving Company	01 EHR 2278	Wade	04/09/03
Valley Proteins, Inc. v. NC DENR, Div. of Air Quality	01 EHR 2362	Mann	09/26/02
Frederick M. and Anne C. Morris, et al v. NC DENR, Div. of Air Quality and Martin Marietta Materials, Inc.	02 EHR 0068	Gray	10/18/02
Helen Smith v. NC DENR	02 EHR 0152	Morrison	08/09/02
Helen R. Bass v. County of Durham	02 EHR 0191	Gray	06/26/02
Bipin B Patel Rajan, Inc. v. NC DENR, Div. of Waste Management	02 EHR 0244	Gray	06/05/02

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J.B. Hooper v. NC DENR	02 EHR 0285	Conner	08/21/02	
Elwood Montgomery v. NC DENR, Div. of Waste Management	02 EHR 0329	Wade	09/26/02	
J.L. Hope & wife, Ruth B. Hope v. NC DENR	02 EHR 0395	Mann	06/10/02	
Kathy Teel Perry v. Environmental Health Division	02 EHR 0576	Chess	10/09/02	
Linda L. Hamrick v. NC DENR	02 EHR 0600	Conner	07/23/02	
Mitchell Oil Company Larry Furr v. DENR	02 EHR 0676	Lassiter	08/07/02	
Johnnie Burgess v. NC DENR, Div. of Waste Management	02 EHR 0688	Morrison	10/11/02	
County of Hertford Producer's Gin, Inc. v. NC DENR, Div. of Air Quality	02 EHR 0690	Chess	06/17/02	
Ronald Gold Overcash v. DENR, Div. of Waste Management	02 EHR 0732 <sup>0</sup>	Wade	04/04/03	
Ronald Gold Overcash v. DENR, Div. of Waste Management	02 EHR 0733 <sup>0</sup>	Wade	04/04/03	
Michael John Barri v. New Hanover Co. Health Dept./Env. Health	02 EHR 0742	Conner	09/03/02	
Christopher L. Baker v. City of Asheville	02 EHR 0763	Gray	09/11/02	
Olivia Freeman POA for Bobby C. Freeman v. Trng. Stds. Comm.	02 EHR 0777	Wade	07/11/02	
Ronald Gold Overcash v. DENR, Div. of Waste Management	02 EHR 0835 <sup>0</sup>	Wade	04/04/03	
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E Scott Stone, Env & Soil Serv. Inc v. NC DENR, Div. of Env Health	02 EHR 1305	Mann	11/20/02	
Thomas Tilley, Trustee v DENR, Div. of Water Quality	02 EHR 1466	Elkins	03/10/03	
GT of Hickory, Inc, Cole Alexander Gaither v. NC DENR	02 EHR 1534	Lassiter	11/18/02	
Brian Drive LLC, Cole Alexander Gaither v. NC DENR	02 EHR 1535	Lassiter	11/18/02	
Ronald E. Petty v. Office of Administrative Hearings	02 EHR 1183	Gray	09/20/02	
Madison M Day v Environment & Natural Resources	02 EHR 1307	Mann	12/12/02	
Randall E Kissiah v. Richmond Co. Health Dept, Env. Health Section	02 EHR 1671 <sup>9</sup>	Conner	02/12/03	
Randall E Kissiah v. Richmond Co. Health Dept, Env. Health Section	02 EHR 1945 <sup>9</sup>	Conner	02/12/03	
Bobby Long v. DENR	02 EHR 2026	Lassiter	02/11/03	
Lawrence N Ferguson, Jr. (SGI) and Ready Mixed Concrete Co. (RMC) v. NC DENR Underground Storage Tank Secion, Trust Fund Branch	02 EHR 2181	Chess	01/15/03	
Estate of Annie W Mullen v. DENR, Div. of Waste Management	03 EHR 0198	Lassiter	04/03/03	
<b><u>ENGINEERS AND LAND SURVEYORS</u></b>				
NC Bd. of Examiners for Engineers & Surveyors v. C Phil Wagoner	01 ELS 0078	Lewis	06/05/02	
<b><u>TEACHERS &amp; ST. EMP. COMP MAJOR MEDICAL PLAN</u></b>				
