IN THIS ISSUE

I. IN ADDITION
   Notice of Intent to Redevelop a Brownfields Property – Charlotte-Mecklenburg Bd. of Educ. ......2074

II. EMERGENCY RULES
   Licensing Boards
   Pharmacy, Board of....................................................2075 - 2077

III. TEMPORARY RULES
   Expired Temporary Rules .............................................2078

IV. RULES REVIEW COMMISSION..........................2079

V. CONTESTED CASE DECISIONS
   Index to ALJ Decisions ..................................................2080 - 2088

For the CUMULATIVE INDEX to the NC Register go to:
http://oahnt.oah.state.nc.us/register/CI.pdf
The North Carolina Administrative Code (NCAC) has four major classifications of rules. Three of these, titles, chapters, and sections are mandatory. The major classification 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. Subchapters are optional classifications to be used by agencies when appropriate.

<table>
<thead>
<tr>
<th>NCAC TITLES</th>
<th>TITLE 21 LICENSING BOARDS</th>
<th>TITLE 24 INDEPENDENT AGENCIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 ADMINISTRATION</td>
<td>1 Acupuncture</td>
<td>1 Housing Finance</td>
</tr>
<tr>
<td>2 AGRICULTURE &amp; CONSUMER SERVICES</td>
<td>2 Architecture</td>
<td>2 Agricultural Finance Authority</td>
</tr>
<tr>
<td>3 AUDITOR</td>
<td>3 Athletic Trainer Examiners</td>
<td>3 Safety &amp; Health Review Board</td>
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<td>4 COMMERCE</td>
<td>4 Auctioneers</td>
<td>4 Reserved</td>
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<tr>
<td>5 CORRECTION</td>
<td>5 Barber Examiners</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
</tr>
<tr>
<td>6 COUNCIL OF STATE</td>
<td>6 Certified Public Accountant Examiners</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
</tr>
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<td>7 CULTURAL RESOURCES</td>
<td>7 Chiropractic Examiners</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
</tr>
<tr>
<td>8 ELECTIONS</td>
<td>8 Employee Assistance Professionals</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>9 GOVERNOR</td>
<td>9 General Contractors</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<tr>
<td>10A HEALTH AND HUMAN SERVICES</td>
<td>10 Cosmetic Art Examiners</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>11 INSURANCE</td>
<td>11 Dental Examiners</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>12 JUSTICE</td>
<td>12 Dietetics/Nutrition</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>13 LABOR</td>
<td>13 Electrical Contractors</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>14A CRIME CONTROL &amp; PUBLIC SAFETY</td>
<td>14 Electrolysis</td>
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<td>15 Foresters</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>16 PUBLIC EDUCATION</td>
<td>16 Geologists</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
</tr>
<tr>
<td>17 REVENUE</td>
<td>17 Hearing Aid Dealers and Fitters</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>18 SECRETARY OF STATE</td>
<td>18 Interpreter/Transliterator (Reserved)</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<tr>
<td>19A TRANSPORTATION</td>
<td>19 Landscape Architects</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>20 TREASURER</td>
<td>20 Landscape Contractors</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<tr>
<td>21* OCCUPATIONAL LICENSING BOARDS</td>
<td>21 Locksmith Licensing</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
</tr>
<tr>
<td>22 ADM INISTRATIVE PROCEDURES (REPEALED)</td>
<td>22 Massage &amp; Bodywork Therapy</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<tr>
<td>23 COMMUNITY COLLEGES</td>
<td>23 Marital and Family Therapy</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
</tr>
<tr>
<td>24* INDEPENDENT AGENCIES</td>
<td>24 Medical Examiners</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<tr>
<td>25 STATE PERSONNEL</td>
<td>25 Midwifery Joint Committee</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
</tr>
<tr>
<td>26 ADMINISTRATIVE HEARINGS</td>
<td>26 Funeral Service</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
</tr>
<tr>
<td>27 NC STATE BAR</td>
<td>27 Nursing</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
</tr>
<tr>
<td>28 JUVENILE JUSTICE AND DELINQUENCY PREVENTION</td>
<td>28 Nursing Home Administrators</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<tr>
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<td>29 Occupational Therapists</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>32 Osteopathic Examination (Repealed)</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>33 Pastoral Counselors, Fee-Based Practicing</td>
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<td>34 Pharmacy</td>
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<td>36 Plumbing, Heating &amp; Fire Sprinkler Contractors</td>
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<td>37 Podiatry Examiners</td>
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<td>39 Psychology</td>
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<td>40 Professional Engineers &amp; Land Surveyors</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>41 Real Estate Appraisal</td>
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<td>46 Social Work Certification</td>
<td>5 State Health Plan Purchasing Alliance Board</td>
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<td>47 Speech &amp; Language Pathologists &amp; Audiologists</td>
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<td>48 Therapeutic Recreation Certification</td>
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<td>51 Soil Scientists</td>
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Note: Title 21 contains the chapters of the various occupational licensing boards and Title 24 contains the chapters of independent agencies.
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<tr>
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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.

### FILING DEADLINES

#### ISSUE DATE:

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

#### LAST DAY FOR FILING:

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

### NOTICE OF TEXT

#### EARLIEST DATE FOR PUBLIC HEARING:

The hearing date shall be at least 15 days after the date a notice of the hearing is published.

#### END OF REQUIRED COMMENT PERIOD:

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

#### DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:

The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

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

This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

#### 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.
SUMMARY OF NOTICE OF INTENT TO REDEVELOP A BROWNFIELDS PROPERTY

The Charlotte-Mecklenburg Board of Education

Pursuant to N.C.G.S. § 130A-310.34, The Charlotte-Mecklenburg Board of Education has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Charlotte, Mecklenburg County, North Carolina. The Property consists of a 0.24-acre parcel at 3004 Bank Street and 3331 Griffith Street, which lies on the southwest corner of the intersection of Griffith Street and Bank Street. Environmental contamination exists on the Property in soil and groundwater. The Charlotte-Mecklenburg Board of Education has committed itself to redevelop the Property for no use other than as an entry plaza for a new middle school planned for neighboring property. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and The Charlotte-Mecklenburg Board of Education, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the City of Charlotte's Economic Development office at 600 East Trade Street, Charlotte, NC 28202 by contacting Carolyn Minnich at that address, at cminnich@ci.charlotte.nc.us, or at (704) 336-3499; or at 401 Oberlin Rd., Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 733-2801, ext. 336. DENR will provide auxiliary aids and services at the Raleigh location for persons with disabilities who wish to review the documents. Written public comments may be submitted to DENR within 60 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 30 days after the period for written public comments begins. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Brownfields Program Manager
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605
TITLE 21 – OCCUPATION LICENSING BOARDS

CHAPTER 46 – BOARD OF PHARMACY

Rule-making Agency: North Carolina Board of Pharmacy

Rule Citation: 21 NCAC 46.2507

Effective Date: May 11, 2004

Findings Reviewed and Approved by: Beecher R. Gray

Reason for Action: Immediate adoption is required to allow pharmacists to prebook influenza vaccinations in order to be prepared to meet the increased demand for influenza vaccinations in the coming fall and winter and to have sufficient quantities on hand to allow pharmacists to administer the vaccinations.

21 NCAC 46.2507 ADMINISTRATION OF VACCINATIONS BY PHARMACISTS

A pharmacist who has successfully completed a course of training approved by the Board, and the North Carolina Medical Board, or the North Carolina Board of Nursing, may administer immunizations.

(a) Purpose. The purpose of this section is to provide standards for pharmacists engaged in the administration of vaccines as authorized in G.S. 90-85.3(r) of the North Carolina Pharmacy Practice Act.

(b) Definitions. The following words and terms, when used in this Section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) “ACPE” means American Council on Pharmaceutical Education.

(2) “Administer” means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or other means by:

(A) a pharmacist, an authorized agent under his/her supervision, or other person authorized by law; or

(B) the patient at the direction of a practitioner.

(3) “Antibody” means a protein in the blood that is produced in response to stimulation by a specific antigen. Antibodies help destroy the antigen that produced them. Antibodies against an antigen usually equate to immunity to that antigen.

(4) “Antigen” means a substance recognized by the body as being foreign; it results in the production of specific antibodies directed against it.

(5) “Board” means the North Carolina Board of Pharmacy.

(6) “Confidential record” means any health-related record that contains information that identifies an individual and that is maintained by a pharmacy or pharmacist such as a patient medication record, prescription drug order, or medication order.

(7) “Immunization” means the act of inducing antibody formation, thus leading to immunity.


(9) “Physician” means a currently licensed M.D. or D.O. in good standing with the North Carolina Medical Board who is responsible for the on-going, continuous supervision of the pharmacist pursuant to written protocols between the pharmacist and the physician.

(10) “Vaccination” means the act of administering any antigen in order to induce immunity; is not synonymous with immunization since vaccination does not imply success.

(11) “Vaccine” means a specially prepared antigen, which upon administration to a person will result in immunity.

(12) Written Protocol—A physician’s order, standing medical order, or other order or protocol. A written protocol must be prepared, signed and dated by the physician and pharmacist and contain the following:

(A) the name of the individual physician authorized to prescribe drugs and responsible for authorizing the written protocol;

(B) the name of the individual pharmacist authorized to administer vaccines;

(C) the immunizations or vaccinations that may be administered by the pharmacist;

(D) procedures to follow, including any drugs required by the pharmacist for treatment of the patient, in the event of an emergency or severe adverse reaction following vaccine administration;

(E) the reporting requirements by the pharmacist to the physician issuing the written protocol, including content and time frame;

(F) locations at which the pharmacist may administer immunizations or vaccinations; and
(G) the requirement for annual review of the protocols by the physician and pharmacist.

