

NORTH CAROLINA

REGISTER

IN THIS ISSUE



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NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

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.

NCAC TITLES		TITLE 21 LICENSING BOARDS	TITLE 24 INDEPENDENT AGENCIES
1	ADMINISTRATION	1 Acupuncture	1 Housing Finance
2	AGRICULTURE & CONSUMER SERVICES	2 Architecture	2 Agricultural Finance Authority
3	AUDITOR	3 Athletic Trainer Examiners	3 Safety & Health Review Board
4	COMMERCE	4 Auctioneers	4 Reserved
5	CORRECTION	6 Barber Examiners	5 State Health Plan Purchasing Alliance Board
6	COUNCIL OF STATE	8 Certified Public Accountant Examiners	
7	CULTURAL RESOURCES	10 Chiropractic Examiners	
8	ELECTIONS	11 Employee Assistance Professionals	
9	GOVERNOR	12 General Contractors	
10A	HEALTH AND HUMAN SERVICES	14 Cosmetic Art Examiners	
11	INSURANCE	16 Dental Examiners	
12	JUSTICE	17 Dietetics/Nutrition	
13	LABOR	18 Electrical Contractors	
14A	CRIME CONTROL & PUBLIC SAFETY	19 Electrolysis	
15A	ENVIRONMENT & NATURAL RESOURCES	20 Foresters	
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18	SECRETARY OF STATE	25 Interpreter/Transliterator	
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		52 Podiatry Examiners	
		53 Professional Counselors	
		54 Psychology	
		56 Professional Engineers & Land Surveyors	
		57 Real Estate Appraisal	
		58 Real Estate Commission	
		60 Refrigeration Examiners	
		61 Respiratory Care	
		62 Sanitarian Examiners	
		63 Social Work Certification	
		64 Speech & Language Pathologists & Audiologists	
		65 Therapeutic Recreation Certification	
		66 Veterinary Medical	
		68 Substance Abuse Professionals	
		69 Soil Scientists	

Note: Title 21 contains the chapters of the various occupational licensing boards and Title 24 contains the chapters of independent agencies.

NORTH CAROLINA REGISTER
 Publication Schedule for January 2006 – December 2006

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

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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

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

EXECUTIVE ORDER NO. 95

**AMENDING EXECUTIVE ORDER NO. 87
EMERGENCY RELIEF FOR DAMAGE CAUSED BY HURRICANE KATRINA**

Executive Order No. 87, which amended Executive Order No. 81 pertaining to emergency relief for damage caused by Hurricane Katrina, is hereby amended to apply only to the transport of mobile homes under contract with the Federal Emergency Management Agency (FEMA) as part of the disaster relief effort.

This executive order shall remain in effect for 30 days.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh, this the 7th day of December 2005.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

EXECUTIVE ORDER NO. 96

**EMERGENCY RELIEF FOR DAMAGE
CAUSED BY ICE/STORM STORM**

WHEREAS, I have proclaimed that a State of Emergency and threatened Disaster exists in North Carolina due to the recent ICE/SNOW STORM on December 15, 2005, thereby, justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations Hours of Service); and

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

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

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

Section 1. The Department of Crime Control & Public Safety in conjunction with the N.C. Department of Transportation shall waive certain size and weight restrictions and penalties therefore arising under N.C.G.S. §20-116 and N.C.G.S. §20-118 and certain registration requirements and penalties therefore arising under N.C.G.S. §20-86.1, 20-382, 105-449.47, 105-449.49 for the vehicles transporting FOOD, FUEL, EQUIPMENT, SUPPLIES, and EQUIPMENT to relieve our grief stricken counties

Section 2. Notwithstanding the waivers set forth above, size and weight restrictions and penalties **have not been waived** under the following conditions:

- (A) When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- (B) When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- (C) When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length 75 feet from bumper to bumper.

Section 3. Vehicles referenced under Section 1 shall be exempt from the following registration requirements:

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

Section 4. The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. §20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. §136-72.

Section 5. The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations Hours of Service) **does not apply** to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 6. The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner, which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

EXECUTIVE ORDERS

Section 7. Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts associated with the Winter Storm.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh, this the 16th day of December 2005.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

Note from the Codifier: This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Leland Land, LLC**

Pursuant to N.C.G.S. § 130A-310.34, Leland Land, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Leland, Brunswick County, North Carolina. The Property, which is known as the General Wood Preserving site, consists of approximately 120 acres and is located at 1901 Wood Treatment Road. The land surrounding the Property is either undeveloped or in industrial use.

Environmental contamination exists on the Property in soil, groundwater and surface water. Leland Land, LLC has committed itself to make and allow no use of the Property, other than for wood treatment, without advance written DENR approval. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Leland Land, LLC 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 Leland Library, 487 Village Road in Leland, North Carolina by contacting Lisa Milligan at (910) 371-9442, or at NC Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411, where DENR will provide auxiliary aids and services 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. Thus, if Leland Land, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on January 18, 2006. 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

**Proposed Reclassification of a Segment of the Uwharrie River
Rule 15A NCAC 02B .0309**

A Notice of Text was previously published in the 20:04 issue of the NC Register for this proposed reclassification, and it included notice of a public hearing that was originally scheduled to be held in September 2005. This public hearing had to be cancelled due to state employee travel restrictions associated with Hurricane Katrina that were not completely lifted until October 31, 2005. Since a public hearing is not required and no comments against this proposed reclassification have been received, a public hearing is not going to be rescheduled for this proposed reclassification. If a hearing is requested, a hearing will be scheduled, and the process for this proposed reclassification will be further delayed. Any person requesting that the Environmental Management Commission conduct a public hearing on any portion of this proposed rule must submit a written request to Elizabeth Kountis, Division of Water Quality, 1617 Mail Service Center, Raleigh, NC 27699-1617 by February 2, 2006. The request must specify which rule the hearing is being requested on. Mailed written requests must be postmarked no later than February 2, 2006.

This notice provides a second opportunity for comments on the proposed reclassification to be submitted to the Division of Water Quality. The Environmental Management Commission (EMC) is very interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are strongly encouraged to make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the published text of the proposed rule unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (see General Statute 150B 21.2 (g)). Written comments may be submitted to Elizabeth Kountis of the Water Quality Planning Section of the Division of Water Quality. The comment period ends March 20, 2006, and the estimated effective date for this proposal is July 1, 2006.

Address: Elizabeth Kountis
DENR/Division of Water Quality, Planning Section
1617 Mail Service Center
Raleigh, NC 27699-1617
Phone: (919) 733-5083 extension 369
Fax: (919)715-5637
E-Mail: elizabeth.kountis@ncmail.net

U.S. Department of Justice

Civil Rights Division

JKT:MSR:ANS:tgf:par
DJ 166-012-3
2005-3746
2005-4327

*Voting Section – NWB.
950 Pennsylvania Ave., NW
Washington, D.C. 20530*

December 7, 2005

David A. Holec, Esq.
City Attorney
P.O. Box 7207
Greenville, NC 27835-7207

Dear Mr. Holec:

This refers to twelve annexations (Ordinance Nos. 05-83, 05-84, 05-85, 05-86, 05-87, 05-99, 05-100, 05-101, 05-102, 05-103, 05-104, and 05-105 (2005)) and their designation to districts of the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on October 12 and November 29, 2005.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine these submissions if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Sincerely,

John Tanner
Chief, Voting Section

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

Statutory reference: G.S. 150B-21.2.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to amend the rules cited as 15A NCAC 18A .2801, .2803-.2804, .2806, .2810, .2812, .2815, .2817-2822, .2831-2832, .2834.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

Proposed Effective Date: July 1, 2006

Public Hearing:

Date: February 7, 2006

Time: 1:00 p.m.

Location: Parker Lincoln Building, Room 1a201, 2728 Capital Boulevard, Raleigh, NC

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .2800 - SANITATION OF CHILD CARE CENTERS

Reason for Proposed Action: *The Children's Environmental Health Branch recognizes a need to improve the practices and methods used in child care centers. These proposed amendments will update the child care sanitation rules using evidenced based public health guidance and the latest environmental health science to help ensure that North Carolina's children continue to receive safe and sanitary child care.*

15A NCAC 18A .2801 DEFINITIONS

The following definitions shall apply in regards to child care centers throughout this Section:

Procedure by which a person can object to the agency on a proposed rule: *Contact Ed Norman, Program Supervisor, DENR Environmental Health Service Section at 1632 Mail Service Center, Raleigh, NC 27699-1632, phone (919)715-3293 or email ed.norman@ncmail.net.*

- (1) "Adequate" means determined by the Department to be of sufficient size, volume, or technical specifications, to effectively accommodate and support the planned, current, or projected workloads for a specified operational area.
- (2) "Approved" means determined by the Department to be in compliance with this Section.
- (3) "Communicable Condition" means the state of being infected with a communicable agent but without symptoms.
- (4) "Communicable Disease" means any disease that can be transmitted from one person to another directly, by contact with excrement, other body fluids, or discharges from the body; or indirectly, via substances or inanimate objects, such as contaminated food, drinking glasses, toys or water; or via vectors, such as flies, mosquitoes, ticks, or other insects.
- (5) "Department" or "DENR" means the North Carolina Department of Environment and Natural Resources. The term also means the authorized representative of the Department.
- (6) "Designated Emergency Medication" means any medication used or needed for the immediate recovery from a potentially life-threatening event.
- (7) "Disinfecting Solution" means a solution containing 500 to 800 parts per million (ppm) of chlorine made by mixing a solution of one-quarter cup (2 fluid ounces) household liquid

Comments may be submitted to: *Ed Norman, Environmental Health Services, 1632 Mail Service Center, Raleigh, NC 27699-1632, email ed.norman@ncmail.net.*

Comment period ends: March 20, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review:

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

- chlorine bleach with one gallon of tap water and prepared fresh daily. In addition, products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants and as disinfectants, disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.
- (8) "Division of Child Development" means the child care licensing agency in the N.C. Department of Health and Human Services.
- (9) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
- (10) "Food Preparation" means the handling of foods or utensils in the preparation of meals, including opening and closing of baby bottles, baby food jars and cereal boxes, as well as the opening and closing of any other food items intended for the assembly of ingredients for human consumption.
- (11) "Food Service" means the distribution of prepared foods for consumption, including those food items prepared at the child care center; received by the center from approved food establishments; milk placed in a pitcher or other serving container; ice transported, stored and dispensed; bagged lunches sent from home; and the use of utensils to minimize direct food contact.
- (12) "Frying" means to cook over direct heat in hot oil or fat. This includes the oil or fat that is generated by the food or added to the cooking utensil.
- (13) "Hermetically Sealed" means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.
- (14) "Household bleach" means bleach sold in concentrations that are intended for household use, and not industrial applications. Household bleach is sold in retail stores at strengths of 5.25% hypochlorite (regular strength bleach) solution and 6.00% hypochlorite (ultra strength bleach) solution.
- (15) "Lavatory" means a sink that is equipped with hot and cold water under pressure for the primary purpose of handwashing.
- (16) "Multi-Service Articles" means tableware, including flatware and hollowware that are designed, fabricated, and intended by the manufacturer to be washed, rinsed, sanitized, and re-used.
- (17) "Multi-Use Articles" means bulk food containers and utensils designed, fabricated, and intended by the manufacturer to be washed, rinsed, sanitized, and re-used. The term includes food storage containers, beverage pitchers, serving spoons and bowls, tongs, and spatulas. The term does not include multi-service articles as defined in this Rule.
- (18) "Potable Water" means water from an approved source which is suitable for drinking.
- (19) "Potentially Hazardous Food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including *Clostridium botulinum*. This term includes raw or heat-treated food of animal origin, raw seed sprouts, and heat-treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity value of 0.85 or less.
- (20) "Putrescible Materials" means materials likely to rot or putrefy, such as fruit, vegetables, meats, and dairy products.
- (21) "Sanitary Sewage System" means a complete system of sewage collection, treatment, and disposal and includes septic tank systems, connection to a public or community sewage system, sewage reuse or recycle systems, or mechanical or biological treatment systems.
- (22) "Sanitizing Solution" means a solution containing 50 to 200 parts per million (ppm) of chlorine made by mixing a tablespoon of liquid household chlorine bleach with one gallon of water and prepared fresh daily.
- (23) "School Age" means any child who is at least five years old on or before October 16 of the current school year and who is attending, or has attended, a public or private grade school or kindergarten; or any child who is not five years old and will not be five years old on or before October 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before moving to and becoming a resident of North Carolina; or any child who is at least five years old on or before April 16 of the current school year, is determined by the principal of a school to be gifted and mature enough to justify admission to the school and is enrolled no later than the end of the first month of the school year.
- (24) "Single-Service Articles" means tableware, including flatware and hollowware, carry-out utensils and other items such as bags, containers, stirrers, straws, toothpicks, and wrappers that are designed, fabricated and intended by the manufacturer for one-time use.
- (25) "Single-Use Articles" means bulk food containers and utensils intended by the

manufacturer to be used once and discarded. The term includes formed buckets, bread wrappers, pickle barrels, and No. 10 cans. The term does not include single-service articles as defined in this Rule.

- (26) "Tempered Water" means water that is between 80°F and 110°F.
- (27) "Utensils" means any kitchenware, tableware, glassware, cutlery, containers or other equipment that food or drink comes in contact with during storage, preparation or serving.
- (28) "Work Surfaces" means the following locations in the kitchen: food service areas; stove top surfaces; food preparation surfaces; utensil and dishwashing areas; surfaces used for air drying; drain boards; and counter top surfaces. In child care rooms, work surfaces include food preparation areas, diaper changing surfaces, counter top surfaces, children work tables, desks and easels.

- (6) turning off faucet with a paper towel or other method without recontaminating hands.

Note: Refer to Rule .2828 of this Section for history.

Authority G.S. 110-91.

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15A NCAC 18A .2803 HANDWASHING

(a) Child Care operators shall instruct employees that handwashing is the single most important line of defense in preventing the transmission of disease-causing organisms. Employees shall wash hands upon reporting for work; before and after handling food; before bottle feeding or serving to other children; before handling clean utensils or equipment; after toileting or handling of body fluids (e.g., saliva, nasal secretions, vomitus, feces, urine, blood, secretions from sores, pustulant discharge); after diaper changing; after handling soiled items such as garbage, mops, cloths and clothing; after being outdoors; after handling animals or animal cages; and after removing disposable gloves. The use of hand sanitizing products does not replace the requirement for handwashing. However, except for diapering, food preparation, and food service, hand sanitizing products may be used in lieu of handwashing while an employee is supervising children outdoors if hands are washed upon returning indoors.

(b) Children shall wash hands upon arrival at the child care center; after each diaper change or visit to the toilet; before eating meals or snacks; before and after water play; after outdoor activity; and after handling animals or animal cages. ~~Hand~~ Except for diapering and before eating meals or snacks, hand sanitizing products may be used in lieu of handwashing while children are outdoors if hands are washed upon returning indoors.

(c) Handwashing procedures shall include:

- (1) using liquid soap and tempered water;
- (2) rubbing hands vigorously with soap and tempered water for 15 seconds;
- (3) washing all surfaces of the hands, to include the backs of hands, palms, wrists, under fingernails and between fingers;
- (4) rinsing well for 10 seconds;
- (5) drying hands with a paper towel or other hand-drying device; and

15A NCAC 18A .2804 FOOD SUPPLIES

(a) In child care centers, food shall be free from spoilage, filth, or other contamination and shall be safe for human consumption. Potentially hazardous foods, including foods packaged in hermetically sealed containers, shall only be obtained from sources that are permitted or inspected by a local health department, the North Carolina Department of Agriculture and Consumer Services or other government regulatory agency. The use of food packaged in hermetically sealed containers that was not prepared in a commercial food processing establishment is prohibited. Food prepared and sent from home to be shared with other children shall be limited to non-potentially hazardous baked goods.

(b) Milk products that are used shall be Grade "A" pasteurized fluid milk and fluid milk products or evaporated milk. The term "milk products" means those products as defined in 15A NCAC 18A .1200. Copies of 15A NCAC 18A .1200 may be obtained from the Environmental Health Services Section, Division of Environmental Health. Unless prescribed by a physician, dry milk and dry milk products shall be used only for cooking purposes, including cooked pudding desserts and flavored hot beverages.

(c) Steamed and uncooked shellfish, raw eggs, and products containing raw eggs including raw cookie dough, cake batter, brownie mix, milkshakes and ice cream shall not be consumed by children. A pasteurized egg product may be used as a substitute for raw eggs.

(d) Formula, breast milk, and other bottled beverages, including beverages in sippy cups, sent from home shall be fully prepared, dated, and identified for the appropriate child at the child's home. All formula and other bottled beverages shall be returned to the child's home or discarded at the end of each day. Frozen breast milk ~~shall~~ may be stored frozen ~~in a freezer~~ for up to seven days. Frozen breast milk shall be labeled with the date received and date thawed for use. Microwaves shall not be used to thaw or warm breast milk, formula or other bottled beverages. Bottle warming equipment shall be inaccessible to children when in use and shall be emptied, cleaned and sanitized daily. ~~Unused~~ Previously frozen breast milk shall not be refrozen for storage. Formula provided by the child care center shall be commercially pre-packaged, ready-to-feed, fully prepared, and packaged in single-use containers. However, formula that does not meet these requirements may be provided by the child care center as prescribed by the child's physician or instructed by parent or guardian in writing. Bottles and other drinking utensils provided by the child care center shall be sanitized in accordance with this Section. Formula and other beverages which require refrigeration, baby food after opening, and breast milk shall be identified for the appropriate child and shall be refrigerated at 45°F (7°C) or below. ~~Commercially prepared baby foods shall be served from a serving dish rather than the food jar.~~ Upon opening, jars of baby food shall be covered, dated, refrigerated,

and used within two days. ~~However, baby~~ Baby food may be served directly from the jar to one child if unused portions of the food are discarded after each ~~feeding.~~ feeding; otherwise, commercially prepared baby foods shall be served from a serving dish rather than the food jar. After the completion of each feeding, leftover formula, breast milk, and other bottled beverages shall be discarded or returned to the child's home at the end of each day.

(e) Child care centers receiving prepared meals or snacks from outside sources shall use meals and snacks obtained from a food handling ~~establishment~~ establishments permitted by a local health department, organizations that only serve prepared meals to child care centers, or another child care center inspected by a local health department. Child care centers may also receive prepared meals from organizations not licensed as child care centers only when these organizations are providing prepared meals to licensed child care centers. These organizations shall be inspected as child care centers by the local health department in the county where the meal is prepared. The inspection of these organizations shall be made by the local health department at the same time the inspection of the licensed child care center receiving these prepared meals is done. The inspection report of the organization providing these meals shall be a part of the inspection of the licensed child care center receiving the prepared meals, unless the organization is a permitted food handling establishment. During transportation, food shall meet the requirements of the Rules of this Section relating to food protection and storage.

(f) Lunches and other meals brought from home shall be dated and identified for the appropriate child at the child's home and shall be returned to the child's home or discarded at the end of each day. Meals containing potentially hazardous foods shall be refrigerated at 45°F (7°C) or below.

(g) Nothing in the Rules of this Section shall prohibit the use of fresh garden fruits and vegetables, including those grown at the child care center, so long as they are washed before being served.

Authority G.S. 110-91.

15A NCAC 18A .2806 FOOD STORAGE AND PROTECTION

(a) In child care centers, food shall be stored in approved, clean, tightly covered, storage containers once the original package is opened. Approved containers include resealable bags and other containers made of plastic or glass. Reusable containers that come in direct contact with food must be easy to clean, in good repair and intended for food storage.

(b) Food items, that are stored in classrooms or other rooms intended for child care use, shall be limited to those food items which are individually ~~packaged.~~ packaged unless the classroom is equipped with a food preparation area. Provisions shall be made to store and protect these food items from all potential sources of contamination and other nonfood items stored in the classroom. ~~classroom, unless the classroom is equipped with a food preparation area.~~

(c) Dry foods that are not readily identifiable and are stored in containers shall be labeled.

(d) Food shall be stored above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area.

(e) Food and containers of food shall not be stored under exposed sewer lines. Food shall not be stored in toilet or laundry rooms. Child care centers licensed for fewer than 13 children and located in a residence may store food in laundry rooms if protected as required in Paragraph (f) of this Rule.

(f) All food shall be stored in a manner to protect it from dust, rodents, insects, drip, splash and other contamination. Raw meats, poultry, fish, shellfish and eggs shall be stored on shelving beneath and separate from other foods. The temperature of potentially hazardous food provided by the center shall be 45°F (7°C) or below, or 140°F (60°C) or above at all times, including field trips, catering events, outdoor service, except during necessary periods of preparation and service, and as otherwise provided in the Rules of this Section.

(g) Packaged food such as milk or other beverage fluid containers may be stored in undrained ice as long as any individual units are not submerged in water. Wrapped sandwiches and other foods shall not be stored in direct contact with ice.

(h) Refrigerated storage:

(1) Refrigeration equipment shall be provided in such number and of such capacity to assure the maintenance of potentially hazardous food at required temperatures during storage. Each refrigerator shall be provided with a numerically scaled indicating thermometer, accurate to ±3°F (± 1.5°C) located to measure the air temperature in the warmest part of the refrigerator and located to be easily readable. Recording thermometers, accurate to ±3°F (±1.5°C), may be used in lieu of indicating thermometers.

(2) Potentially hazardous food requiring refrigeration after preparation shall be cooled to an internal temperature of 45°F (7°C), or below. Cooling of potentially hazardous foods shall be initiated upon completion of preparation or hot storage. Methods such as pouring into pans, agitation, and chilling with ice or water circulation external to the food containers shall be used to cool potentially hazardous food. Potentially hazardous food to be transported cold shall be prechilled and held at a temperature of 45°F (7°C) or below.

(3) Ice used for cooling stored food and food containers shall not be used for human consumption.