Philip M Keener v. Bd. of Trustees & Exec. Admin. for the State Health Plan	02 INS 0252	Mann	12/11/02	17:14 NCR 1205
Sandra Halperin v. Teachers' & St. Emp. Comp. Major Medical Plan	02 INS 0337	Elkins	10/02/02	
Seena Binder v. Teachers' & St. Emp. Comp. Major Medical Plan	02 INS 0766	Wade	12/18/02	
Bryan Atarian v. Teachers' & St. Emp. Comp. Major Medical Plan	02 INS 0837	Elkins	01/06/03	
Louise Rodgers on behalf of George Rodgers v. St. of NC Teachers' and St. Emp. Comprehensive Major Medical Plan	02 INS 1546	Gray	03/13/03	
Fillippo Pagano v. St of NC Teachers' & St. Emp. Comprehensive Major Medical Plan	02 INS 1694	Chess	03/21/03	
Charles Brent & Marisha Boone v Teachers' & St. Emp. Comp. Major Medical Plan	02 INS 1589	Conner	02/18/03	
Lorraine Carol Collins v Teachers & St Emp Comp Major Med Plan	02 INS 2235	Elkins	03/17/03	
<b><u>MISCELLANEOUS</u></b>				
Howard A Reeves, Walter W Norris v. Swansboro Bd. of Adjustment	02 MIS 2208	Morrison	12/23/02	
<b><u>NURSING HOME ADMINISTRATORS</u></b>				
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<b><u>OFFICE OF STATE PERSONNEL</u></b>				
Helen McIntyre v. UNC-TV, University of Chapel Hill	97 OSP 1164	Gray	12/20/02	
Robin Heavner Franklin v. Lincoln Co. Dept. of Social Services	98 OSP 1239	Conner	08/28/02	
Danny Wilson Carson v. NC DHHS, NC School for the Deaf	99 OSP 0641	Gray	11/15/02	
Theodore M Banks v. DOC, Harnett Correctional Institute	00 OSP 0474 <sup>7</sup>	Gray	12/20/02	
Laura C. Seamons v. NC DHS/Murdoch Center	00 OSP 0522	Wade	06/28/02	
James Edward Robinson v. Off. of Juvenile Justice, 7 <sup>th</sup> Jud. Dist.	00 OSP 0722	Wade	06/28/02	
Diane Oakley v. DHHS/John Umstead Hospital	00 OSP 1186	Gray	02/18/03	
Andre Foster v. Winston-Salem State University	00 OSP 1216 <sup>1</sup>	Mann	06/03/02	17:01 NCR 93
Theodore M Banks v. DOC, Harnett Correctional Institute	00 OSP 1258 <sup>7</sup>	Gray	12/20/02	
Berry Eugene Porter v. Department of Transportation	01 OSP 0019	Gray	07/03/02	
C.W. McAdams v. Div. of Motor Vehicles	01 OSP 0229	Conner	09/30/02	
Linda R. Walker v. Craven County Health Department	01 OSP 0309	Gray	07/12/02	
Thomas Michael Chamberlin v. Dept of Crime Control & Pub. Safety	01 OSP 0479	Gray	11/19/02	
J Louise Roseborough v. Wm F. Scarlett, Dir. of Cumberland County Department of Social Services	01 OSP 0734	Morgan	06/06/02	
Dennis Covington v. NC Ag. & Tech. State University	01 OSP 1045	Wade	06/28/02	
Reginald Ross v. Department of Correction	01 OSP 1122/23	Wade	06/28/02	
Bob R Napier v. Department of Correction	01 OSP 1379	Lassiter	09/26/02	17:09 NCR 914
Andre Foster v. Winston-Salem State University	01 OSP 1388 <sup>1</sup>	Mann	06/03/02	17:01 NCR 93
Andrew W. Gholson v. Lake Wheeler Rd. Field Lab, NCSU Unit #2	01 OSP 1405	Wade	06/28/02	
Joseph E. Teague, Jr. PE, CM v. Dept. of Transportation	01 OSP 1511	Lassiter	10/17/02	