(c) Policies and Procedures

1. Pharmacists must follow a written protocol as specified in Subparagraph (b)(12) of this Rule for administration of vaccines and the treatment of severe adverse events following administration.

2. The pharmacist administering vaccines must maintain written policies and procedures for handling and disposal of used or contaminated equipment and supplies.

3. The pharmacist or pharmacist's agent must give the appropriate vaccine information to the patient or legal representative with each dose of vaccine. The pharmacist must ensure that the patient or legal representative is available and has read, or has had read to them, the information provided and has had their questions answered prior to administering the vaccine.

4. The pharmacist must report adverse events to the primary care provider as identified by the patient.

5. The pharmacist shall not administer vaccines to patients under 18 years of age.

(d) Pharmacist requirements. Pharmacists who enter into a written protocol with a physician to administer vaccines shall:

1. hold a current provider level cardiopulmonary resuscitation (CPR) certification issued by the American Heart Association or the American Red Cross or equivalent;

2. successfully complete a certificate program in the administration of vaccines accredited by the Centers for Disease Control, the ACPE or a similar health authority or professional body approved by the Board;

3. maintain documentation of:
   (A) completion of the initial course specified in Subparagraph (2) of this Paragraph;
   (B) three hours of continuing education every two years beginning January 1, 2006, which are designed to maintain competency in the disease states, drugs, and administration of vaccines;
   (C) current certification specified in Subparagraph (1) of this Paragraph;
   (D) original written physician protocol;
   (E) annual review and revision of original written protocol with physician;
   (F) any problems or complications reported; and
   (G) items specified in Paragraph (g) of this Rule.

(e) Supervising Physician responsibilities. Physicians who enter into a written protocol with a pharmacist to administer vaccines shall:

1. be responsible for the formulation or approval and periodic review of the written protocols;

2. be easily accessible to the pharmacist administering the vaccines or be available through direct telecommunication for consultation, assistance, direction, and provide adequate back-up coverage; and

3. review written protocol with pharmacist at least annually and revise if necessary.

(f) Supervision. Pharmacists involved in the administration of immunizations or vaccinations shall be under the supervision of a physician. Physician supervision shall be considered adequate if the delegating physician:

1. is responsible for the formulation or approval of the physician’s order, standing medical order, standing delegation order, or other order or protocol and periodically reviews the order or protocol and the services provided to a patient under the order or protocol;

2. is geographically located so as to be easily accessible to the pharmacist administering the immunization or vaccination;

3. receives, as appropriate, a periodic status report on the patient, including any problem or complication encountered; and

4. is available through direct telecommunication for consultation, assistance, and direction.

(g) Drugs. The following requirements pertain to drugs administered by a pharmacist:

1. Drugs administered by a pharmacist under the provisions of this section shall be in the legal possession of:
   (A) a pharmacy, which shall be the pharmacy responsible for drug accountability, including the maintenance of records of administration of the immunization or vaccination; or
   (B) a physician, who shall be responsible for drug accountability, including the maintenance of records of administration of the immunization or vaccination;

2. Drugs shall be transported and stored at the proper temperatures indicated for each drug;

3. Pharmacists while actively engaged in the administration of vaccines under written protocol, may have in their custody and control the vaccines identified in the written protocol and any other drugs listed in the written protocol to treat adverse reactions; and

4. After administering vaccines at a location other than a pharmacy, the pharmacist shall return all unused prescription medications to the pharmacy or physician responsible for the drugs.

(h) Record Keeping and Reporting

1. A pharmacist who administers any vaccine shall maintain the following information,
readily retrievable, in the pharmacy records regarding each administration:

(A) The name, address, and date of birth of the patient;

(B) The date of the administration;

(C) The administration site of injection (e.g., right arm, left leg, right upper arm);

(D) route of administration of the vaccine;

(E) The name, manufacturer, lot number, and expiration date of the vaccine;

(F) Dose administered;

(G) The name and address of the patient's primary health care provider, as identified by the patient; and

(H) The name or identifiable initials of the administering pharmacist.

(2) A pharmacist who administers vaccines shall document annual review with physician of written protocol in the records of the pharmacy that is in possession of the vaccines administered.

(i) Confidentiality.

(1) The pharmacist shall comply with the privacy provisions of the federal Health Insurance Portability and Accountability Act of 1996 and any rules adopted pursuant to this act.

(2) Any other confidentiality provisions of federal or state laws.

(3) Violations of these Rules by a pharmacist and/or supervising physician shall constitute grounds by the licensee's respective Board to initiate disciplinary action against that licensee's license.

History Note: Authority G.S. 90-85.3; 90-85.6; Eff. April 1, 2003; Emergency Amendment Eff. May 11, 2004.
**Note from the Codifier:** The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day. This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

### EXPIRED TEMPORARY RULES

The following temporary rules have expired and are removed from the NC Administrative Code. The dates shown to the right of the rule citation are the original effective date and the date the rule expired.

<table>
<thead>
<tr>
<th>Rule Citation</th>
<th>Effective Date</th>
<th>Expiration Date</th>
</tr>
</thead>
</table>
| DHHS/Medical Assistance  
10A NCAC 21B .0402 | 01/01/01 | 10/12/03 |
| 10A NCAC 22G .0101 | 06/26/03 | 04/27/04 |
| 10A NCAC 22G .0307 | 06/26/03 | 04/27/04 |
| 10A NCAC 22G .0508 | 12/20/02 | 11/28/03 |
| 10A NCAC 22O .0410 | 12/27/02 | 10/12/03 |
RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on ___. 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, ____ 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
Jeffrey P. Gray

Appointed by House
Jennie J. Hayman - Chairman
Graham Bell
Dana E. Simpson
Dr. John Tart

RULES REVIEW COMMISSION MEETING DATES

June 17, 2004       July 22, 2004
August 19, 2004     September 16, 2004
October 21, 2004    November 18, 2004
December 16, 2004

NOTICE

The Rules Review Commission meeting in July has been rescheduled from Thursday, July 15, 2004 to one week later, Thursday, July 22, 2004.
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 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

<table>
<thead>
<tr>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sammie Chess Jr.</td>
</tr>
<tr>
<td>Beecher R. Gray</td>
</tr>
<tr>
<td>Melissa Owens Lassiter</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>James L. Conner, II</td>
</tr>
<tr>
<td>Beryl E. Wade</td>
</tr>
<tr>
<td>A. B. Elkins II</td>
</tr>
</tbody>
</table>

### RULES DECLARED VOID

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

20 NCAC 02B .0508  
FAILURE TO RESPOND  
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge Melissa Owens Lassiter declared 20 NCAC 02B .0508 void as applied in Burton L. Russell v. Department of State Treasurer, Retirement Systems Division (03 DST 1715).

### ALCOHOLIC BEVERAGE CONTROL COMMISSION

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>CASE NUMBER</th>
<th>ALJ</th>
<th>DATE OF DECISION</th>
<th>PUBLISHED DECISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ice 2 K t/a Sports Dimensions, Inc. v. ABC Commission</td>
<td>02 ABC 0683</td>
<td>Gray</td>
<td>11/25/03</td>
<td></td>
</tr>
<tr>
<td>Carolina Sports Arena LLC T/A NC Sports Arena v ABC Comm.</td>
<td>02 ABC 1491</td>
<td>Conner</td>
<td>09/11/03</td>
<td></td>
</tr>
<tr>
<td>ABC v. Fast Fare Inc. T/A Fast Fare NC 576</td>
<td>02 ABC 1882</td>
<td>Gray</td>
<td>09/22/03</td>
<td></td>
</tr>
<tr>
<td>Ki Young Kim v. Ann H. Johnson, ABC Commission in Raleigh</td>
<td>03 ABC 0177</td>
<td>Mann</td>
<td>06/17/03</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Pantana Bob's, Inc. T/A Pantana Bob's</td>
<td>03 ABC 0233</td>
<td>Mann</td>
<td>10/03/03</td>
<td></td>
</tr>
<tr>
<td>C&amp;C Entertainment, Inc. d/b/a Carolina Live</td>
<td>03 ABC 1037</td>
<td>Lassiter</td>
<td>09/30/03</td>
<td></td>
</tr>
<tr>
<td>ABC v. Lake Point Restaurant, Inc. T/A Larkins on the Lake Bay Front Bar and Grill</td>
<td>03 ABC 1246</td>
<td>Hunter</td>
<td>01/01/04</td>
<td>18:17 NCR 1540</td>
</tr>
<tr>
<td>ABC Commission v LLPH Inc T/A Tsunami Sportsbar &amp; Grill, 947 Carter Dr, Suite 4, Calabash, NC 28467</td>
<td>03 ABC 1530</td>
<td>Conner</td>
<td>02/05/04</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Erick Salgado, T/A Confety’s 123 2613 Lee Avenue Sanford, NC 27330</td>
<td>03 ABC 2342</td>
<td>Mann</td>
<td>04/13/04</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Chelsie Paul Grose, Brown Mountain Grocery And Service Station</td>
<td>04 ABC 0064</td>
<td>Chess</td>
<td>03/03/04</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Jose-Martin Ortega Ramirez T/A Dona Ole Rest.</td>
<td>04 ABC 0094</td>
<td>Gray</td>
<td>03/02/04</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Taqueria El Azteca Inc T/A Taqueria El Azteca</td>
<td>04 ABC 0095</td>
<td>Gray</td>
<td>03/02/04</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Jas Imagine, LLC. T/A Imagine</td>
<td>04 ABC 0173</td>
<td>Gray</td>
<td>03/31/04</td>
<td></td>
</tr>
<tr>
<td>ABC Commission v. Raleigh Bryce Olive T/A Olives Cash Svc Ctr</td>
<td>04 ABC 0174</td>
<td>Gray</td>
<td>03/22/04</td>
<td></td>
</tr>
</tbody>
</table>