(i) Hot storage:

(1) Hot food storage equipment shall be provided in sufficient number and capacity to assure the maintenance of food at the required temperature during storage. Each hot food unit shall be provided with a numerically scaled indicating thermometer, accurate to ± 3°F (± 1.5°C), located to measure the air temperature in the coolest part of the unit and

located to be easily readable. Recording thermometers, accurate to $\pm 3^{\circ}\text{F}$ ($\pm 1.5^{\circ}\text{C}$), may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a metal stem-type numerically scaled indicating product thermometer shall be available and used to check internal food temperature.

- (2) The internal temperature of potentially hazardous foods requiring hot storage shall be 140°F (60°C) or above except during necessary periods of preparation and service. Potentially hazardous food to be transported hot shall be held at a temperature of 140°F (60°C) or above.

(j) In the event of a fire, flood, water supply interruption, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall either discard the food in question or contact the local health department.

Authority G.S. 110-91.

15A NCAC 18A .2810 SPECIFICATIONS FOR KITCHENS, FOOD PREPARATION AREAS AND FOOD SERVICE AREAS

(a) Each center shall have at least a two-compartment sink, drainboards or countertop space of adequate size, adequate refrigeration equipment and, when needed, adequate cooking equipment, except for centers located in a school that receives all food supplies prepared and ready to serve from a food service establishment permitted by a local health department, which is located at the same school campus and provides food during all hours of child care operation. Domestic or commercial kitchen equipment may be used. Child care centers using multi-service articles shall also provide a dishwasher. In lieu of a dishwasher and two-compartment sink, a three-compartment sink of sufficient size and depth to wash, rinse and sanitize utensils may be used.

(b) A separate lavatory for handwashing is required in food preparation areas. If the dishwashing area is separate from the food preparation area, an additional lavatory shall be required.

(c) A separate food preparation sink with drainboards or countertop space of adequate size shall be required when a plan review indicates that separate facilities are needed based on volume and preparation frequency.

(d) When domestic refrigeration equipment is used, except in child care centers licensed for fewer than 13 children and located in a residence, the following provisions shall apply:

- (1) except for thawing under refrigerated conditions, potentially hazardous foods shall not be prepared prior to the day that such foods are to be served;
- (2) potentially hazardous foods that have been heated shall not be reheated or placed in

refrigeration to be used in whole or in part on another day; and

- (3) salads containing potentially hazardous food shall not be prepared on site. Prohibited salads include ~~chicken salad, egg salad, tuna salad and crab salad.~~ chicken, egg, tuna, crab, and other salads containing meat.

(e) A commercial hood shall be installed when frying is used for food preparation on site. The hood shall be installed in accordance with the North Carolina Building Code and approved by the local building code enforcement agent.

(f) If ~~baby~~ food is prepared in a classroom, a food preparation area shall be provided. ~~This food preparation area shall be used exclusively for the storage or preparation of bottles, utensils and baby food.~~ Water from a handwash lavatory shall not be used to prepare ~~formula or formula,~~ mix dry cereals, cereals, or other foods. Toy cleaning and sanitizing may also be conducted in this food preparation area. This food preparation area shall contain an easily cleanable countertop and a lavatory and, when needed, adequate refrigeration. The food preparation counters, bottle warming equipment if used, food and food contact surfaces shall ~~not be out of~~ within reach of children and the following shall apply:

- (1) all equipment shall be cleaned at least daily. Warming equipment shall be cleaned and sanitized as required in Rule .2812 of this Section;
- (2) after each use, all multi-service articles provided by the center shall be cleaned and sanitized in the child care center kitchen;
- (3) single-service articles shall be handled as required in Rule .2814 of this Section; and
- (4) counter, shelf or cabinet space shall be provided for food storage. Food supplies shall be stored in accordance with Rule .2806 of this Section.

Authority G.S. 110-91.

15A NCAC 18A .2812 CLEANING AND SANITIZING EQUIPMENT AND UTENSILS

(a) In child care centers, drainboards or countertop space of adequate size shall be provided for handling of soiled utensils prior to washing and cleaned utensils following sanitizing. For child care centers originally licensed on or after April 15, 1998, drainboards or countertop space shall be no less than eight square feet, 24 inches long. A domestic dishwasher may be used to provide the equivalent of four square feet 24 inches of drainboard space and other designated areas not contiguous with the sink may be utilized to meet drainboard or countertop space requirements. Drainboards or countertop space designated for clean equipment and utensils shall be on the opposite end of the sink from drainboards or countertop space designated for soiled equipment and utensils unless these areas are otherwise separated and protected from cross contamination. Upon change of ownership, or the closing of the operation and the issuance of a new license, or the remodeling of an existing kitchen, a child care center shall also comply with this Paragraph.

(b) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing, and sanitizing shall be conducted in the following sequence:

- (1) when necessary, equipment and utensils shall be scraped, flushed, or soaked to remove food particles;
- (2) sinks shall be cleaned and sanitized prior to use;
- (3) equipment and utensils shall be washed in the first compartment with a hot detergent solution that is changed once visibly soiled;
- (4) equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and
- (5) the food-contact surfaces of equipment and utensils shall be sanitized in the third compartment in the following manner:
 - (A) immersion for at least one minute in clean, hot water at a temperature of at least 170°F (77°C) in dish baskets of such size and design to permit complete immersion of the tableware, kitchenware and equipment in the hot water;
 - (B) immersion for at least two minutes in a clean solution containing 50 to 200 parts per million (ppm) of chlorine at a temperature of at least 75°F (24°C);
 - (C) immersion for at least two minutes in a clean solution containing at least 12.5 ppm of iodine and having a pH not higher than 5.0 and at a temperature of at least 75°F (24°C);
 - (D) immersion for at least two minutes in a clean solution containing 200 to 400 ppm of quaternary ammonium products and having a temperature of at least 75°F (24°C), provided that the product is labeled to show that it is effective in water having a hardness value at least equal to that of the water being used; or
 - (E) other sanitizing products, procedures, or equipment products ~~and procedures~~ as effective as those the ones mentioned above may be used if these products are nontoxic to children, used according to the manufacturer's instructions and approved by the Department.

(c) For mechanical cleaning and sanitizing, food-contact surfaces of equipment and utensils shall be sanitized according to the manufacturer's instructions. When a domestic dishwashing machine is used according to manufacturer's instructions, additional sanitizing is not required. When commercial dishwashing equipment is used, a temperature indicating device, accurate to 2°F (1°C), shall be provided.

(d) For utensils and equipment which are either too large or impractical to sanitize in a dishwashing machine or dishwashing

sink, a spray-on or wipe-on sanitizer of sufficient chemical strength as indicated in Paragraph (b) of this Rule shall be used. Spray-on or wipe-on sanitizers shall be prepared daily and kept on hand for bactericidal treatment.

(e) Multi-service articles, including highchair feeding trays, shall be washed, rinsed and sanitized after each use.

(f) Nonfood-contact surfaces shall be cleaned to keep equipment free of accumulation of dust, dirt, food particles and other debris.

(g) A testing method or equipment, used in accordance with the product manufacturer's instructions, shall be made available, convenient, and regularly used to test the strengths of these chemical sanitizing solutions to ensure the prescribed concentrations are met.

(h) After sanitizing, all equipment and utensils shall be air dried.

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15A NCAC 18A .2815 WATER SUPPLY

(a) In child care centers, the water supply shall meet the requirements of 15A NCAC 18A .1700 Protection of Water Supplies. In addition, any center using a groundwater supply that serves 25 or more people shall provide documentation from the Public Water Supply Section that the well meets the requirements of 15A NCAC 18C. A water sample shall be collected by the Department and submitted to a state certified laboratory for bacteriological analysis annually if the child care center is not served by a community water supply. Other tests of water quality, as indicated by possible sources of contamination, may be collected by the Department.

(b) Water under pressure shall be provided to meet the needs of cooking, cleaning, drinking, toilets, and outside uses in accordance with the North Carolina Plumbing Code.

(c) No cross-connections with an unapproved water supply shall exist. If the potential for backsiphonage or backflow conditions exist, an approved atmospheric vacuum breaker or backflow prevention device shall be installed in accordance with the North Carolina Plumbing Code.

(d) Water heating equipment shall be provided to meet the maximum hot water requirements of the child care center. The capacity and recovery rates of water heating equipment shall be based on number and size of sinks, capacity of dishwashing machines, capacity of laundering machines, diaper changing facilities, and other food service and cleaning needs for child care centers not located in a residence. Child care centers licensed for fewer than 13 children and located in a residence may use an existing water heater, or the equivalent replacement, if all required temperatures are maintained. Hot and cold water under pressure shall be provided in all rooms where food is prepared, rooms in which utensils or equipment are washed, and other areas where water is required for cleaning and sanitizing, including diaper changing areas.

(e) Hot water used for cleaning and sanitizing food utensils and laundry shall be provided at a minimum temperature of 120°F (49°C) at the point of use. Water in areas accessible to children shall be tempered between 80°F (27°C) and 110°F (43°C). For handwash lavatories used exclusively by school-age children, the 80°F (27°C) minimum temperature requirement shall not apply. Hot water in an area accessible to any child, which is in excess of 120°F (49°C), shall be considered a burn hazard.

Child care centers serving only school-age children are not required to provide hot water in areas accessible to children. In the event of the loss of hot water, the person in charge shall immediately contact the local health department.

(f) Drinking fountains, if provided, shall comply with the North Carolina Plumbing Code, be separate from handwash lavatories, and kept clean. The pressure shall be regulated so that an individual's mouth does not come in contact with the nozzle and so that water does not splash on the floor. Other approved dispensing devices may be used and shall be kept clean.

(g) Outdoor drinking fountains shall be constructed to protect the spout from contamination and shall be kept clean.

Authority G.S. 110-91.

15A NCAC 18A .2817 TOILETS

(a) In child care centers, toilet tissue shall be provided in each bathroom and stored in a clean, dry place. The toilet room shall include or be adjacent to a handwash lavatory. Storage in toilet rooms shall be limited to toileting and diapering supplies. All toilet fixtures shall be easily cleanable, and in good repair. Toilet fixtures shall be child-sized, adapted adult toilets or potty chairs.

(b) Toilet fixtures shall be cleaned and disinfected at least daily and when visibly soiled. A disinfecting solution of one-quarter cup (two fluid ounces) liquid household bleach mixed in one gallon of water (or one tablespoon of liquid household bleach in one quart of water) containing 500 to 800 parts per million (ppm) of chlorine mixed daily shall be used for this purpose. A testing method shall be made available to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants and as disinfectants, disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.

(c) If potty chairs are used, they shall be located and stored in a toilet room equipped with a spray-rinse toilet or utility sink. Potty chairs shall be emptied, rinsed, cleaned and disinfected after each use with a disinfecting solution as described in Paragraph (b), of this Rule.

(d) When cloth diapers are used and emptied, the diaper changing area shall be located next to a toilet room.

Authority G.S. 110-91.

15A NCAC 18A .2818 LAVATORIES

(a) In child care centers, lavatories shall be easily cleanable, in good repair, and kept free of storage. Lavatories shall be mounted at an appropriate height to accommodate the children, or otherwise made accessible. Any lavatory may be used for handwashing as specified in 15A NCAC 18A .2803, except for flush-rimmed sinks and those with an attached operable drinking fountain.