Marshall E Carter v Department of Transportation	01 OSP 1516	Wade	12/19/02	
Demetrius J. Trahan v. EEO/Title VII, Dir. Cheryl C. Fellers, DOC	01 OSP 1559	Gray	08/13/02	
Anthony W. Price v. Eliz City State University	01 OSP 1591	Lassiter	11/05/02	
Wade Elms v. Department of Correction	01 OSP 1594	Gray	06/27/02	
Wayne G. Whisemant v. Foothills Area Authority	01 OSP 1612	Elkins	05/30/02	17:01 NCR 103
Linwood Dunn v. NC Emergency Management	01 OSP 1691	Lassiter	08/21/02	
Gladys Faye Walden v. Department of Correction	01 OSP 1741	Mann	07/12/02	

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Bruce A Parsons v. Gaston County Board of Health	01 OSP 2150	Gray	11/04/02	
Barbara A. Harrington v. Harnett Correctional Institution	01 OSP 2178	Conner	09/03/02	
Joy Reep Shuford v. Department of Correction	01 OSP 2179	Overby	06/25/02	
Debra R. Dellacroce v. NC DHHS	01 OSP 2185	Conner	09/11/02	
Thomas E Bobbitt v. NC State University	01 OSP 2196 <sup>6</sup>	Reilly	11/21/02	
Thomas E Bobbitt v. NC State University	01 OSP 2197 <sup>6</sup>	Reilly	11/21/02	
Jana Washington v Department of Corrections (Central Prison)	01 OSP 2224	Wade	12/19/02	
Joseph Kevin McKenzie v. DOC, Lavee Hamer (Gen. Counsel to the Section)	01 OSP 2241	Mann	06/05/02	
Bryan Aaron Yonish v. UNC at Greensboro	01 OSP 2274	Conner	06/25/02	
Theressa Truner v. Albemarle Mental Health Center	01 OSP 2331	Gray	07/11/02	
Mark Wayne Faircloth v. Forest Service	01 OSP 2374	Conner	06/20/02	
Angel J. Miyares v. Forsyth Co. Dept of Public Health & Forsyth Co. Board of Health	01 OSP 2385 <sup>2</sup>	Elkins	08/07/02	
James Donoghue v. Department of Correction	02 OSP 0011	Mann	08/26/02	
Robert N. Roberson v. DOC, Div. of Community Corrections	02 OSP 0059	Conner	10/14/02	
Lashaundon Smith v. Neuse Correctional Institution	02 OSP 0064	Elkins	07/03/02	17:03 NCR 329
Stacey Joel Hester v. Dept. of Correction	02 OSP 0071	Gray	10/18/02	
Gwendolyn Gordon v. Department of Correction	02 OSP 0103	Gray	10/24/02	17:14 NCR 1218
Gwendolyn Gordon v. NC Department of Correction	02 OSP 0103	Gray	11/25/02	17:14 NCR 1223
Angel J. Miyares v. Forsyth Co. Dept of Public Health & Forsyth Co. Board of Health	02 OSP 0110 <sup>2</sup>	Elkins	08/07/02	
Susan Luke aka Susan Luke Young v. Gaston-Lincoln-Cleveland Area Mental Health "Pathways"	02 OSP 0140	Conner	06/06/02	
Mark P. Gibbons v. NC Department of Transportation	02 OSP 0147	Conner	06/14/02	
Jana S. Rayne v. Onslow Co. Behavioral Health Care	02 OSP 0184	Morrison	08/01/02	
Cathy L. White v. NC Department of Corrections	02 OSP 0246	Elkins	05/31/02	
Doris J. Berry v. NC Department of Transportation	02 OSP 0247	Elkins	06/17/02	
William L. Johnson v. Caledonia Farms Ent. Caledonia Prison Farm	02 OSP 0270	Elkins	06/25/02	
Darrell Glenn Fender v. Avery/Mitchell Correctional Institution	02 OSP 0290	Mann	06/14/02	
Karen Lynette Smith v Dr. Steven Ashby, Dir. The Durham Center	02 OSP 0316	Elkins	12/18/02	