### MEDICAL BOARD

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>CASE NUMBER</th>
<th>ALJ</th>
<th>DATE OF DECISION</th>
<th>PUBLISHED DECISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>NC Medical Board v. Miles James Jones</td>
<td>03 BME 1338</td>
<td>Elkins</td>
<td>03/26/04</td>
<td>18:22 NCR 2063</td>
</tr>
</tbody>
</table>

### AGRICULTURE

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>CASE NUMBER</th>
<th>ALJ</th>
<th>DATE OF DECISION</th>
<th>PUBLISHED DECISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phoenix Ski Corp. v. Dept. of Ag. &amp; Cons. Svcs. &amp; Dept. of Admin. &amp; Carolina Cable Lift, LLC.</td>
<td>02 DAG 0560</td>
<td>Lewis</td>
<td>06/30/03</td>
<td>18:03 NCR 217</td>
</tr>
</tbody>
</table>

### CRIME CONTROL AND PUBLIC SAFETY

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>CASE NUMBER</th>
<th>ALJ</th>
<th>DATE OF DECISION</th>
<th>PUBLISHED DECISION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Myrtle J. Price v. Crime Victims Comp. &amp; Public Safety, Victims Compensation Services Division</td>
<td>03 CPS 0173</td>
<td>Wade</td>
<td>06/27/03</td>
<td></td>
</tr>
<tr>
<td>Dolores Chavis v. NC Crime Victim Compensation Commission</td>
<td>03 CPS 0359</td>
<td>Conner</td>
<td>03/18/04</td>
<td>18:22 NCR 2067</td>
</tr>
<tr>
<td>Regis A Urik v. DOCCPS, Div. of Victim Comp. Services</td>
<td>03 CPS 0707</td>
<td>Gray</td>
<td>10/21/03</td>
<td></td>
</tr>
<tr>
<td>Fredrica Wood-Jones v. DOCC&amp;PS, Div. of Victim Comp. &amp; Svcs.</td>
<td>03 CPS 0804</td>
<td>Gray</td>
<td>10/06/03</td>
<td></td>
</tr>
<tr>
<td>Michael L Pompey v. Crime Control &amp; Public Safety, Div. of Victim</td>
<td>03 CPS 0828</td>
<td>Gray</td>
<td>09/03/03</td>
<td></td>
</tr>
</tbody>
</table>
CONTESTED CASE DECISIONS

Waddell B Taylor v DHHS, John Umstead Hospital 03 DHR 0394 Gray 09/23/03
Dorothy Ann Bell v. DHHS, Div. of Facility Services 03 DHR 0437 Morrison 06/30/03
Edmund Bond Small v. DHHS, Walter B Jones, ADATC 03 DHR 0445 Lassiter 07/21/03
Janitta Brown v. DHHS, Dorothea Dix Hospital 03 DHR 0461 Lassiter 09/15/03
Gerry Dwayne Cashwell v. DHHS 03 DHR 0469 Gray 07/28/03
Total Renal Care of NC, LLC v DHHS, Div. of Facility Services, CON Section & Bio-Medical Applications of NC
03 DHR 0499 Conner 12/09/03 18:17 NCR 1548
Charlotte Orthopedic Specialists, P.A. v DHHS, Div. of Facility Svcs CON Section & Orion Imaging LLC Mercy Hospital Inc dba/Carolina's Medical Center-Pineville
Gregory Lewis Berry v. Burke Co. Dept of Social Services 03 DHR 0514 Wade 08/19/03
Robert L Scott v DHHS 03 DHR 0527 Conner 12/02/03
Donna Kay Kirkland v. DHHS, Broughton Hospital 03 DHR 0547 Wade 08/29/03
Penny Yvette McCullers v DHHS, Div. of Facility Services 03 DHR 0556(a) Mann 01/08/04 18:17 NCR 1543
The Presbyterian Hospital v. DHHS, Division of Facility Services and Mooresville Hosp Mgmt Assoc Inc dba/Lake Norman Reg Med Ctr 03 DHR 0567 Wade 12/19/03 18:15 NCR 1362
Grace Browning v John Umstead Hospital 03 DHR 0571 Mann 10/03/03
Becky Wood, Guardian Rep The Arc/NCLifeguardianship on behalf of Mary Short (Ward) v Richard Visingardi, Dir, Div of MH, DD, SAS
Sabrina Regina Betts v. DHHS, Div. of Facility Services 03 DHR 0595 Gray 09/11/03
Andrea Ford v DHHS, Div. of Facility Services 03 DHR 0609 Morrison 06/04/03
Wallace C Levi v. Div. of Medical Assistance 03 DHR 0633 Wade 08/12/03
Timothy Batts v. DHHS, Div. of Facility Services 03 DHR 0640 Gray 09/12/03
Jenny Cooley v. DHHS, Dorothea Dix Hospital 03 DHR 0657 Conner 04/07/04
Bestway Food's, Osama M Dani v doh WIC, Coey Menees, Unit Super. 03 DHR 0662 Morrison 07/28/03
Charles Wakiil & Susan Wakiil v DNAV, Div of Coastal Management 03 DHR 0663 Mann 12/20/03
Denise A Worthington v. DHHS, Office of the Controller 03 DHR 0672 Gray 10/06/03
Wake Radiology Services, LLC, Wake Radiology Consultants, P.A., Raleigh
MR Imaging Center Ltd Partnership & Wake Radiology Diagnostic Imaging, Inc. v. DHHS, Div. of Facility Svcs., CON Sec., Robert J. Fitzgerald, Dir, Lee B Hoffman, Chief of CON Sec. & Mobile Imaging
of North Carolina, LLC
Nedall H Hassan dba/GNS Express Mart v. DHHS 03 DHR 0695 Lassiter 10/14/03
Samantha Jacobs v. DHHS, Div. of Facility Services 03 DHR 0697 Lassiter 06/19/03
Jane McMillan v. DHHS, Div. of Facility Services 03 DHR 0698 Lassiter 06/19/03
Veronica Williams v. Div. of Med. Assistance, Dana Harris, Super. 03 DHR 0737 Mann 08/28/03
Patti L Cain Small Fries v. Patti v. Nutrition Services 03 DHR 0768 Mann 07/31/03
Humans United Giving Greater Services "Huggs" v DHHS 03 DHR 0767(1) Lassiter 01/15/04
Essie Mae Crawley Davis v. DHHS, Division of Facility Services 03 DHR 0773 Elkins 03/02/04
Brian Keith Herig v DHHS, Div. of Medical Assistance 03 DHR 0779 Mann 07/17/03
Mses Sooj An v. DHHS 03 DHR 0780 Gray 07/28/03
Kimberly Donyelle Miles v. DHHS, Div. of Facility Services 03 DHR 0795 Lassiter 09/11/03
Sharmia Barnes v. DHHS, Div of Facility Services 03 DHR 0830 Conner 01/05/04
Pamela Powell v. DMA Outpatient Therapy 03 DHR 0834 Lassiter 10/13/03
Angela Carter Precious Love Turtle dove v. Tarin Goodwin, St. of NC, DCD 03 DHR 0850 Conner 09/23/03
Donald Eugene Lowery by & through his guardian, Dennis Parise v. CAP (DMA) Div. of Medical Assistance 03 DHR 0868 Gray 12/17/03
Nequita Williams v. DHHS, Div. of Medical Assistance 03 DHR 0895 Wade 11/21/03
Native Angels Home Care Agency, Inc. v. DHHS, Div. of Facility Services, Certificate of Need Section & Community Health, Inc. dba/Community Home Care and Hospice; and Consolidated Health Services 03 DHR 0903 Conner 02/20/04 18:20 NCR 1804
Ali Alsarar dba University Market v. DHHS 03 DHR 0917 Conner 12/02/03
Kimberly Roberts v. DHHS, Div. of Facility Services 03 DHR 0927 Gray 08/15/03
Michael Hillis v. Department of Revenue 03 DHR 0935 Conner 07/28/03
Rose McCallum, Individually & as Owner & Representative of NC Preschool Academy & Tina Oetetter, Individually & as Director & Representative Of NC Preschool Academy v. DHHS, Div. of Public Health 03 DHR 0951 Elkins 02/02/04 18:17 NCR 1571
Rose McCallum, Individually & as Owner & Representative of NC Preschool Academy & Tina Oetetter, Individually & as Director & Representative Of NC Preschool Academy v. DHHS, Div. of Public Health 03 DHR 0952(1) Elkins 02/02/04 18:17 NCR 1571
Alvin Paulul v. DHHS, Div. of Child Development 03 DHR 0971 Conner 07/25/03
Nadzh Hasan & Emze Hasan, Nes Convenient Mart v DHHS 03 DHR 0985 Lassiter 10/31/03
Victor J Gray v. Dorothea Dix Hospital 03 DHR 1039 Morrison 09/29/03
Pine Forest Rest Home v. DHHS, Div. of Facility Services 03 DHR 1066 Gray 10/10/03
Doris Fromeberger v. DHHS, Div. of Facility Services 03 DHR 1081 Gray 09/12/03
Heather M Wood v. DHHS 03 DHR 1083 Mann 10/03/03
Lisa S Lincoln, Honeybees Creative Ctr v DHHS, Nutrition Branch 03 DHR 1091 Elkins 11/13/03
Wardeh Abukhesh v. DHHS 03 DHR 1117 Gray 12/10/03
Esther M Huntley, Children Learning Ctr, Formerly Rainbow Nursery Sch v. DHHS, Division of Child Development 03 DHR 1118 Elkins 12/23/03
Martha Williams v. Div of Child Development 03 DHR 1120 Elkins 03/24/04
Iarris Davis v. DHHS, Div of Facility Services 03 DHR 1136 Gray 10/07/03
Albert Brower v. DHHS 03 DHR 1153 Wade 09/04/03
Sherry Autry v. DHHS 03 DHR 1204 Elkins 12/22/03
Angela Sandler v. DHHS, Div. of Facility Services 03 DHR 1210 Conner 11/04/03
Thomas Reiter, a minor, by his mother and Legal Guardian 03 DHR 1253 Gray 03/26/04
Kathryn Reiter v. DHHS 03 DHR 1253
Bernard Frederic v Div of MH/DD/SAS 03 DHR 1298 Conner 01/07/04
Lisa Dupree v. NC State Veterans Nursing Home 03 DHR 1306 Lassiter 09/15/03