(b) Lavatories shall be equipped with hot and cold water or tempered water provided through mixing faucets or pre-mixing devices which provide water in the temperature range specified in Rule .2815(e) of this Section.

(c) Lavatories shall be cleaned and disinfected with each change of use, as needed and at least daily. A disinfecting solution of one-quarter cup (two fluid ounces) liquid household bleach mixed in one gallon of water (or one tablespoon of liquid household bleach in one quart of water) containing 500 to 800 parts per million (ppm) of chlorine mixed daily shall be used for this purpose. A testing method shall be made available to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants and as disinfectants, disinfectants for safe use in schools, child care centers, institutions and restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.

(d) Liquid soap and disposable towels or other hand-drying devices shall be provided at every handwash lavatory area.

(e) Handwash signs shall be posted at every handwash lavatory area.

Authority G.S. 110-91.

15A NCAC 18A .2819 DIAPERING AND DIAPER CHANGING FACILITIES

(a) In child care centers, children in diapers shall be changed at stations designated exclusively for diapering or toileting. Each diaper changing station shall include a handwash lavatory. For centers licensed for fewer than 13 children and located in a residence and for diaper changing areas designated for school age children, a handwash lavatory shall be in or next to a diaper changing area.

(b) Diapering surfaces shall be smooth, intact, nonabsorbent, easily cleanable and shall be approved by the Department. Nothing shall be placed on the diapering surface except for those items required for diapering.

(c) A disinfecting solution of one-quarter cup (two fluid ounces) liquid household bleach mixed in one gallon of water (or one tablespoon of liquid household bleach in one quart of water) containing 500 to 800 parts per million (ppm) of chlorine mixed daily shall be used for this purpose. A testing method shall be made available to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Products registered with the U. S. Environmental Protection Agency as hospital grade germicides or disinfectants and as disinfectants, disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed. Cleaning and disinfecting

solutions shall be kept in separate and accurately labeled, hand pump spray bottles at each diaper changing station. No cloths or sponges shall be used on diapering surfaces.

(d) Diaper changing procedures shall ~~include~~: include but are not limited to:

- (1) gathering supplies before placing child on diapering surface;
- (2) donning disposable gloves (if needed);
- (3) using disposable towelette or moistened paper towel to clean child, wiping front to back;
- (4) disposing of soiled towelettes and diaper in a plastic-lined, covered receptacle;
- (5) applying diapering products (if needed);
- (6) removing gloves (if used), discarding in a plastic-lined, covered receptacle, or, if gloves are not used, wiping hands with disposable towelette or moistened paper towel;
- (7) placing clean diaper and clothing on child;
- (8) washing child's hands in accordance with Rule .2803 of this Section, or, if child is unable to support her or his head, cleaning the child's hands with a disposable towelette or moistened paper towel, then drying the child's hands and returning the child to a supervised area;
- (9) spraying entire diapering surface with detergent solution and wipe clean, using disposable paper towels;
- (10) spraying entire diapering surface with approved disinfecting solution and allowing to remain on the surface for two minutes or as specified by the manufacturer, or air dry; and
- (11) washing hands in accordance with Rule .2803 of this Section even if disposable gloves are used by the caregiver.

(e) Vinyl or latex disposable gloves shall be used by caregivers during the diaper changing process if she or he has cuts or sores on her or his hands or has chapped hands.

(f) Caregivers may dispose of feces in diapers in the toilet, but shall not rinse soiled cloth diapers, or training pants or clothes. Soiled cloth diapers, training pants or clothes shall be sent to a diaper service or placed in a tightly closed plastic bag or other equivalent container approved by the Department, stored out of reach of children, and sent daily to the child's home to be laundered.

(g) Receptacles containing soiled disposable diapers shall be emptied in an exterior garbage area at least daily.

(h) Instructions for caregivers on proper methods of diaper changing and handwashing shall be posted in each diaper changing area.

Authority G.S. 110-91.

15A NCAC 18A .2820 STORAGE

(a) In child care centers, adequate space shall be provided for the storage of equipment, furniture, toys, clothes, linens, backpacks, book bags, diaper bags, beds, cots, mats, and supplies and shall be kept clean. Shelving or other storage areas shall be provided and be constructed in a manner to facilitate

cleaning. Soiled laundry shall be handled and stored separately from clean laundry using separate cleanable containers.

(b) All corrosive agents, pesticides, bleaches, detergents, cleansers, polishes, any product which is under pressure in an aerosol dispenser, and any substance which may be hazardous to a child if ingested, inhaled, or handled shall be kept in its original container or in another labeled container, used according to the manufacturer's instructions and stored in a locked storage room or cabinet when not ~~is in~~ use. Locked storage rooms and cabinets shall include those which are unlocked with a combination, electronic or magnetic device, key, or equivalent locking device. These unlocking devices shall be kept out of the reach of a child and shall not be stored in the lock. Toxic substances shall be stored below or separate from medications and food. Any product not listed above, which is labeled "keep out of reach of children" without any other warnings, shall be kept inaccessible to children when not in use, but is not required to be kept in locked storage. The product shall be considered inaccessible to children when stored on a shelf or in an unlocked cabinet that is mounted a minimum vertical distance of five feet above the finished floor.

(c) Non-aerosol ~~sanitizing~~ sanitizing, disinfecting, and detergent solutions, hand sanitizers, and hand lotions shall be kept out of reach of children when not in use, but are not required to be in locked storage. These solutions shall be labeled as sanitizing, disinfecting, or detergent (soapy water) solutions. Hand soap is not required to be kept out of reach of children or in locked storage.

(d) Medications including prescription and non-prescription items shall be stored in a ~~separate~~ locked cabinet or other locked container and shall not be stored above food. Designated emergency medications shall be stored out of reach of children, but are not required to be in locked storage. Non-prescription diaper creams and sunscreen shall be kept out of reach of children when not in use, but are not required to be in locked storage.

(e) Individual cubicles, lockers, or coat hooks shall be provided for storage of coats, hats, or similar items. Coat hooks not in individual cubicles or lockers, shall be spaced at least 12 horizontal inches apart. Combs shall be labeled and stored individually. Toothbrushes shall be individually identified, allowed to air dry and protected from contamination. When a container of toothpaste is used for multiple children, the toothpaste shall be dispensed onto an intermediate surface such as waxed paper.

(f) Employee purses and other personal effects shall be kept out of reach of children.

Authority G.S. 110-91.

15A NCAC 18A .2821 BEDS, COTS, MATS, AND LINENS

(a) In child care centers, all beds, cribs, cots, and mats shall be in good repair, stored to prevent contamination, cleaned and sanitized between users.

(b) Cribs and play pens used for sleeping shall be easily cleanable, and equipped with a firm, tight-fitting mattress made of waterproof, washable material at least two inches thick.

(c) All beds, cots or mats shall be assigned and labeled for each individual child, and equipped with individual linens.

(d) Mats shall be of a waterproof, washable material at least two inches thick and shall be stored so that the floor side does not touch the sleeping side or by an equivalent method approved by the Department.

(e) When in use, cribs, cots, mats and playpens shall be placed at least 18 inches apart or separated by partitions which prevent physical contact.

(f) Linen shall be kept clean, in good repair, and stored with the individual mat or cot or stored individually for each child in a designated area. Linen shall be laundered between users, when soiled, and at least once per week. Linen used in rooms where children in care are less than 12 months old shall be changed and laundered when soiled and at least daily. Linens shall be large enough to cover the sleeping surface.

(g) Wash cloths, bibs, and burping cloths shall not be used for more than ~~one child~~ once until laundered and shall be laundered when soiled and at least daily.

Authority G.S. 110-91.

15A NCAC 18A .2822 TOYS, EQUIPMENT AND FURNITURE

(a) Toys, equipment and furniture provided by a child care center shall be kept clean and in good repair. In rooms designated for children who are not toilet trained, toys and other mouth-contact surfaces shall be cleaned and then sanitized at least daily when used and more frequently if visibly dirty, by the following methods:

- (1) Toys, equipment and furniture provided by a child care center shall be kept clean and in good repair. In rooms designated for children who are not toilet trained, toys and other mouth-contact surfaces shall be cleaned and then sanitized at least daily when used and more frequently if visibly dirty, by the following methods: scrubbed in warm, soapy water using a brush to reach into crevices;
- (2) rinsed in clean water;
- (3) submerged in a sanitizing solution prepared by combining one tablespoon of chlorine bleach with one gallon of water for at least two minutes or sanitized with another approved sanitizing solution; and
- (4) air dried.

A sanitizing solution of one tablespoon liquid bleach in one gallon of water containing 50 to 200 parts per million (ppm) of chlorine mixed daily shall be used for this purpose. A testing method or kit shall be available to ensure compliance with the prescribed concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Other sanitizing solutions that have been determined to be at least as effective as the chlorine bleach solution are acceptable as long as these products are nontoxic to children, used according to the manufacturer's instructions and approved by the Department. Toys, items and surfaces not designed to be

submerged shall be washed and rinsed in place, sprayed with a sanitizing solution and allowed to air dry. Hard plastic toys ~~shall~~ may be washed and rinsed in a dishwasher and cloth toys ~~shall~~ may be laundered and mechanically dried without requiring sanitizing.

(b) Toys, furniture, cribs, or other items accessible to children, shall be free of peeling, flaking, or chalking paint.

(c) Water play centers shall be filled just prior to each water play session. Water shall be emptied after each session or more often if visibly soiled. The water play centers including toys, shall be cleaned and sanitized at least daily or more often if visibly soiled. Water play is prohibited during the outbreak and investigation of communicable diseases at the site. Wading pools are not considered water play centers and are regulated under 15A NCAC 18A .2500.

Authority G.S. 110-91.

15A NCAC 18A .2831 ANIMAL AND VERMIN CONTROL

(a) Unrestrained animals, except those used in supervised activities or pet therapy programs, shall not be allowed in a child care center, including the outdoor learning environment. When pets are ~~kept~~ on the premises, copies of vaccination records required by North Carolina law and local ordinances shall be available for review. Turtles, iguanas, ~~frogs, salamanders,~~ and other reptiles or amphibians are not allowed to be kept as pets on the premises. Animals shall not be allowed in the food preparation areas. Animal cages shall be kept clean. Animals belonging to child care owners, employees, volunteers, and children shall not be allowed in child care centers or on the premises unless the above requirements are met.

(b) Effective measures shall be taken to keep uncontained insects, rodents, and other vermin out of the child care centers and to prevent their breeding or presence on the premises. Traps shall only be placed in areas inaccessible to children.

(c) All openings to the outer air shall be protected against the entrance of flying insects. In food preparation areas, only fly traps, pyrethrin-based insecticides or a fly swatter shall be used for extermination of flying insects. Products shall be used only in accordance with directions and cautions appearing on their labels. Insecticides shall not come in contact with raw or cooked food, utensils, or equipment used in food preparation and serving, or with any other food-contact surface.