Gerald W Jones v. NC Dept. of Transportation	02 OSP 0318	Wade	10/25/02	
Alber L. Scott v. UNC General Administration	02 OSP 0336	Elkins	06/10/02	
Pamela C. Williams v. Secretary of State	02 OSP 0348	Chess	08/26/02	
Ronald P Covington v. NC DOC, Dept. of Prisons	02 OSP 0404	Morrison	11/07/02	
Isiah A Black Jr v. NC DOC Div of Community Corrections	02 OSP 0435	Morrison	11/05/02	
Michael Forreest Peeler v. NC Department of Transportation	02 OSP 0478	Conner	07/01/02	
Shirley J. Davis v. NC Department of Correction	02 OSP 0486	Elkins	07/11/02	
Alber L. Scott v. UNC General Administration	02 OSP 0498	Elkins	06/10/02	
Trayce H Butler v Durham County Dept. of Social Services	02 OSP 0499	Wade	02/11/03	
Harold Phillips v. Durham Co. Dept. of Social Services	02 OSP 0503	Chess	07/30/02	
Michelle G. Minstrell v. NC State University	02 OSP 0568	Chess	06/26/02	
Robert L. Swinney v. NC Dept. of Transportation	02 OSP 0570	Lassiter	10/23/02	
Janet Watson v. Nash Co. DSS, Carl Daughtry, Director	02 OSP 0702	Chess	08/13/02	
Lisa A Forbes v Dorothea Dix Hospital	02 OSP 0757	Wade	02/11/03	
Jackie Brannon v. Durham Co. Social Services, Daniel Hudgins	02 OSP 0769	Wade	12/19/02	
Patricia Anthony v. NC Dept. of Correction (Pamlico CI)	02 OSP 0797	Lassiter	08/07/02	
Alber L Scott v. UNC General Administration	02 OSP 0828	Gray	01/15/03	
Linda Kay Osbon v. Isothermal Community College	02 OSP 0911	Elkins	09/25/02	
Deona Renna Hooper v. NCC Police Dept, NCCU	02 OSP 0984	Lassiter	10/31/02	
Jerry J Winsett v. Cape Fear Community College	02 OSP 0998	Morrison	08/09/02	
Jerry J. Winsett v. Cape Fear Community College	02 OSP 0998	Morrison	09/05/02	
Walter Anthony Martin, Jr. v. Town of Smithfield (Smithfield Police Dept.)	02 OSP 1002	Morrison	07/30/02	
Ella Fields-Bunch v. Martin-Tyrrell-Washington Dist. Health Dept.	02 OSP 1037	Conner	10/16/02	
JoAnn A Sexton v. City of Wilson	02 OSP 1041	Morrison	07/25/02	
Karen C. Weaver v. State of NC Dept. of Administration	02 OSP 1052	Lassiter	10/25/02	
Alex Craig Fish v. Town of Smithfield (Smithfield Police Dept.)	02 OSP 1060	Morrison	08/09/02	
John C Candillo v. Roselyn Powell				
John C Candillo v. Roselyn Powell, Jud. Div Chief, NC DOCC, Jud Div. 3	02 OSP 1067	Conner	10/21/02	
Juanita M Brown v. DOC, Harnett Correctional Institution	02 OSP 1104 <sup>8</sup>	Wade	01/13/03	
Hoyte Phifer, Jr. v. UNC-Greensboro	02 OSP 1105	Gray	01/15/03	
Carolyn Davis v Durham Co. MHDDSAS Area Authority	02 OSP 1116	Lassiter	01/16/03	
Donald B. Smith v. NC DOC, Div. of Community Corrections	02 OSP 1117	Chess	10/03/02	
Russell V Parker v Capt Dennis Daniels Pasquotank Corr. Inst	02 OSP 1127	Lassiter	11/05/02	
Carolyn Pickett v. Nash-Rocky Mt. School Systems, Nash-Rocky Mt. Board of Education	02 OSP 1136	Morrison	07/29/02	
James J. Lewis v. Department of Correction	02 OSP 1158	Mann	08/20/02	
James J. Lewis v. Department of Commerce/Industrial Commission	02 OSP 1179	Mann	09/19/02	