18:23 NORTH CAROLINA REGISTER June 1, 2004
<table>
<thead>
<tr>
<th>Case Title</th>
<th>DOJ/DOHR Case Number</th>
<th>Judge</th>
<th>Decision Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minni's House Day Care v. Hazel Jones Paris v. Div. of Child Development</td>
<td>03 DHR 1322</td>
<td>Lassiter</td>
<td>04/27/04</td>
</tr>
<tr>
<td>LaQuasha K Massey v. DSS, Mecklenburg County</td>
<td>03 DHR 1375</td>
<td>Elkins</td>
<td>12/16/03</td>
</tr>
<tr>
<td>Nancy Graham, Alice Graham, Legal Guardian v. DHHS, Div. of Medical Assistance</td>
<td>03 DHR 1384</td>
<td>Hunter</td>
<td>04/19/04</td>
</tr>
<tr>
<td>David L Hayden Sr. Margaret R Hayden v DHHS</td>
<td>03 DHR 1405</td>
<td>Conner</td>
<td>12/19/03</td>
</tr>
<tr>
<td>Calvin Harris, Jr. v. Health Care Personnel Registry</td>
<td>03 DHR 1434</td>
<td>Wade</td>
<td>10/06/03</td>
</tr>
<tr>
<td>Karen J Andrews v. DHHS</td>
<td>03 DHR 1461</td>
<td>Lassiter</td>
<td>11/25/03</td>
</tr>
<tr>
<td>Jean Rosen, Peek-A-Boo Child Care v. DHHS, Div of Child Development</td>
<td>03 DHR 1487</td>
<td>Conner</td>
<td>04/15/04</td>
</tr>
<tr>
<td>Apple Nursing Services v. DHHS</td>
<td>03 DHR 1488</td>
<td>Chess</td>
<td>12/10/03</td>
</tr>
<tr>
<td>Coastal Carolina Health Care PA dba Coastal Carolina Imaging (P-6766-03)</td>
<td>03 DHR 1496</td>
<td>Lassiter</td>
<td>11/06/03</td>
</tr>
<tr>
<td>Roger William Sutles v. Broughton Hospital</td>
<td>03 DHR 1536</td>
<td>Gray</td>
<td>12/22/03</td>
</tr>
<tr>
<td>Barbara Hammond for Dennis Hammond v. DHHS</td>
<td>03 DHR 1539</td>
<td>Elkins</td>
<td>12/23/03</td>
</tr>
<tr>
<td>Kimberly Sheppard v. Western NC Group Home for Autistic Persons</td>
<td>03 DHR 1557</td>
<td>Gray</td>
<td>02/16/04</td>
</tr>
<tr>
<td>Virginia Ruth Mahala v. DHHS, Office of Legal Affairs</td>
<td>03 DHR 1574</td>
<td>Conner</td>
<td>03/10/04</td>
</tr>
<tr>
<td>Karoline Hatfield Kranezic v. DHHS, Div. of Facility Services</td>
<td>03 DHR 1584</td>
<td>Gray</td>
<td>01/16/04</td>
</tr>
<tr>
<td>Delaine Haisron v. DHHS</td>
<td>03 DHR 1604</td>
<td>Mann</td>
<td>11/25/03</td>
</tr>
<tr>
<td>Linda Joyce Lindsey v. DHHS, Div. of Facility Services</td>
<td>03 DHR 1605</td>
<td>Wade</td>
<td>02/11/04</td>
</tr>
<tr>
<td>Tommy Hoyle for Leslie Hoyle v. DHHS</td>
<td>03 DHR 1614</td>
<td>Elkins</td>
<td>01/29/04</td>
</tr>
<tr>
<td>LaDonna K. Brewington v. DHHS, Div of Facility Svcs, Certificate of Need Section</td>
<td>03 DHR 1622</td>
<td>Elkins</td>
<td>01/26/04</td>
</tr>
<tr>
<td>Ronald Bryan Gatlyn v. Health Care Personnel Registry</td>
<td>03 DHR 1655</td>
<td>Lassiter</td>
<td>10/28/03</td>
</tr>
<tr>
<td>Sheila Ferrell Meeks v. Office of Administrative Hearings</td>
<td>03 DHR 1672</td>
<td>Lassiter</td>
<td>12/02/03</td>
</tr>
<tr>
<td>Willie S Neely v. DHHS, Div. of Facility Services</td>
<td>03 DHR 1674</td>
<td>Gray</td>
<td>11/20/03</td>
</tr>
<tr>
<td>Mohammed Khali v. DHHS</td>
<td>03 DHR 1694</td>
<td>Mann</td>
<td>02/03/04</td>
</tr>
<tr>
<td>Christine Gordon v Health Care Personnel Registry</td>
<td>03 DHR 1697</td>
<td>Elkins</td>
<td>12/16/03</td>
</tr>
<tr>
<td>Doris Duff v. DHHS, Div. of Facility Services</td>
<td>03 DHR 1720</td>
<td>Lassiter</td>
<td>12/20/03</td>
</tr>
<tr>
<td>Rochelle M Jones v. DHHS, Div. of Facility Services</td>
<td>03 DHR 1734</td>
<td>Wade</td>
<td>02/11/04</td>
</tr>
<tr>
<td>Paditra C Dalton v. DHHS, Div. of Facility Services</td>
<td>03 DHR 1738</td>
<td>Elkins</td>
<td>01/28/04</td>
</tr>
<tr>
<td>Lalita Russell, Garfield Home Day Care v. DHHS, Div of Child Dev.</td>
<td>03 DHR 1740</td>
<td>Lassiter</td>
<td>01/29/04</td>
</tr>
<tr>
<td>Daniel H. Moore v. DHHS, Div. of Facility Services</td>
<td>03 DHR 1753</td>
<td>Lassiter</td>
<td>11/20/03</td>
</tr>
<tr>
<td>Angela Kay Hudson v. DHHS, Div. of Facility Services</td>
<td>03 DHR 1789</td>
<td>Elkins</td>
<td>12/19/03</td>
</tr>
<tr>
<td>Adel Khattib v DHHS</td>
<td>03 DHR 1849</td>
<td>Mann</td>
<td>01/28/04</td>
</tr>
<tr>
<td>Patricia A Fox, Adm, Community Care of Jackson #1 v. Div. of Facility Services, Adult Care Licensure Section</td>
<td>03 DHR 1856</td>
<td>Conner</td>
<td>12/18/03</td>
</tr>
<tr>
<td>Christopher Todd Smith v. DHHS, Div. of Facility Services</td>
<td>03 DHR 1896</td>
<td>Elkins</td>
<td>02/25/04</td>
</tr>
<tr>
<td>Rev. David L. Moore, CEO Metropolitan Community Health Services v. DHHS, DFS CON Section</td>
<td>03 DHR 1955</td>
<td>Gray</td>
<td>04/02/04</td>
</tr>
<tr>
<td>Kimberly D Hamilton v. DHHS, Div of Child Development</td>
<td>03 DHR 1978</td>
<td>Chess</td>
<td>01/07/04</td>
</tr>
<tr>
<td>Iris Gail Smith on behalf of her son Tacey D Smith v. DHHS, Div. of Medical Assistance</td>
<td>03 DHR 2119</td>
<td>Elkins</td>
<td>02/10/04</td>
</tr>
<tr>
<td>Linda's Child Day Care Center, Inc., Linda N. Powers v OAH</td>
<td>03 DHR 2120</td>
<td>Gray</td>
<td>03/03/04</td>
</tr>
<tr>
<td>Juliana Worthy Gladu, Childrens Cottage v. State of NC, OAH</td>
<td>03 DHR 2208</td>
<td>Lassiter</td>
<td>01/08/04</td>
</tr>
<tr>
<td>Dorothy Beaver Phillips v Health Care Personnel Registry</td>
<td>03 DHR 2290</td>
<td>Gray</td>
<td>03/05/04</td>
</tr>
<tr>
<td>ELM VILLA, LLC, David M. Crisp, Sr. (member) v. DHHS, DFS</td>
<td>03 DHR 2299</td>
<td>Elkins</td>
<td>04/21/04</td>
</tr>
<tr>
<td>Mooresville Hospital Management Assoc., inc db/a Lake Norman Reg</td>
<td>03 DHR 2311</td>
<td>Elkins</td>
<td>05/05/04</td>
</tr>
<tr>
<td>Medical Center v. DHHS, Div of Facility Services, CON Section v. The Presbyterian Hospital</td>
<td>03 DHR 2332</td>
<td>Gray</td>
<td>01/23/04</td>
</tr>
<tr>
<td>Donnie Hugh Shelton v. DHHS, Division of Medical Assistance</td>
<td>03 DHR 2339</td>
<td>Wade</td>
<td>02/25/04</td>
</tr>
<tr>
<td>Outer Banks Haven, Inc db/a Brithaven of Outer Banks v. Dare Co. Dept of Social Services</td>
<td>03 DHR 2372</td>
<td>Mann</td>
<td>04/21/04</td>
</tr>
<tr>
<td>Libby R Moore v. DHHS, Division of Medical Assistance</td>
<td>03 DHR 2379</td>
<td>Elkins</td>
<td>02/24/04</td>
</tr>
<tr>
<td>Hisham Ismail v. DHHS</td>
<td>03 DHR 2426</td>
<td>Gray</td>
<td>03/26/04</td>
</tr>
<tr>
<td>Carol Ingram v. DHHS, Health Care Personnel Registry</td>
<td>03 DHR 2429</td>
<td>Elkins</td>
<td>02/24/04</td>
</tr>
<tr>
<td>Petra Choo Mua v. DHHS</td>
<td>03 DHR 2440</td>
<td>Mann</td>
<td>04/01/04</td>
</tr>
<tr>
<td>Jacqueline M. Johnson v. DHHS, Division of Medical Assistance</td>
<td>03 DHR 2446</td>
<td>Elkins</td>
<td>03/23/04</td>
</tr>
<tr>
<td>Constance Sams on behalf of Ja/Kylah Sams v. DHHS, Div of Med Asst</td>
<td>04 DHR 0010</td>
<td>Lassiter</td>
<td>04/27/04</td>
</tr>
<tr>
<td>Janet Ensmal v NC Nurse Aide</td>
<td>04 DHR 0011</td>
<td>Lassiter</td>
<td>02/11/04</td>
</tr>
<tr>
<td>D.M. a minor by his guardian J Timothy M v DHHS</td>
<td>04 DHR 0051</td>
<td>Ceech</td>
<td>03/04/04</td>
</tr>
<tr>
<td>Sylvia Ruffin v. DHHS, DFS</td>
<td>04 DHR 0054</td>
<td>Lassiter</td>
<td>03/31/04</td>
</tr>
<tr>
<td>Antje Kromberg v DHHS</td>
<td>04 DHR 0058</td>
<td>Morrison</td>
<td>02/17/04</td>
</tr>
<tr>
<td>Bobby Allen Jones v. DHHS, Office of Controller</td>
<td>04 DHR 0105</td>
<td>Gray</td>
<td>04/21/04</td>
</tr>
<tr>
<td>Monique Lloyd v. Health Care Personnel Investigation Program</td>
<td>04 DHR 0108</td>
<td>Chess</td>
<td>04/01/04</td>
</tr>
<tr>
<td>LaDonna K. Brewington v. DHHS</td>
<td>04 DHR 0221</td>
<td>Elkins</td>
<td>03/25/04</td>
</tr>
</tbody>
</table>