(d) Only those pesticides which have been registered with the U. S. Environmental Protection Agency and the North Carolina Department of Agriculture and Consumer Services shall be used. Pesticides shall be used in accordance with the directions on the label and shall be stored in a locked storage room or cabinet separate from foods and medications. Pesticides shall not be applied or used when children are present in the area. Decks, fences, playground equipment, and other products constructed or installed after July 1, 2006 shall not be made from chromated copper arsenate pressure-treated wood. In areas accessible to children, treated wood decks and playground and recreational equipment and structures installed or constructed prior to January 1, 2005 shall be sealed using an oil-based, semi-transparent stain sealant applied at least once every two years

and soil under such equipment and structures shall be made inaccessible.

(e) Any composting areas shall be covered and maintained to prevent attracting rodents or vermin. Worm bins shall be kept covered.

(f) Grass, fruit and vegetable gardens, vines on fences, and other vegetation shall be maintained in a manner which does not encourage the harborage of vermin.

(g) Pets kept outdoors shall be in a designated area that is maintained and separate from the outdoor area used by the children.

Authority G.S. 110-91.

15A NCAC 18A .2832 OUTDOOR LEARNING ENVIRONMENT AND PREMISES

(a) At child care centers, the premises, including the outdoor learning environment, shall be kept clean, drained to minimize standing water, free of litter and hazardous materials, and maintained in a manner which does not encourage the harborage of vermin. All debris, glass, dilapidated structures and broken play equipment shall be removed. Wells, grease traps, cisterns and utility equipment shall be made inaccessible to children.

(b) Sand toys, water tables and other items that can collect standing water in the outdoor learning environment shall be emptied and stored to prevent standing water.

(c) For outdoor play equipment, the following shall apply:

- (1) Equipment shall be kept in good repair, free of peeling, flaking, or chalking paint and free of rust and corrosion;
- (2) The sandbox used in outdoor play shall be constructed to allow for drainage and shall be covered when not in use and kept clean.

(d) The premises, including the outdoor play area, shall be free of identified lead poisoning hazards as defined in ~~15A NCAC 18A .3101~~ under G.S. 130A-131.7(7).

(e) If a daily air quality forecast is made by the Division of Air Quality or the regional air quality agency for the county where a center is located, outdoor activity for children shall be restricted as follows. On days with a code orange (unhealthy for sensitive groups) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. for more than one hour. On days with a code red (unhealthy) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. for more than 15 minutes. On days with a code purple (very unhealthy) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. Provisions shall be made to allow children with diagnosed asthma or with coughing or wheezing symptoms to participate in physical activity indoors on days with a code orange, red or purple air quality forecast.

(f) When food service is provided in the outdoor learning environment, food shall be protected, stored, prepared and served in accordance with 15A NCAC 18A ~~.2805~~, .2806, .2807 and .2808. Employees and children shall wash hands in accordance with 15A NCAC 18A .2803 and food service tables shall be cleaned or covered prior to use.

(g) When diapering and toileting facilities are provided in the outdoor learning environment, they shall be maintained in

accordance with 15A NCAC 18A .2817 and .2819 and employees and children shall wash hands in accordance with 15A NCAC 18A .2803.

(h) Storage provided outdoors for children's toys shall be kept clean. Storage areas that are accessible to children shall be kept free of hazardous equipment and substances in accordance with 15A NCAC 18A .2820. Storage areas shall meet requirements for lighting in accordance with 15A NCAC 18A .2826 by means of opening doors, windows, sky lights, battery operated light, flashlight or electric lighting. Spare batteries shall be available for battery operated light fixtures and flashlights.

(i) Outdoor water activity centers shall be maintained in accordance with 15A NCAC 18A .2822. Flow through water play systems shall be designed to minimize standing water. Employees and children shall wash hands in accordance with 15A NCAC 18A .2803 before and after water play.

Authority G.S. 110-91.

15A NCAC 18A .2834 COMPLIANCE, INSPECTIONS AND REPORTS

(a) When requested by a child care operator or the Division of Child Development, a sanitation inspection shall be conducted by the local health department within 30 days.

(b) Unannounced inspections of child care centers shall be made by the Department at least once each six-month period. The evaluation shall be completed on the Sanitation Standards Evaluation Form for Child Care Centers provided by the Department. Other versions of the form, including electronic, are allowed but shall be duplicates of the Sanitation Standards Evaluation Form for Child Care Centers. An original and two copies of the form shall be completed by the Department. The original shall be submitted to the Division of Child Development. The child care center operator and the Department shall each retain a copy.

(c) The Department shall inspect each child care program that has been designated as a child care center by the Division of Child Development. Demerits shall be assigned for each occurrence of violations within these requirements:

- (1) violation of Rules .2803 or .2836 of this Section related to handwashing when required shall be assessed five demerits;
- (2) violation of Rule .2803 of this Section related to proper handwashing procedures shall be assessed five demerits;
- (3) violation of Rule .2804 of this Section related to food from approved sources, no spoilage, or adulteration shall be assessed six demerits;
- (4) violation of Rules .2804, .2806, or .2807 of this Section related to potentially hazardous food meeting storage and holding temperatures; and refrigeration of bottles and lunches at 45° F or below shall be assessed six demerits;
- (5) violation of Rules .2806, .2807, .2808, or .2836 of this Section related to food properly stored, thawed, prepared, cooked, cooled, handled, served, transported, packaged, and identified shall be assessed five demerits;

PROPOSED RULES

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| (6) violation of Rule .2808 of this Section related to food not re-served shall be assessed three demerits; | (21) violation of Rules .2817, .2818 or .2836 of this Section related to toilet and lavatory facilities properly sized, located and accessible, and in good repair; toilets and potty chairs cleaned and disinfected shall be assessed four demerits; |
| (7) violation of Rule .2807 of this Section related to food thermometers provided and accurate shall be assessed two demerits; | (22) violation of Rules .2817 or .2818 of this Section related to soap, approved hand drying devices, and toilet tissue available shall be assessed three demerits; |
| (8) violation of Rules .2809 or .2810 of this Section related to food service equipment and utensils meeting specifications for refrigeration, sinks, lavatories and dishwashing equipment shall be assessed six demerits; | (23) violation of Rules .2817 or .2818 of this Section related to approved storage in toilet rooms, lavatories free of storage; and handwash signs posted shall be assessed two demerits; |
| (9) violation of Rules .2809 or .2810 of this Section related to food service equipment and utensils meeting specifications for other equipment and utensils, approved material and construction shall be assessed four demerits; | (24) violation of Rules .2817, .2819 or .2836 of this Section related to approved diaper changing facilities shall be assessed six demerits; |
| (10) violation of Rules .2809 or .2812 of this Section related to food contact surfaces properly washed, rinsed, sanitized and air dried; and single-service articles not re-used shall be assessed five demerits; | (25) violation of Rule .2819 of this Section related to diapering surfaces cleaned and disinfected after each use shall be assessed six demerits; |
| (11) violation of Rule .2812 of this Section related to sanitizer provided and test kit available shall be assessed two demerits; | (26) violation of Rule .2819 of this Section related to cleaning and disinfecting solutions provided and test kit available when required shall be assessed two demerits; |
| (12) violation of Rule .2812 of this Section related to equipment and non-food contact surfaces clean and in good repair shall be assessed four demerits; | (27) violation of Rules .2818, .2819 or .2820 of this Section related to diaper changing facilities free of storage; cleaning and disinfecting solutions labeled; and diaper changing and handwash signs posted shall be assessed two demerits; |
| (13) violation of Rule .2814 of this Section related to proper storage and handling of clean equipment, utensils, and single-service articles shall be assessed three demerits; | (28) violation of Rule .2820 of this Section related to medications properly stored shall be assessed six demerits; |
| (14) violation of Rule .2815 of this Section related to water supply and drinking water facilities meets 15A NCAC 18A .1700 or 15A NCAC 18C, whichever is applicable shall be assessed six demerits; | (29) violation of Rule .2820 of this Section related to hazardous products properly stored and locked shall be assessed six demerits; |
| (15) violation of Rule .2815 of this Section related to hot water supplied and maintained in the kitchen shall be assessed six demerits; | (30) violation of Rule .2820 of this Section related to non-hazardous products properly stored shall be assessed three demerits; |
| (16) violation of Rule .2815 of this Section related to hot water supplied and tempered water maintained as required in all other areas shall be assessed four demerits; | (31) violation of Rule .2820 of this Section related to facilities provided for proper storage storage, used and kept clean shall be assessed two demerits; |
| (17) violation of Rule .2815 of this Section related to hot water in excess of 120° F not allowed in areas accessible to children shall be assessed six demerits; | (32) violation of Rules .2821 or .2836 of this Section related to individual linen provided; adequate beds, cots, or mats provided, properly stored, labeled, and spaced during use shall be assessed three demerits; |
| (18) violation of Rule .2815 of this Section related to backflow prevention provided, no cross connections shall be assessed three demerits; | (33) violation of Rule .2821 of this Section related to linen, bedding, wash cloths, bibs and burping cloths laundered and in good repair shall be assessed three demerits; |
| (19) violation of Rules .2815 or .2836 of this Section related to drinking fountains of approved type, pressure regulated, clean shall be assessed two demerits; | (34) violation of Rules .2822 or .2836 of this Section related to toys, equipment and furniture clean and in good repair; water play centers cleaned, sanitized and maintained shall be assessed four demerits; |
| (20) violation of Rule .2816 of this Section related to identified lead poisoning hazards as defined under NC G.S. 130A-131.7(7) shall be assessed six demerits; | |