Melvin Kimble v. NC Dept. of Crime Control & Public Safety	02 OSP 1318	Lassiter	11/06/02	
Gwendolyn H Abbott v. Wayne Talbert, Asst Super. NC DOC, Div. of Prisons, Dan River Work Farm (3080)	02 OSP 1334	Conner	12/03/02	
Theodore M Banks v. DOC, Harnett Correctional Institute	02 OSP 1367 <sup>7</sup>	Gray	12/20/02	
Mark Tony Davis v DHHS	02 OSP 1372	Overby	02/12/03	
Marie D Barrentine v. Robert William Fisher, NC Probation/Parole	02 OSP 1410	Elkins	02/11/03	
Onyedika Nwaebube v Employment Security Commission of NC	02 OSP 1443	Gray	01/24/03	
Alber LScott v UNC General Administration	02 OSP 1444	Gray	01/22/03	
Esther L Jordan v. Pasquotank Correctional Ins. (Ernest Sutton)	02 OSP 1453	Conner	02/06/03	
Martha Ann Brooks v. State of NC Brown Creek Correctional Inst.	02 OSP 1468	Chess	10/25/02	
Theodore M Banks v. DOC, Harnett Correctional Institute	02 OSP 1482 <sup>7</sup>	Gray	12/20/02	
James Orville Cox II v. NC DOC, Adult Probation/Parole	02 OSP 1526	Chess	10/17/02	
Renee Shirley Richardson v Albert Blake, Interim Dir. of Eng Svcs, DDH	02 OSP 1551	Gray	12/20/02	

**CONTESTED CASE DECISIONS**

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Juanita M Brown v. DOC, Harnett Correctional Institution	02 OSP 1599 <sup>8</sup>	Wade	01/13/03
Kevin W Lawrence v DOC, Division of Prisons	02 OSP 1675	Conner	02/18/03
Rashad A Rahman v. South East Region Mental Health	02 OSP 1669	Lassiter	01/09/03
Leonard Williams v. Durham Co Dept of Soc. Svcs, Children's Svcs	02 OSP 1681 <sup>11</sup>	Elkins	04/08/03
L Ozetta Parker v. Person Co. Dept of Social Svcs; Carole Thomas, Supervisor	02 OSP 2116	Chess	03/27/03
Alwilda G. George v. Sanford Correctional Center	02 OSP 2317	Elkins	02/06/03
William H Haney, Jr. v. DHHS, Div. of Vocational Rehabilitation, Michael Easley, Carmen Hooker Odom, et al.	02 OSP 2327	Elkins	03/26/03
JoAnn Whitfield Shandy v Dept. of Correction	03 OSP 0022	Lassiter	04/17/03
Jennifer Howard v Sampson Correctional Center	03 OSP 0042	Elkins	02/24/03
Bobby C Lee v Dorothea Dix Hospital	03 OSP 0096	Lassiter	03/07/03
Cynthia Ann Hartzell v. NC State University	03 OSP 0157	Lassiter	04/17/03
Leonard Williams v. Durham Co Dept of Soc. Svcs, Children's Svcs	03 OSP 0498 <sup>11</sup>	Elkins	04/08/03

**SUBSTANCE ABUSE PROFESSIONAL BOARD**

NC Substance Abuse Professional Certification Board v. Lynn Cameron Gladden	00 SAP 1573	Chess	05/10/02
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**UNIVERSITY OF NORTH CAROLINA**

Patsy R. Hill v. UNC Hospitals	02 UNC 0458	Conner	08/21/02
Sharon Reed v. UNC Hospitals	02 UNC 1284	Conner	11/11/02
Shirley Lally v UNC Hospitals	02 UNC 1325	Conner	03/11/03
Dee C Driver/Jenny Driver one and the same and Philip L Driver v. UNC Hospitals	02 UNC 1635	Gray	01/15/03
Augustine Vendetti v. UNC Hospitals	02 UNC 2316	Elkins	04/23/03

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