**JUSTICE**

<table>
<thead>
<tr>
<th>Case Title</th>
<th>DOJ/DOHR Case Number</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alarm Systems Licensing Board</td>
<td>03 DOI 0503</td>
<td>Morrison</td>
</tr>
<tr>
<td>Alan Bradford Hoehner v. Alarm System Licensing Board</td>
<td>03 DOI 0709</td>
<td>Morris</td>
</tr>
<tr>
<td>Jamey Darwin Raby v. Alarm Systems Licensing Board</td>
<td>03 DOI 1355</td>
<td>Conner</td>
</tr>
</tbody>
</table>

**Company Police Program**

<table>
<thead>
<tr>
<th>Case Title</th>
<th>DOJ/DOHR Case Number</th>
<th>Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jennifer Consuelas Davis v. Attorney General's Office of Company Police Program</td>
<td>03 DOI 1706</td>
<td>Lassiter</td>
</tr>
<tr>
<td>Darrell Wayne Gantt v. DOI, of Company Police</td>
<td>03 DOI 1757</td>
<td>Conner</td>
</tr>
</tbody>
</table>
Program
Teddy Babson v. Attorney General's Office of Company Police Program 03 DOI 2118 Morrison 03/29/04

Private Protective Services Board
John Curtis Howell v. Private Protective Services Board 02 DOI 156210 Lasster 12/31/03
John Curtis Howell v. Private Protective Services Board 03 DOI 021410 Lasster 12/31/03
Anthony Lamont Henderson v. Private Protective Services Board 03 DOI 0502 Morrison 07/08/03
John Lee Powell v. Private Protective Services Board 03 DOI 0694 Morrison 07/09/03
Howard Leon Fisher v. Private Protective Services Board 03 DOI 0898 Morrison 08/14/03 18:06 NCR 444
William Houston King Jr v. Private Protective Services Board 03 DOI 0899 Morrison 07/11/03
Derrick Lee McDonald v. Private Protective Services Board 03 DOI 0946 Morrison 08/05/03
Kenneth Wesley Eakes v. Private Protective Services Board 03 DOI 1383 Conner 03/23/04
Sammy Denise Dillon v. Private Protective Services Board 03 DOI 1358 Conner 04/05/04
Jason William Kane v. Private Protective Services Board 03 DOI 1708 Morrison 10/28/03
George Donald Dixon, Jr. v. Private Protective Services Board 03 DOI 1924 Morrison 12/22/03
Thomas Austin Atchison v. Private Protective Services Board 03 DOI 1925 Morrison 12/23/03 18:15 NCR 1366

Sheriffs' Education & Training Standards Commission
Harvey Clinton Blanton v. Sheriffs' Educ. & Trng. Stds. Comm. 02 DOI 1263 Gray 06/03/03 18:03 NCR 229
Jonathan Mixs v. Sheriffs' Education & Training Standards. Comm. 02 DOI 1263 Gray 06/03/03 18:03 NCR 229
Joshua Steven McCraw v. Sheriffs' Educ. & Trng. Stds. Comm. 02 DOI 1696 Conner 12/02/03
Joshua Phillip Grant v. Sheriffs' Education & Training Standards Comm. 02 DOI 1787 Wade 10/27/03
Laura Dawn Watts v. Sheriffs' Education & Training Standards Comm. 02 DOI 1926 Lasster 05/22/03
Allen Wilson York v. Sheriffs' Educ. & Training Standards Comm. 02 DOI 2042 Elkins 05/16/03
Derek A Cousin v Criminal Justice Educ & Trng Stds. Comm. 03 DOI 0250 Gray 11/13/03
Fred Hiney, Jr v. Criminal Justice Educ. & Trng. Stds. Comm. 03 DOI 0484 Mann 10/17/03
Alexander Draft: Registered Agent/Owner of A.D. Police Svcs., Inc. v. DOJ, Company Police Program
Harvey Levale Cook v. Criminal Justice Educ & Trng Stds. Comm. 03 DOI 0515 Lasster 07/09/03
Cynthia Darlene Harris v. Criminal Justice Educ. & Trng. Stds. Comm. 03 DOI 0516 Lasster 06/06/03
Mary Katherine McVey v. Criminal Justice Educ. & Trng. Stds. Comm. 03 DOI 0517 Wade 08/11/03
Kenneth Earl Brantley v. Sheriffs' Educ. & Trng Stds. Comm. 03 DOI 0604 Gray 11/14/03
Brian Carroll Hatley v. Sheriffs' Education & Trng. Stds. Comm. 03 DOI 0649 Mann 10/02/03
William Kelly Moore v Criminal Justice Educ & Trng Stds. Comm. 03 DOI 1068 Morrison 11/12/03
Tammy Lynn Redmond v. Criminal Justice Educ & Trng Stds. Comm 03 DOI 106914 Gray 05/05/04
Michael Ray Walker v. Criminal Justice Educ. & Trng Stds. Comm. 03 DOI 1138 Lasster 09/25/03
Loy S. Lentz Jr v. Sheriffs' Educ. & Trng. Stds. Comm. 03 DOI 1229 Gray 10/02/03
William Todd Streeter v. Sheriffs' Educ. & Trng Stds. Comm. 03 DOI 1243 Chess 12/08/03
Dawn Wilkins Gilmore v. Sheriffs' Educ. & Trng Stds. Comm 03 DOI 1244 Morrison 12/17/03
Tammy Lynn Redmond v. Sheriffs' Educ. & Trng. Stds. Comm 03 DOI 124514 Gray 05/05/04
Garry Lamont Lavender v. Criminal Justice Educ. & Trng. Stds. Comm. 03 DOI 1642 Chess 01/13/04
Shelton W. Belch v. Sheriffs' Educ. & Training Standards Comm. 03 DOI 1701 Lasster 04/06/04
Damon Cunningham v. Dept of Justice, Company Police Program 03 DOI 2112 Lasster 01/23/04
Joseph V. Milligan v. Sheriffs' Educ & Training Standards Comm. 03 DOI 2424 Morrison 03/19/04

DEPARTMENT OF STATE TREASURER
Burton L. Russell v. Dept. of State Treasurer 03 DST 1751 Lasster 04/05/04 18:22 NCR 2070

DEPARTMENT OF TRANSPORTATION
Chris Azar v. Department of Transportation 03 DOT 1345 Morrison 09/08/03