- (35) violation of Rules .2822 or .2836 of this Section related to mouth-contact surfaces cleaned and sanitized in rooms where children who are not toilet trained are cared for shall be assessed four demerits;
 - (36) violation of Rules .2808 or .2823 of this Section related to personnel using approved hygienic practices, clean clothes and hair restraints where ~~required~~ required, and evidence of tobacco use in the outdoor learning environment or in any part of a child care center without a separate ventilation system shall be assessed two demerits;
 - (37) violation of Rules .2824, .2825 or .2836 of this Section related to floors, walls and ceilings easily cleanable, in good repair, clean, carpets vacuumed and extraction cleaned as required shall be assessed four demerits;
 - (38) violation of Rule .2826 of this Section related to the lighting and thermal environment and room temperature between 65°F and 85°F shall be assessed three demerits;
 - (39) violation of Rule .2826 of this Section related to equipment clean and in good repair and maintained as required shall be assessed two demerits;
 - (40) violation of Rule .2827 of this Section related to persons with a communicable disease or a condition excluded in accordance with 15A NCAC 19A .0200 shall be assessed six demerits;
 - (41) violation of Rules .2827 or .2836 of this Section related to persons caring for sick or mildly ill children excluded from situations in which transmission of communicable disease can be expected to occur shall be assessed four demerits;
 - (42) violation of Rule .2827 of this Section related to the designated area for sick children maintained as required shall be assessed two demerits;
 - (43) violation of Rule .2829 of this Section related to wastewater disposed of by approved methods in accordance with 15A NCAC 18A .1900 shall be assessed six demerits;
 - (44) violation of Rules .2830 or .2836 of this Section related to solid waste properly handled; containers and cleaning equipment kept clean, and can cleaning facilities adequate shall be assessed two demerits;
 - (45) violation of Rule .2831 of this Section related to approved pesticides properly used and new Chromated Copper Arsenate (CCA) pressure-treated wood shall be assessed six demerits;
 - (46) violation of Rule .2831 of this Section related to Chromated Copper Arsenate pressure-treated wood sealed and soil covered or inaccessible as required shall be assessed three demerits;
 - ~~(45)~~(47) violation of Rule .2831 of this Section related to animals in food preparation areas and no unrestrained or prohibited animals except as noted shall be assessed three demerits;
 - ~~(46)~~(48) violation of Rules .2831 or .2832 of this Section related to effective control of rodents, insects and other vermin; premises free of vermin harborage and breeding areas shall be assessed three demerits;
 - ~~(47)~~(49) violation of Rule .2832 of this Section related to premises clean and drained, equipment in good repair, ~~and~~ sandboxes properly constructed and ~~clean~~ clean, and adherence to air quality forecast outdoor activity restrictions shall be assessed ~~two~~ three demerits; and
 - ~~(48)~~(50) violation of Rule .2833 of this Section related to swimming and wading pools designed, constructed, operated and maintained in accordance with 15A NCAC 18A .2500 shall be assessed six demerits.
- (d) The Department shall indicate on the Child Care Inspection Sanitation Form whether the center is superior, approved, provisional, or disapproved. A Sanitation Classification placard shall be posted in the center in a conspicuous place designated by the Department. The classification of a child care center is based on the center's compliance with the Rules of this Section. A summary classification of disapproved shall be issued and forwarded to the Division of Child Development when the right-of-entry to inspect is denied or when an inspection is discontinued at the request of the operator or administrator unless the decision to discontinue the inspection is mutual.
- (e) The child care center's compliance is indicated by the number of demerits on the Child Care Sanitation Inspection Form.
- (1) When an inspection is requested and conducted for the purpose of issuing a license to a new operator, a Child Care Sanitation Inspection Form shall be forwarded to the Division of Child Development only when the child care center can be granted a superior classification. If the center is not yet open and children are not in attendance when the initial inspection is conducted, a Child Care Sanitation Inspection Form shall be completed and forwarded to the Division of Child Development, but the Sanitation Classification placard shall not be posted. Another sanitation inspection shall be conducted when children are in attendance within 30 days of opening and the Sanitation Classification placard shall then be posted. When a temporary license is issued as a result of a change of ownership in a child care center that continues to operate, the operator shall request an inspection from the Department within fourteen days. A sanitation classification placard shall be posted after each inspection of a center operating under a temporary license.

- (2) A child care center shall be classified as superior if the demerit score does not exceed 15 and no 6-point demerit item is violated.
- (3) A child care center shall be classified as approved if the demerit score is more than 15 and does not exceed 30, and no 6-point demerit item is violated.
- (4) A child care center shall be classified as provisional if any 6-point demerit item is violated or if the total demerit score is more than 30 but does not exceed 45. The provisional classification period shall not exceed seven days unless construction or renovation is necessary to correct any violation, in which case the Department may specify a longer provisional classification period.
- (5) A child care center shall be classified as disapproved if the demerit score is more than 45, or if conditions which resulted in a provisional classification have not been corrected in the time period specified by the Department.
- (6) If the child care center receives a disapproved classification, the Department shall immediately notify the Division of Child Development by faxing a copy of the inspection form.
- (7) The Sanitation Classification placard shall not be removed except by or upon the instruction of the Department.

(f) If the Department determines that conditions found at the child care center at the time of any inspection or visit are dangerous to the health of the children, the Department shall immediately notify the Division of Child Development by verbal contact. The original inspection report or other documentation of the dangerous conditions shall be sent to the Division of Child Development within two working days following the inspection.

(g) The Department may conduct an inspection of any child care center as frequently as necessary in order to ensure compliance with the Rules in this Section.

(h) The Department shall use the Child Care Sanitation Inspection Form to document demerits for violations of the rules. A written explanation and corrective action for each violation shall be documented on a comment addendum form.

(i) In filling out the inspection form, demerits may be assessed only once for a single occurrence or condition existing within or outside the child care center. Demerits shall be assessed based on actual violations of the Rules of this Section observed during the inspection.

Authority G.S. 110-88; 110-91.

TITLE 16 – DEPARTMENT OF PUBLIC EDUCATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Education intends to amend the rule cited as 16 NCAC 06D .0305.

Proposed Effective Date: June 1, 2006

Public Hearing:

Date: February 10, 2006

Time: 1:00 p.m.

Location: Room 226, Education Building, 301 N. Wilmington St., Raleigh, NC

Reason for Proposed Action: Amendments are needed to allow students who take Integrated Math to meet the high school exit standards.

Procedure by which a person can object to the agency on a proposed rule: Persons may submit objections regarding the proposed rules to Harry Wilson, Staff Attorney, State Board of Education, 6302 Mail Service Center, Raleigh, NC 27699-6302.

Comments may be submitted to: Harry E. Wilson, 6302 Mail Service Center, Raleigh, NC 27699-6302, phone (919)807-3406, fax (919)807-3198, email hwilson@dpi.state.nc.us.

Comment period ends: March 20, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 6 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 06D – INSTRUCTION

SECTION .0300 - TESTING PROGRAMS

16 NCAC 06D .0305 END-OF-COURSE ASSESSMENTS

(a) The LEA shall include each student's end-of-course assessment results in the student's permanent records and high school transcript.

- (b) The LEA shall give each end-of-course assessment within the final 10 days of the course.
- (c) LEAs shall use results from all operational end-of-course assessments as at least 25% of the student's final grade for each respective course. LEAs shall adopt policies regarding the use of end-of-course assessment results in assigning final grades.
- (d) Students who are enrolled for credit in courses in which end-of-course assessments are required shall take the appropriate end-of-course assessment.
- (e) Students who are exempt from final exams by local board of education policy shall not be exempt from end-of-course assessments.
- (f) Each student shall take the appropriate end-of-course assessment the first time the student takes the course even if the course is an honors or advanced placement course.
- (g) Students shall take the appropriate end-of-course assessment at the end of the course or an alternate assessment regardless of the grade level in which the course is offered.
- (h) Students who are identified as failing a course for which an end-of-course assessment is required shall take the appropriate end-of-course assessment.
- (i) Students may drop a course with an end-of-course assessment within the first 10 days of a block schedule or within the first 20 days of a traditional schedule.
- (j) Students who are enrolled in the Integrated Math sequence shall take the Algebra I, Geometry, and Algebra II end-of-course assessments. The LEA shall administer these assessments as follows:

- (1) The Algebra I end-of-course assessment shall be administered during the final five days of the Integrated Math II course if taken on a block schedule or the final 10 days if taken on a traditional schedule.
- (2) The Geometry end-of-course assessment shall be administered during the Integrated Math III course on a locally established test date.
- (3) The Algebra II end-of-course assessment shall be administered during the final five days of the Integrated Math III course if taken on a block schedule or the final 10 days if taken on a traditional schedule.

Authority G.S. 115C-12(9)c.; 115C-81(b)(4).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

CHAPTER 32 – BOARD OF MEDICAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Medical Board intends to adopt the rules cited as 21 NCAC 32B .0105-.0106 and amend the rules cited as 21 NCAC 32B .0312, .0314.

Proposed Effective Date: June 1, 2006

Public Hearing:

Date: February 1, 2006

Time: 10:00 a.m.

Location: NC Medical Board, Hearing Room, 1203 Front St., Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 32B .0105-.0105 – To adopt requirements for applying for a license to practice medicine. This Rule will require those applicants who are registered with the Federation's Credential Verification Service (FCVS) to submit a FCVS profile with their application for licensure. This Rule will require all applicants for licensure to submit a National Practitioner Data Bank and Healthcare Integrity and Protection Data Bank report with their application for licensure.

21 NCAC 32B .0312, .0314 – To amend requirements for applying and qualifying for a license to practice medicine. Rule .0312 will require applicants who hold or previously held a medical license in another country to submit a report describing the status of their foreign license. Rule .0314 will require applicants for licensure to receive a passing score on each step of the USMLE within six attempts. Applicants who have failed to pass each step of the USMLE will be denied a license to practice medicine unless the Board determines that the applicant has successfully completed additional training or education which is approved and accepted by the Board.

Procedure by which a person can object to the agency on a proposed rule: A person may submit objections to the proposed adoptions and amendments by March 20, 2006 by writing to R. David Henderson, Executive Director, North Carolina Medical Board, 1203 Front St., Raleigh, NC 27609.

Comments may be submitted to: R. David Henderson, NC Medical Board, 1203 Front St., Raleigh, NC 27609, phone (919)326-1100, fax (919)326-1131, email david.henderson@ncmedboard.org.

Comment period ends: March 20, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

SUBCHAPTER 32B – LICENSE TO PRACTICE MEDICINE

SECTION .0100 - GENERAL

21 NCAC 32B .0105 FEDERATION'S CREDENTIAL VERIFICATION SERVICE PROFILE

All applicants for a license to practice medicine under this Chapter who are registered with the Federation's Credential Verification Service (FCVS) shall submit a FCVS profile as part of their license application.

Authority G.S. 90-6; 90-11.

21 NCAC 32B .0106 DATA BANK REPORTS

All applicants for a license to practice medicine under this Chapter shall submit a National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB) report as part of their license application. The NPDB and HIPDB reports must be dated within 60 days of their submission to the Medical Board.

Authority G.S. 90-6; 90-11.

SECTION .0300 – LICENSE BY ENDORSEMENT

21 NCAC 32B .0312 ROUTINE INQUIRIES

An applicant for license by endorsement shall request the following reports be submitted to the Board:

- (1) Reports from all relative state Medical Boards or agencies in which the applicant has ever held a professional license to include medical, dental, nursing, and law, indicating the status of the applicant's license and whether or not the license has been revoked, suspended, surrendered, or placed on probation shall be mailed directly from other state boards or agencies to the Board.
(2) If the applicant has ever held a medical license in another country, reports from all foreign Medical Boards, including Canada, where the applicant has ever held a medical license indicating the status of the applicant's license and whether or not the license has been revoked, suspended, surrendered, or placed on probation shall be mailed directly from the foreign board to the Board.
(2)(3) An AMA Physician Profile (requested by applicant of AMA).
(3)(4) FSMB Data Bank inquiry (requested by applicant of FSMB).
(4)(5) AOIA Physician Profile (requested by applicant of AOIA) if applicant is an osteopathic physician.

Authority G.S. 90-6; 90-11; 90-13.

21 NCAC 32B .0314 PASSING EXAM SCORE

USMLE – Applicants who have taken USMLE may be eligible to apply for a license by endorsement of credentials if they meet the following score requirements:

- (1) A score of at least 75 is required on Step 3; and
(2) The USMLE Step 3 shall be passed within seven years of the date of passing Step 1 OR within 10 years if the reason for the delay is based on applicant obtaining a MD/PhD degree.
(3) An applicant shall not be deemed to have received a passing score on any Step of the USMLE unless applicant has received a passing score on that Step within six attempts. Step 2 consists of two components: Clinical Knowledge (CK) and Clinical Skills (CS). An applicant must receive a passing score within six attempts on Step 2 (CK) and, likewise, must receive a passing score within six attempts on Step 2 (CS).
(4) The Board shall not issue a license to practice medicine to any applicant who has failed to receive a passing score on any Step, or component thereof, of the USMLE within six attempts unless it is determined, in the Board's discretion, that the applicant has successfully completed additional training or education which is approved and accepted by the Board.

Authority G.S. 90-6; 90-10; 90-13.

TITLE 25 – OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Personnel Commission intends to amend the rules cited as 25 NCAC 01C .0903; 01I .2404 and repeal the rules cited as 25 NCAC 01C .0601; 01J .0801-.0802, .0805.

Proposed Effective Date: June 1, 2006

Public Hearing:

Date: February 16, 2006

Time: 10:00 a.m.

Location: Office of State Personnel Conference Room, Administration Bldg., 3rd floor, 116 West Jones Street, Raleigh, NC

Reason for Proposed Action:

25 NCAC 01C .0601 - This rule is being repealed since we no longer operate this type of merit system. The other rules were repealed earlier and this one was overlooked.

25 NCAC 01C .0903 – This rule is being amended to correct the citation for the definition for total state service, which was previously moved to Subchapter D.

25 NCAC 01I .2404 – This amendment is being proposed to bring the provision on substantial equivalency in employee relations to be parallel with those policies currently provided by

the State Personnel Act and 25 NCAC to persons subject to the State Personnel Act.

25 NCAC 01J .0801-.0802, .0805 – These rules are being repealed since the program was changed to the State Employees' Award for Excellence.

Procedure by which a person can object to the agency on a proposed rule: A person may object to these proposed rules by one of the following methods: A written letter to Peggy Oliver, HR Policy Administrator, Office of State Personnel, 1331 Mail Service Center, Raleigh, NC 27699-1331; an email to peggy.oliver@ncmail.net; a telephone call to Peggy Oliver at (919)733-7108.

Comments may be submitted to: Peggy Oliver, Office of State Personnel, 1331 Mail Service Center, Raleigh, NC 27699-1331, phone (919)733-7108.

Comment period ends: April 3, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

- State
Local
Substantive (>=\$3,000,000)
None

CHAPTER 1 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 01C - PERSONNEL ADMINISTRATION

SECTION .0600 - COMPETITIVE SERVICE

25 NCAC 01C .0601 STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION

All positions under competitive service are subject to the federal standards for a merit system of personnel administration.

Authority 42 USC 246(a)(2)(f); 42 USC 246(d)(2)(f); 42 USC 291d(a)(8); 42 USC 302(a)(5)(A); 42 USC 602(a)(5)(A); 42 USC 705(a)(3)(A); 42 USC 1202(a)(5)(A); 42 USC 1352(a)(5)(A); 42 USC 1382(a)(5)(A); 42 USC 1396a(a)(4)(A); 42 USC 2674(b)(7); 42 USC 2684(a)(6); 87 Stat. 41; 86 Stat. 92; 42 USC 4573(a)(5); 42 USC 503(a)(1) and 29 USC 49d(b);

50 USC app. 2286(a)(4); 7 CFR 271.1(g); 45 CFR 14.5(b)(3)(i); 45 CFR 220.49(c); 29 CFR 1902.3(h); 29 USC 35(a)(6); 45 CFR 401.12; 29 USC 42-1(c)(5); 45 CFR 402.7.

SECTION .0900 - EMPLOYEE RECOGNITION PROGRAMS

25 NCAC 01C .0903 ELIGIBILITY REQUIREMENTS

Employees with full-time or part-time (20 hours or more) permanent appointments shall be eligible for awards based on the employees' total state service. The calculation shall be based on the definition in 25 NCAC 1E .0204 25 NCAC 01D .0112 for total state service.

Authority G.S. 126-4(10).

SUBCHAPTER 01I - SERVICE TO LOCAL GOVERNMENT

SECTION .2400 - BASIC REQUIREMENTS FOR A "SUBSTANTIALLY EQUIVALENT" PERSONNEL SYSTEM

25 NCAC 01I .2404 SYSTEM PORTION IV: EMPLOYEE RELATIONS

General Requirement. Employees will be continued in good standing as long as they sustain satisfactory performance. Attempts will be made with employees to improve inadequate performance, and provisions will be made for separating employees whose inadequate performance cannot be corrected. Employee Performance:

- (1) Requirement. Employees who have acquired permanent status will not be discharged, suspended, or reduced in pay or position except for just cause.
(2) Requirement. Policies will be developed which provide for fair and uniform procedures for demotion, transfer, suspension, or dismissal of employees whose performance continues to be inadequate after reasonable efforts have been made to correct it. Such policies shall specifically provide that in the case of such disciplinary action, the employee will, before the action is taken, be given a statement in writing setting forth in numerical order the specific acts or omissions that are the reasons for the disciplinary action, and the employee's appeal rights. A copy of this statement shall be filed with the county personnel director.
(3) Requirement. To assure impartiality, the county board of commissioners or area mental health authority shall create an appeals board, which among other areas of responsibility and authority that may be assigned shall decide all alleged discrimination appeals. The authority of the appeals board for effecting its decisions shall be in accordance with the provisions of Item (1) of this Rule. The membership of the

~~appeals board shall consist of persons appointed by the board of county commissioners or area authority with due regard to its nature and purpose, with the stipulation that at least one member be chosen to represent the employees of the jurisdiction. Such appointments shall not include the county attorney, incumbent county commissioners, incumbent members of the area board, or their family members or relatives. A county manager or area authority director may serve as a voting member of an appeals board but shall not serve as chairperson.~~

~~(4) Requirement. The appeals board shall have access in its meetings and deliberations to the counsel of a private attorney, not associated or engaged professionally in any transaction of the jurisdiction which would create a conflict of interest.~~

~~(5) Requirement. The deliberations of the appeals board shall be preceded by an evidentiary hearing, to be conducted by a hearings examiner appointed by the jurisdiction, who shall submit a written disclosure of findings and facts to the Board, along with his/her recommendations. The hearings examiner shall have the power to subpoena witnesses, principals, or other parties relevant to a fair and vigorous pursuit of a recommendation.~~

~~(6) Requirement. Proceedings of appeals board shall be recorded. At its discretion, the board may furnish a transcript of the hearing upon request. Decisions of the board shall be in writing and shall be maintained in the county or authority personnel office.~~

~~(7) Requirement. An impartial grievance procedure which has as its objective the timely and logical resolution of all grievances at the lowest practical point in the organization shall be established, with right of appeal assured at each step up to the county manager or area director for all appeals not alleging discrimination, and to the appeals board for all appeals alleging discrimination. To the maximum extent possible grievance procedures shall include steps to resolve discrimination and all other types of employee grievances without recourse to the formal appeals process represented by the county manager or appeals board.~~

(a) In order to be declared substantially equivalent in the area of employee relations, a county must adopt a policy that includes, at a minimum, all of the following:

(1) A provision that employees will not be demoted in pay or position, disciplinarily suspended without pay, or dismissed except for just cause.

(2) A provision that allows for disciplinary action on the basis of unsatisfactory job performance or unacceptable personal conduct.

(3) A provision that the policy shall be generally available to all employees.

(4) A provision that the county will train all supervisors and managers in the appropriate use of the employee relations policy.

(b) In order to be declared substantially equivalent in the area of employee relations, a county must adopt a grievance procedure that includes all of the following:

(1) A provision that extends coverage to at least all county employees subject to G.S. 126.

(2) A provision that all employees who have completed a probationary period will have access to the grievance procedure on at least these issues:

(A) Just cause to impose disciplinary demotion in pay or position, disciplinary suspension without pay or dismissal;

(B) Allegations of discrimination based on race, sex (including allegations of sexual harassment), religion, age, national origin, handicapping condition, creed or color in hiring, promotion, any disciplinary action, compensation, transfer or training.

(3) A provision for a hearing before an impartial hearing officer, or a hearing panel appointed by the County Manager and the Human Resources Director. No person who reports directly to the County Manager or who works in the Human Resources area may be a hearing officer or may serve on the hearing panel.

(4) A provision for a public hearing, with the ability of each party to be represented by attorney. The hearing officer or hearing panel shall have the authority to compel attendance at such hearing. The hearing shall be recorded so that a record may be prepared and forwarded to Superior Court.

(5) A provision that the hearing officer or hearing panel shall make a recommendation to the local appointing authority. The local appointing authority shall make a final, binding decision in the grievance.

(6) A provision that if the employee/grievant disagrees with the decision of the local appointing authority, appeal from that decision may be made to the Superior Court of the county.

(c) All provisions of this section must be complied with in order for substantial equivalent status to be granted by the Commission.

(d) The Office of State Personnel shall provide technical assistance and advice to any county wishing to apply for substantial equivalent status in employee relations.

(e) Any county that was approved for substantial equivalent status in the area of employee relations prior to the approval of this section must re-apply for approval within 12 months of the effective date of this section. Failure to apply within that period shall automatically terminate that county's substantial equivalent status in employee relations.

Authority G.S. 126-11.

SUBCHAPTER 1J - EMPLOYEE RELATIONS

SECTION .0800 - GOVERNOR'S AWARD FOR EXCELLENCE

25 NCAC 01J .0801 PURPOSE

~~The Office of State Personnel shall establish and administer a Governor Awards recognition program to recognize the highest achievements of State employees.~~

Authority G.S. 126-4(15).

25 NCAC 01J .0802 AWARDS COMMITTEE

~~(a) A Governor's Awards of Excellence Committee shall be appointed by the Governor to make an annual selection of State employees to receive the awards of excellence. The committee shall consist of five members, four appointed by the Governor~~

~~and one appointed by the State Personnel Commission Chairperson from the Commission members. Of the four appointed by the Governor, one member shall be current or former State employees and two shall be from the private business sector or the public at large. Terms of appointment are for four years, with one member rotating off the Committee each year. Appointments for unexpired terms shall be for the duration of the term. The State Personnel Commission Chairperson annually appoints a Commissioner who shall serve as the Award's Committee Chair.~~

~~(b) The awards shall be presented annually. The Committee shall select the employees to receive the Awards of Excellence from among the nominations submitted by agencies.~~

Authority G.S. 126-4(15).

25 NCAC 01J .0805 AGENCY, DEPARTMENT OR UNIVERSITY RESPONSIBILITY

~~Agencies submitting nominations to the Governor's Awards Committee shall commit by signing the nomination form to support the nominees/recipients by providing time and travel to attend the Governor's Awards Ceremony.~~

Authority G.S. 126-4(15).