DEPARTMENT OF STATE TREASURER
Shirlyn D. Brichhouse v. Dept. of St. Treasurer, Ret. Sys. Div. 02 DST 2315 Chess 06/03/03
J W Walton v. DST, Retirement Systems Division 03 DST 0953 Gray 01/30/04 18:17 NCR 1578

DEPARTMENT OF PUBLIC INSTRUCTION
Robert Andrew Bartlett Sr. v. Dept. of Public Instruction 00 EDC 1306 Gray 08/04/03
Mary Margaret Davis v Dept of Public Instruction 02 EDC 0155 Gray 12/19/03
Charles Wordsworth v. State Board of Education 02 EDC 0572 Lasster 10/17/03
Charles Eugene Smith v. Department of Public Instruction 02 EDC 1082 Mann 05/26/03
Catherine Lockley v. Weldon High School Principal Mr. David Jones Exceptional Program District
04 EDC 0144 Lasster 04/28/04

ENVIRONMENT AND NATURAL RESOURCES
C B Roberson, Inc & Southside Oil Co, Inc v Env Mgmt Commission 05 EHR 027412 Gray 02/04/04
C B Roberson, Inc & Southside Oil Co, Inc v Env Mgmt Commission 05 EHR 027512 Gray 02/04/04
C B Roberson, Inc & Southside Oil Co, Inc v Env Mgmt Commission 05 EHR 027612 Gray 02/04/04
C B Roberson, Inc & Southside Oil Co, Inc v Env Mgmt Commission 05 EHR 027712 Gray 02/04/04
Larry E. Sadler v. DENR 00 EHR 1322 Gray 07/02/03
Lester Hill v. Person Co. Health Dept., DENR 00 EHR 1392 Gray 05/29/03
John Burr v. Health Department, Mecklenburg County 01 EHR 1204 Gray 05/28/03
Richard S Pacula v. CAMA-Coastal Area Mgmt. Assoc. 01 EHR 2269 Chess 05/14/03
Rosa & Eddie Brame v. DENR 02 EHR 0319 Wade 06/27/03
Trafalgar Properties LLC v. County of Durham 03 EHR 0630 Wade 07/18/03
Gerald Max Toney and Lynn N. Toney v. DENR (McDowell Co.) 02 EHR 0887 Mann 05/28/03
CONTESTED CASE DECISIONS

Forest Sound Homeowners Assoc, James P Hynes, Pres. V. DENR, Div. of Coastal Management
02 EHR 1078 Wade 06/09/03

Richard S Pacula v. CAMA-Coastal Area Mgmt. Assoc.
02 EHR 1119 Chess 05/14/03

James Oldom Jr. v. Dept of Public Health
02 EHR 1152 Gray 03/31/04

Raphael J Schaar & wife Gaylene Schaar v. DENR
02 EHR 1155 Gray 11/24/03

Formerer Center Mart, Joe Fred Ledbetter v. DENR, Div. of Waste Mgmt.
02 EHR 1302 Conner 05/29/03

Raleigh-Durham Airport Authority v DENR, Div. of Water Quality
02 EHR 1648 Gray 12/19/03

Lee Roy Smyre v. DENR, Div. of Water Quality
02 EHR 1509 Wade 09/05/03

Murphy's All Land Dev Inc d/b/a Emerald Cove Town homes at Wells Lake v. DENR
02 EHR 1735 Conner 07/22/03

Glen Sassen v. DENR, Division of Coastal Management
02 EHR 1794 Morrison 08/28/03 18:07 NCR 485

Michael E Hendrix v. Caldwell Co. Dept of Environmental Health
03 EHR 0006 Gray 07/02/03

Lawndale Service Ctr, Inc. C Valley v. DENR
03 EHR 0016 Lasister 06/05/03

Daniel W Builla III v. Env. Health Section Stokes Co Health Dept.
03 EHR 0156 Conner 09/11/03

Nash-Rocky Mt Schools, Mark Strickland v. DENR, Div of Wtr Quality
03 EHR 0242 Lasister 10/30/03

Nash-Rocky Mt Schools, Mark Strickland v. DENR, Div of Wtr Quality
03 EHR 0245 Lasister 10/30/03

Alliance for Legal Action, Inc, Piedmont Quality of Life Coalition (an uninc assoc) Alberta Anderson, Cameron Anderson, Jean Black Richard Black, Walter S Druce, Ron Goga, Gil Happel, Carol Hoppe, Michael Hoppe, Patricia Nussbaum, Christine Peeler, Laura Pollak, Randall Schultz, Roch Smith Jr, Vassilia Smith v. Water Quality Comm, Env Mgmt Comm and Piedmont Triad Airport Authority
03 EHR 0535 Wade 07/31/03

Robert Calvin Wyatt Jr, Calvin Wyatt v. DENR
03 EHR 0663 Morrison 12/09/03

Charles Waktij/Susan Waktij v. DENR, Div. Coastal Mgmt/Rick Gray Pacemaker Leasing Co v. DENR
03 EHR 0711 Conner 09/10/03

03 EHR 0766 Conner 07/25/03

J B Hooper v. DENR
03 EHR 0876 Lasister 10/22/03

W E Ormond v. DENR, Div of Waste Management
03 EHR 0883 Gray 01/21/04

Danny L Ottaway v. DENR, Div. of Air Quality
03 EHR 0948 Gray 07/01/03

Robert L Shepard v. Alamance Co. Health Board
03 EHR 0949 Gray 07/30/03

03 EHR 0986 Gray 11/26/03

Megan Powell v. DENR
03 EHR 1071 Lasister 08/18/03

03 EHR 1074 Morrison 07/31/03

Robert A Vailos v. Coastal Resources Commission
03 EHR 1125 Elkins 11/18/03

St. Paul's Lutheran Church v. DENR
03 EHR 1151 Morrison 10/01/03

Quible & Assoc PC; Joseph S Lasister agent for Wilma M Midgett v. DENR, Div of Coastal Management
03 EHR 1193 Elkins 11/06/03

Connell E Purvis v. DENR, Div of Marine Fisheries
03 EHR 1228 Elkins 11/06/03

Bobby Leathers v. DENR
03 EHR 1722 Lasister 04/27/04

Jerry B Lyton v. Mecklenburg County Health Department
03 EHR 1850 Morrison 12/29/03

In the Matter of Willie Sloan v. DENR
03 EHR 1927 Elkins 02/13/04

Donnie O. Lewis v. Div of Coastal Management
03 EHR 2251 Gray 03/31/04

Kenneth L Owen v. DENR
03 EHR 2276 Wade 03/12/04

Alexander and Sandura King v. DENR
04 EHR 0235 Morrison 04/16/04

HEARING AID DEALERS & FITTERS BOARD
Robert H Knot v. State Hearing Aid Dealers & Fitters Board
03 HAF 1785 Morrison 12/30/03

HUMAN RELATIONS FAIR HOUSING
Sara E. Parker v. Human Relations Fair Housing
02 HRC 0621 Gray 05/16/03

Orange County Human Relations on behalf of Ginny Wolpin and Ginny Wolpin v. Cornerstone Realty Income Trust, Inc.
03 HRC 1116 Elkins 03/24/04

Legislative Testor & Afflant: Charlotteic Pratt & Family v Durham Co Clerk of Court & Records Division of NC
03 HRC 1886 Lasister 02/13/04

TEACHERS’ & STATE EMPLOYEES COMP. MAJOR MED PLAN
Alma Louise Triplett v. Teachers’ & St Emp Comp Maj Med Plan
02 INS 0268 Gray 07/15/03 18:04 NCR 338

02 INS 1257 Conner 08/06/03 18:05 NCR 405

Bertha Reeves by her husband Laconia Reeves v. Teachers’ & St. Emp. Comp Maj. Med. Plan
02 INS 1265 Chess 08/26/03

Carol W Walker v. Teachers’ & State Emp. Comp Major Medical Plan
02 INS 1306 Conner 12/19/03 18:15 NCR 1356

Larry Pendry on behalf of Charles Elledge v Teachers’ & St Emp Comp.
03 INS 0280 Chess 09/11/03

Major Medical Plan
JEL Company, Leon Jackson v. DOI & Diane G Miller, Asst Atty.
03 INS 0811 Mann 08/28/03

Lula F Bowman, Laura A Bowman v. Teachers’ & St. Emp. Comp.
03 INS 0975 Wade 10/22/03

Maj. Med. Plan
Barbara Jean Gribble v. Teachers’ & St Emp Comp Major Medical Plan
03 INS 1130 Mann 12/31/03

David C Karasow v. St of NC Teachers’ & St Emp Comp Maj. Med Plan
03 INS 1227 Chess 11/20/03

Cathy Penney v. Teachers’ & State Emp Comp Major Medical Plan
03 INS 1459 Gray 12/04/03

Harold L. Bastiste v. State Health Plan
03 INS 1486 Wade 03/12/04

Heather A Smith v. Teachers & St Emp Comp Major Medical Plan
03 INS 1558 Morrison 12/12/03

William F. Small, II v. Teachers & St. Emp. Comp. Major Medical Plan
04 INS 0143 Gray 04/07/04

LOCKSMITH LICENSING BOARD
Kenneth Allen Pace v. Locksmith Licensing Board
03 LLB 1325 Conner 03/24/04
**CONTESTED CASE DECISIONS**

### MISCELLANEOUS

- Sara Parker & Deirdre M Parker v. NC Utilities Commission 04 MIS 0305 Elkins 03/23/04

### OFFICE OF STATE PERSONNEL

- Alvin Earl Williams v. Dir of Cumberland Co Dept of Social Services 00 OSP 1490 Chess 11/05/03
- Dorris D Wright v. Cabarrus Co. Dept. of Social Services 00 OSP 1506 Gray 04/22/03
- Robert Banks Hincman v. DHHS/Broughton Hospital 01 OSP 0827 Elkins 05/01/03 18:01 NCR 45
- Robin Ritzheimer Austin v. Jim Jones, Hlth Dir, Judic DeMuth, Admin Asst & the County of Stanly 01 OSP 0888L Lassiter 09/08/03
- Edward Allen Hughes, Jr v. Department of Correction 01 OSP 1011 Gray 08/01/03
- Wanda Gore v. Department of Correction 01 OSP 1286 Gray 05/16/03
- James F Fridges Jr v. A&T State University 01 OSP 2182 Gray 08/08/03
- Alan Foster v. Comm of Ag Meg Scott Phipps & DOA 02 OSP 0173 Lewis 09/26/03
- James Earl Ray Arts v. East Carolina University 02 OSP 0274 Gray 03/01/04
- Jerry Thomas Ferrell v. Department of Correction 02 OSP 0375 Conner 09/15/03
- Angie Richardson v. Department of Correction 02 OSP 0866L Wade 11/14/03
- Carolyn Davis v. Durham MH/DD/SA Area Authority d/b/a The Durham Ctr 02 OSP 1001 Lassiter 08/06/03 18:05 NCR 410
- Carolyn Davis v. Durham MH/DD/SA Area Authority d/b/a The Durham Ctr 02 OSP 1001 Lassiter 08/06/03 18:07 NCR 494
- Terence G Westry v. A&T State University 02 OSP 1019 Conner 06/30/03
- Angie Richardson v. Department of Correction 02 OSP 1027L Wade 11/14/03
- Robert L. Swinney v. Department of Transportation 02 OSP 1109 Gray 05/07/03
- Robin Ritzheimer Austin v. Jim Jones Hlth Dir Stanly County 02 OSP 1166L Gray 09/08/03
- Cynthia Michelle Guess-Godwin v. Winston Salem State Univ 02 OSP 1255 Gray 09/04/03
- James Thomas Kinlaw v. ESC of NC 02 OSP 1343L Wade 10/23/03
- Norman Burton v. Chatham County 02 OSP 1483L Gray 05/12/03
- Jonon Udunaramen v. Department of Transportation 02 OSP 1597 Gray 06/19/03
- Charles M Alexander v. ESC of NC 02 OSP 1613 Chess 07/01/03
- Gregory M Lewis v. DMV, Enforcement Section 02 OSP 1624L Gray 07/23/03
- Norman Burton v. Chatham County 02 OSP 1625L Gray 05/12/03
- Edward K Royal v. Dept. of Crime Control & Public Safety, Div. of State Highway Patrol 02 OSP 1631 Lassiter 06/25/03
- Leonard Williams v. Durham Co DSS, Children's Services 02 OSP 1681 Elkins 01/28/04
- Gregory M Lewis v. DMV, Enforcement Section 02 OSP 1695L Gray 07/23/03
- Patricia A Mabry v. Department of Corrections 02 OSP 1774 Chess 06/27/03
- Chester Michael Martin v. Cumberland Co. Dept. of Social Services 02 OSP 1797 Conner 05/09/03
- Linda H Elsby v. Wayne Co. Mental Health Area Board 02 OSP 1951 Wade 08/13/03
- Patricia Doggett v. Trend Mental Health 02 OSP 2128 Gray 07/08/03
- Sharon F Greene v. Weldon Freeman, Crime Control & Public Safety 02 OSP 2144 Chess 08/29/03
- C.W. Mcdavies v. Division of Motor Vehicles 02 OSP 2265 Conner 11/14/03
- Michael J Stolarik Sr v. Piedmont Behavioral Health Care 02 OSP 2293 Chess 12/22/03
- William Michael Mcduffie v. Wake Co Juvenile Detention Center 03 OSP 0013 Wade 08/11/03
- Steven Wayne McCarty v. Lumberton Correctional Institution 03 OSP 0026 Conner 05/29/03
- Deborah B. Estridge v. Buncombe County Health Center 03 OSP 0047 Gray 04/07/04
- Eric M Petee v. Department of Corrections 03 OSP 0116 Lassiter 06/24/03
- Monika Lynn Johnson v. NC School of the Arts 03 OSP 0180 Conner 07/29/03
- Dennis D Nielsen v. DOC, Div. of Community Correction 03 OSP 0195 Wade 02/06/04
- Jeffrey W Byrd v. Fayetteville State University 03 OSP 0204 Chess 06/04/03
- Tamara V McNeill v. DPI 03 OSP 0212 Conner 10/29/03
- Elmer Jack Smith v. Employment Security Commission of NC 03 OSP 0295 Elkins 01/29/04
- Tina Marie Walker v. Buncombe Co Dept of Social Services 03 OSP 0429 Chess 08/18/03
- Lisa C Banks v. Craven Co Child Support Enforcement Office 03 OSP 0526 Conner 07/31/03
- Beverly M Jennings v. Jav Justice, Swannanoa Valley Youth Dev Center 03 OSP 0408 Chess 08/11/03
- Maranda Sharpe v. Department of Transportation 03 OSP 0412 Chess 06/03/03
- James E. Sharpe v. Department of Transportation, Div. 14 (Graham Co.) 03 OSP 0413 Chess 06/03/03
- Larry S Height v. NC Utilities Commission 03 OSP 0507 Conner 07/17/03
- Gary Melvin Moore v. Western Piedmont Community College 03 OSP 0548 Wade 07/29/03
- Joan Milligan, Patricia Flanagan, Pauletta Highsmith, Edna Cummings 03 OSP 0562 Conner 06/06/03
- Ty Atkinson v. M S C Center 03 OSP 0577 Conner 10/28/03
- Lisa D Barrett v. East Carolina University 03 OSP 0597 Mann 08/05/03
- Stanley L Ingram & Clifford Wayne Brown v. Dept of Correction 03 OSP 0599L Chess 08/10/03
- Wrenette O'leary v. Whittaker School 03 OSP 0620 Conner 08/15/03
- Stanley L Ingram & Clifford Wayne Brown v. Dept of Correction 03 OSP 0629L Chess 10/20/03
- Melinda O Wiggins v. Moore Co Health Department 03 OSP 0632 Conner 09/17/03
- William Harold Mareaud Jr v. DOC, Pasquotank Correctional Inst. 03 OSP 0644 Conner 08/01/03
- Henry Earl Stewart v. Department of Transportation 03 OSP 0645 Lassiter 08/26/03
- Derwin D Johnson v. Department of Correction 03 OSP 0660 Lassiter 06/24/03
- Wanda Steward-Medley v. Department of Corrections, Div. of Prisons 03 OSP 0656 Conner 06/20/03
- Sharon D Barnes v. Satana Deberry, DHHS 03 OSP 0669 Gray 01/16/04
- Priscilla Sledge v. Department of Correction 03 OSP 0675 Conner 08/13/03
- Jerry B Davis v. Dorothea Dix Hospital/DHHS 03 OSP 0676 Gray 07/14/03
- Leslie AllenWhitington v. Swannanoa Youth Dev. Center 03 OSP 0696 Conner 09/24/03
- Cathy S Carson v. NC School for the Deaf 03 OSP 0715 Wade 07/22/03
- Edwn E Kirtion Iii v. DOC, Warren Correctional 03 OSP 0769L Conner 12/22/03
- Edwn E Kirtion Iii v. DOC, Warren Correctional 03 OSP 0770L Conner 12/22/03
- Edwn E Kirtion Iii v. DOC, Warren Correctional 03 OSP 0771L Conner 12/22/03
- David L McMurray Jr. v. Highway Patrol 03 OSP 0801 Lassiter 06/19/03
- Harold Lorenzo Person v. E. Reg. Off. DOC, Div. of Prisons 03 OSP 0805 Conner 06/21/03
- LaWanda J Abeguunnin v. Franklin Correctional Center 03 OSP 0825 Gray 06/18/03

---

**18:23 NORTH CAROLINA REGISTER June 1, 2004**

**2086**
Joseph Nichols v UNC at Chapel Hill 03 OSP 0857 Gray 12/04/03
Lazona Gale Spears v. Employment Security Commission 03 OSP 0859 Lassiter 06/26/03
Martin Hendry v Dobbs Youth Dev Ctr, DOH&DP 03 OSP 0862[3] Gray 09/20/03
Wanda Steward-Medley v Dept of Corrections, Div of Prisons 03 OSP 0873 Morrison 08/12/03
Michael L Hillis v DHHS/Office of the Controller 03 OSP 0874 Lassiter 11/10/03
Jeffrey J Medley v. Department of Correction 03 OSP 0879 Gray 06/30/03
Everette G Body v Department of Correction 03 OSP 0885 Conner 11/12/03
Commatha B Johnson v. DHHS, Cherry Hospital 03 OSP 0942 Chess 08/19/03
Dawn H Nelson v Department of Correction 03 OSP 0980 Chess 02/11/04
Ayasha Neal-Harry v Department of Correction 03 OSP 0974 Gray 01/20/04
Edith C Fisher v. Cabarrus Health Alliance 03 OSP 1010 Conner 12/22/03
Monica Dorey v. DOC, Div. of Prisons 03 OSP 1016 Mann 07/19/03
Walter D Giese v. George O'Daniel Onslow Co Health Dept. 03 OSP 1017 Morrison 09/08/03
Theresa R Rogers v. Off of the Secretary of State of NC 03 OSP 1044 Morrison 09/25/03
David Upchurch v. DOC 03 OSP 1076 Conner 09/23/03
Robertia Lane v DOC 03 OSP 1077 Conner 10/29/03
Mable Lynn Kelly v. SEAA 03 OSP 1129 Chess 10/20/03
Leon C Rogers v. John Umstead Hospital 03 OSP 1152 Morrison 09/11/03
Mable Lynn Kelly v SEAA 03 OSP 1184 Chess 10/20/03
Marcella Thorne v Department of Correction 03 OSP 1225 Elkins 11/14/03
Sharon D Wallace v. Department of Corrections 03 OSP 1231 Wade 09/17/03
Michael L Hillis v DHHS/ENCSD 03 OSP 1239[3] Lassiter 11/10/03
Michael L Hillis v DHHS/Eastern NC School for the Deaf 03 OSP 1240[3] Lassiter 11/10/03
Michael L Hillis v DHHS/Eastern NC School for the Deaf 03 OSP 1241[3] Lassiter 11/10/03
Luvae J Wall v. DHHS, Payroll Office 03 OSP 1259 Morrison 12/02/03
Russell M Haas v Edgecombe Co Health Department 03 OSP 1261 Elkins 11/06/03
 Sergeant Tracy Millington v. Department of Correction 03 OSP 1262 Conner 10/21/03
David Down v. NC State University Zoology Department 03 OSP 1317 Wade 10/27/03
Walter Eugene Agers v. Winston-Salem State University 03 OSP 1321 Lassiter 09/24/03
 Dennis D Foster v. Durham Co Sheriff's Department 03 OSP 1353 Morrison 09/12/03
 Victor Marc Sain v. Catawba Valley Community College 03 OSP 1380 Conner 11/19/03
 Kimberly Ann Summers v. Bobby White Co Mgr, Caldwell 03 OSP 1393 Conner 11/04/03
Willie Allen v Swannanoa Youth Dev Ctr (DJDJP) 03 OSP 1412 Conner 01/05/04
 Gloria Bennett v Dept of Correction DART Cherry Program 03 OSP 1428 Lassiter 12/04/03
 Richard Todd McLean v. John Umstead Hospital 03 OSP 1448 Wade 11/26/03
Charles G Horne Jr v. DOC 03 OSP 1479 Lassiter 10/28/03
Charles G Horne Jr v DOC 03 OSP 1480 Lassiter 10/29/03
Patricia Ann Palmer v NC State University 03 OSP 1481 Wade 02/11/04
Yolanda Lopez v DOC Harnett Correctional Inst 03 OSP 1501 Elkins 12/22/03
Mable Lynn Kelly v State Educ. Assistance Authority 03 OSP 1502 Chess 12/03/03
Stephen Wyatt Edwards v. Crime Control &PublicSafety, St Hwy Patrol 03 OSP 1554 Gray 03/03/04
Manuel C Fleming v Department of Revenue 03 OSP 1576 Morrison 11/12/03
Jesse C Whitaker v. Facilities Mgmt Operations of NCSU 03 OSP 1645 Lassiter 11/26/03
Peter A Fillaire v. NCSU Dining 03 OSP 1646 Lassiter 12/02/03
A Louise Nilsen Mankes v. Dr. Gatewood, UNC Gen Admin Dept NCSEAA 03 OSP 1660 Lassiter 12/16/03
A Louise Nilsen Mankes v. Mr. Anthony Bordeaux, UNC Gen Admin Dept NCSEAA 03 OSP 1661 Lassiter 12/16/03
Sheerlene Artis v. Correction Enterprises, Manpower Services 03 OSP 1670 Lassiter 03/11/04
John N Leak v Dept. of Public Instruction 03 OSP 1671 Lassiter 12/31/03
Hamid Mozafaripour v Nursing Dept at Dorothea Dix Hospital 03 OSP 1745 Lassiter 09/17/04
Carolyn A Little v Eastern Area Treatment Program 03 OSP 1810 Lassiter 01/12/04
Terry T Pigford v Eastern Area Treatment Program 03 OSP 1811 Lassiter 01/12/04
Richard Jones v. NC Department of Revenue 03 OSP 1963 Mann 03/31/04
William Russell Robinson v. NCCU 03 OSP 1977 Lassiter 01/12/04
William Russell Robinson v School of Science & Math et. Al. 03 OSP 2070 Mann 04/26/04
Dennis D. Foster v. Durham County Sheriff's Dept. 03 OSP 2299 Lassiter 02/23/04
Elizabeth A Gregory, Correction Officer v Pasquotank Corr Inst #3740 03 OSP 2209 Lassiter 02/23/04
Lavonne Stoddard v Elizabeth City State University 03 OSP 2228 Lassiter 02/18/04
Christopher Paul Davis v DHHS and Caswell Center 03 OSP 2275 Conner 01/14/03
Lonnie E. Williams v. NCCU 03 OSP 2301 Mann 03/24/03
Deborah Ann Bozian v Henderson Co Board of Public Education 03 OSP 2303 Wade 02/11/04
Bernie C Thomas v Fayetteville State University 03 OSP 2306 Morrison 03/03/04
Leonard Gibson v Brown Creek Correctional Institution 03 OSP 2317 Gray 05/08/04
Andora Taylor Hailey v Roslyn G Powell (Div Chaf) Dept of Comm Corr. 03 OSP 2318 Gray 03/30/04
Milton Blackwell v. Elizabeth City State University 03 OSP 2365 Mann 04/20/04
Shelia Whitehurst v. East Carolina University 03 OSP 2406 Lassiter 01/14/03
Miracle L Smith v. State Highway Patrol 04 OSP 0039 Gray 03/31/04
Carol Caudle Lawrance v. UNC Charlotte 04 OSP 0159 Conner 04/21/04
Shairly Fishing Crupud v. Murdoch Center 04 OSP 0160 Gray 03/31/04
Derone Brown, Jr v. DOC, Eastern Correctional Institution 04 OSP 0236 Gray 03/31/04
### UNIVERSITY OF NORTH CAROLINA HOSPITALS

<table>
<thead>
<tr>
<th>Case Description</th>
<th>Case Number</th>
<th>Judge</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Donald R. Smith v. UNC Hospitals</td>
<td>02 UNC 1361</td>
<td>Conner</td>
<td>06/05/03</td>
</tr>
<tr>
<td>Martin B Strickland v. UNC Hospitals, Patient Accounts Services</td>
<td>02 UNC 1620</td>
<td>Wade</td>
<td>08/29/03</td>
</tr>
<tr>
<td>Mary Dieudone Frantz v. UNC Hospitals</td>
<td>03 UNC 0409</td>
<td>Mann</td>
<td>08/07/03</td>
</tr>
<tr>
<td>Susan Kay Fryar v. UNC Hospitals</td>
<td>03 UNC 0410</td>
<td>Mann</td>
<td>08/07/03</td>
</tr>
<tr>
<td>Kendall Adams v. UNC Hospitals</td>
<td>03 UNC 0536</td>
<td>Gray</td>
<td>08/11/03</td>
</tr>
<tr>
<td>Janice Block v. UNC Hospitals</td>
<td>03 UNC 0720</td>
<td>Gray</td>
<td>09/04/03</td>
</tr>
<tr>
<td>Alfred Tilden Ward, Jr. v. UNC Hospitals &amp; UNC Physicians &amp; Assoc.</td>
<td>03 UNC 0723</td>
<td>Gray</td>
<td>06/23/03</td>
</tr>
<tr>
<td>Iesha Marline Basket v. UNC Hospitals, Patient Account Services</td>
<td>03 UNC 0894</td>
<td>Gray</td>
<td>09/04/03</td>
</tr>
<tr>
<td>Michael Gray Simmons v. UNC Hospitals</td>
<td>03 UNC 0977</td>
<td>Wade</td>
<td>11/25/03</td>
</tr>
<tr>
<td>Keith Bagby Sr &amp; Patricia Bagby v. UNC Hospitals</td>
<td>03 UNC 1011</td>
<td>Elkins</td>
<td>11/07/03</td>
</tr>
<tr>
<td>Mary P Kearney v. UNC Hospitals</td>
<td>03 UNC 1035</td>
<td>Elkins</td>
<td>02/25/04</td>
</tr>
<tr>
<td>D. Parker Lynch v. UNC Hospitals</td>
<td>03 UNC 1124</td>
<td>Wade</td>
<td>11/19/03</td>
</tr>
<tr>
<td>Steven R. Wilkerson v. UNC Hospitals</td>
<td>03 UNC 1177</td>
<td>Chess</td>
<td>09/18/03</td>
</tr>
<tr>
<td>Yvonne Schreiner v. UNC Hospitals</td>
<td>03 UNC 1512</td>
<td>Morrison</td>
<td>10/31/03</td>
</tr>
<tr>
<td>Michael J Cassidy v. UNC Hospitals</td>
<td>03 UNC 2428</td>
<td>Conner</td>
<td>03/10/04</td>
</tr>
</tbody>
</table>

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* * * * * * * * * * * * * * * *

1 Combined Cases
2 Combined Cases
3 Combined Cases
4 Combined Cases
5 Combined Cases
6 Combined Cases
7 Combined Cases
8 Combined Cases
9 Combined Cases
10 Combined Cases
11 Combined Cases
12 Combined Cases
13 Combined Cases
14 Combined Cases
15 Combined Cases