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: *Commission for Health Services*

Rule Citation: *10A NCAC 48A .0101-.0102, .0201-.0205; 48B .0101-.0103, .0201-.0203, .0301-.0305, .0401-.0402, .0501-.0503, .0601-.0602, .0701-.0703, .0801-.0804, .0901-.0904, .1001, .1101-.1102, .1201-.1204, .1301-.1308.*

Effective Date: *January 1, 2006*

Date Approved by the Rules Review Commission: *December 15, 2005*

Reason for Action: *Ratified Senate Bill 804 of the 2005 Session of the N.C. General Assembly requires that the Commission for Health Services adopt accreditation standards for local health departments, to become effective January 1, 2006. These rules establish those standards.*

CHAPTER 48 - LOCAL HEALTH DEPARTMENT ACCREDITATION

SUBCHAPTER 48A - LOCAL HEALTH DEPARTMENT ACCREDITATION –ADMINISTRATION

SECTION .0100 - GENERAL PROVISIONS

10A NCAC 48A .0101 PURPOSE

The rules of this Subchapter establish the process for local health departments to become accredited pursuant to G.S. 130A-34.1.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48A .0102 DEFINITIONS

The following definitions shall apply throughout this Subchapter:

- (1) "Board" is defined in G.S. 130A-2 (01).
- (2) "Institute" means the North Carolina Institute for Public Health.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .0200 - ACCREDITATION PROCESS

10A NCAC 48A .0201 SELF-ASSESSMENT

Each local health department shall complete a self-assessment based on the standards adopted in this Chapter. The local health department shall submit the self-assessment to the Institute within 90 days after notification by the Institute that the accreditation process for the department has begun.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48A .0202 SITE VISIT

(a) The Institute shall select a site visit team composed of not fewer than four individuals with expertise or experience in local public health, including experience or expertise in environmental health, public health nursing, public health administration or policy development/governance.

(b) The site visit team shall visit the local health department, review the self-assessment and supporting documentation, interview local health department staff and other persons necessary to evaluate compliance with the standards and inspect the facilities in accordance with the standards. The team may request additional supporting documentation or other evidence as necessary to evaluate compliance with the standards.

(c) The site visit team shall prepare a report that makes a determination as to whether the standards have been met and shall submit the report to the Board and the local health department within 14 days of the end of the site visit. The site visit team shall make a recommendation regarding accreditation status to the Board.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48A .0203 BOARD ACTION

The site visit team shall present the report to the Board and the local health department shall have the opportunity to respond to the presentation. Upon the local health department's request, the Board shall grant the local health department an additional 21 calendar days to submit additional written information to the Board. If no such request is made, the Board may take action on the site visit team's recommendation or may request additional information from the local health department and defer action on the recommendation to a later meeting. The action shall be taken within 90 days of the presentation of the site visit team to the Board.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48A .0204 INFORMAL REVIEW PROCEDURES

If the Board assigns a status of "conditionally accredited" or "unaccredited," the local health department may make a written request within 10 calendar days for reconsideration of the decision. The written request shall state the specific objections to the decision and the basis for those objections. The Board shall act on the request within 60 calendar days.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48A .0205 RE-ACCREDITATION

A local health department shall submit the self-assessment required by Rule .0201 no later than six months before the expiration date of its accreditation. The Board shall initiate a site visit in accordance with Rule .0202 and take action in accordance with Rule .0203 before the local health department's accreditation expires. If the Board re-accredits a local health department, accreditation is extended for an additional four

years. The local health department may utilize the informal review procedures of .0204.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SUBCHAPTER 48B - LOCAL HEALTH DEPARTMENT ACCREDITATION STANDARDS

SECTION .0100 - GENERAL PROVISIONS

10A NCAC 48B .0101 PURPOSE

The rules in this Subchapter establish the accreditation standards for local health departments pursuant to G.S. 130A-34.1.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0102 DEFINITIONS

The following definitions shall apply throughout this Subchapter:

- (1) "Activities" means specific, documentable actions taken by a local health department or a local board of health.
- (2) "Consolidated agreement and agreement agenda" means the contract used by the Division to distribute state and federal public health funds to local health departments.
- (3) "Division" means the North Carolina Division of Public Health.
- (4) "Evidence-based health promotions/disease prevention strategies" means endeavors in which there is an informed and explicit use of evidence that has been derived from any of a variety of science and social science research and evaluation methods.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0103 ACCREDITATION REQUIREMENTS

(a) To receive an accreditation status of "accredited," a local health department must satisfy all of the accreditation standards contained in this Subchapter. In order to satisfy the accreditation standards, the local health department shall satisfy 33 of the 41 benchmarks. Two of the 33 benchmarks can come from any of the three standards listed below. 31 of the benchmarks shall be met according to the following proportions:

- (1) Standard 1. Agency core functions and essential services:
 - (A) At least six of the benchmarks contained in Sections .0200 and .0300 of this Subchapter;
 - (B) At least five of the benchmarks contained in Sections .0400 through .0600 of this Subchapter;

(C) At least 11 of the benchmarks contained in Sections .0700 through .1100 of this Subchapter;

(2) Standard 2. Facilities and administrative services: At least three of the benchmarks contained in Section .1200 of this Subchapter; and

(3) Standard 3. Board of health: At least six of the benchmarks contained in Section .1300 of this Subchapter.

(b) In order to satisfy a benchmark, the local health department must carry out all of the activities prescribed for that benchmark. Failure to complete any activity associated with a benchmark means that the benchmark is not satisfied.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .0200 - MONITOR HEALTH STATUS

10A NCAC 48B .0201 BENCHMARK 1

(a) Benchmark: A local health department shall conduct and disseminate results of regular community health assessments:

(b) Activities:

- (1) The local health department shall conduct a comprehensive community health assessment every 48 months. The community health assessment must fulfill each of the following requirements:
 - (A) Provide evidence of community collaboration in planning and conducting the assessment
 - (B) Reflect the demographic profile of the population
 - (C) Describe socioeconomic, educational and environmental factors that affect health
 - (D) Assemble and analyze secondary data to describe the health status of the community
 - (E) Collect and analyze primary data to describe the health status of the community
 - (F) Compile and analyze trend data to describe changes in community health status and in factors affecting health
 - (G) Use defined methods for collecting and analyzing data
 - (H) Identify population groups at risk
 - (I) Identify existing and needed health resources
 - (J) Compare selected local data with data from other jurisdictions (e.g., local to state, local to local)
 - (K) Identify leading community health problems
- (2) The local health department shall update the community health assessment with an interim

"State of the County's Health" report (or equivalent) annually. The report shall demonstrate that the local health department is tracking priority issues identified in the community health assessment, identifying emerging issues, and shall identify any new initiatives.

- (3) The local health department shall disseminate results of the most recent community health assessment and "State of the County's Health" report to the local health department's stakeholders, community partners and the general population.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0202 BENCHMARK 2

(a) Benchmark: The local health department shall work with health care providers in the community to report reportable diseases and other health-related events and data.

(b) Activities:

- (1) The local health department shall collect local vital records of births and deaths and transmit them to the Division.
- (2) The local health department shall report annual childhood immunization data as required by statute and rule.
- (3) The local health department shall collect reports of communicable diseases and other reportable health conditions from community health care providers and transmits them to the Division.
- (4) The local health department shall analyze and note reportable events occurring within the community and shall report atypical incidence, if any, to the Division and the local board of health.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0203 BENCHMARK 3

(a) Benchmark: The local health department shall maintain skills and capacity to collect, manage, integrate and display health-related data.

(b) Activities:

- (1) The local health department shall assure agency staff has expertise and training to collect, manage, integrate and display health-related data.
- (2) The local health department shall conduct an annual evaluation of the agency's data system (hardware and software) and plans for upgrades to improve the accessibility, quality and utilization of health data.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .0300 - DIAGNOSE AND INVESTIGATE HEALTH PROBLEMS AND HEALTH HAZARDS IN THE COMMUNITY

10A NCAC 48B .0301 BENCHMARK 4

(a) Benchmark: The local health department shall engage in surveillance activities and assess, investigate and analyze health problems, threats and hazards, maintaining and using epidemiological expertise.

(b) Activities:

- (1) The local health department shall assure that a surveillance system is in place for identifying health problems, threats and hazards that occur in the community.
- (2) The local health department shall monitor exposure to environmental health risks.
- (3) The local health department shall have access to, and consult with a Masters or Doctoral level epidemiologist when necessary to fully investigate and diagnose health problems and hazards within the community.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0302 BENCHMARK 5

(a) Benchmark: The local health department shall establish and maintain a system to receive and provide health alerts and public health response for health care providers, emergency responders, and communities on a 24-hour-a-day, 7-day-a-week basis.

(b) Activities:

- (1) The local health department shall have a system in place to receive reports of communicable diseases or other public health threats on a 24-hour-a-day, 7-day-a-week basis.
- (2) The local health department shall use two or more methods to disseminate health alerts and other advisories on real or potential disease threats, as they occur, to the local medical community, including pharmacists and veterinarians.
- (3) The local health department shall provide health alerts or advisories to the news media to inform the public when disease outbreaks or other potential public health threats occur.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0303 BENCHMARK 6

(a) Benchmark: The local health department shall be able to respond to a public health emergency on a 24-hour-a-day, 7-day-a-week basis.

(b) Activities:

- (1) The local health department shall be involved in a local emergency planning committee.

- (2) The local health department shall have a defined role in the county emergency operations plan to protect the public's health.
- (3) The local health department shall participate in regional emergency preparedness exercises and activities.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0304 BENCHMARK 7

(a) Benchmark: The local health department shall maintain and implement epidemiological case investigation protocols providing for rapid detection and containment of communicable disease outbreaks; environmental health hazards; potential biological, chemical and radiological threats.

(b) Activities:

- (1) The local health department shall have epidemiological case investigation protocols in place.
- (2) The local health department shall conduct communicable disease investigations, follow-up, documentation and reporting activities.
- (3) The local health department shall investigate and respond to environmental health complaints or referrals.
- (4) The local health department shall have a public health preparedness and response plan that:
 - (A) corresponds to existing local and state emergency and bioterrorism plans
 - (B) establishes roles and responsibilities of plan participants
 - (C) identifies training for participants in those roles
 - (D) establishes a chain of command among plan participants
 - (E) describes a system of emergency notification to local and state public health staff and other key decision makers
 - (F) is available to staff on site
- (5) The local health director shall maintain periodic communication with local emergency managers.
- (6) The local health department shall annually test or implement the local public health preparedness and response plan.
- (7) The local health department shall have one of the following:
 - (A) public health preparedness and response coordination team with an environmental health member and a public health preparedness response coordinator, or
 - (B) an epidemiology team with an environmental health member and an epidemiology team coordinator.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0305 BENCHMARK 8

(a) Benchmark: The local health department shall provide or have access to laboratory capacity capable of providing for rapid detection and containment of communicable disease outbreaks; environmental health hazards; potential biological, chemical and radiological threats.

(b) Activities:

- (1) The local health department shall have written policies and procedures for handling clinical and environmental laboratory samples.
- (2) The local health department laboratory and external laboratories utilized by the local health department shall comply with all applicable federal regulations for clinical and environmental laboratory testing.
- (3) The local health department shall provide or have access to laboratory services capable of meeting routine diagnostic and surveillance needs.
- (4) The local health department shall provide or have access to laboratory services to support investigations of public problems, hazards, and emergencies.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .0400 - INFORM, EDUCATE, AND EMPOWER PEOPLE ABOUT HEALTH ISSUES

10A NCAC 48B .0401 BENCHMARK 9

(a) Benchmark: The local health department shall provide the general public and elected and appointed officials with information on health risks, health status, and health needs in the community as well as information on policies and programs that can improve community health.

(b) Activities:

- (1) The local health department shall publish and disseminate data and information on current local health issues to the general public, community leaders, and elected and appointed officials.
- (2) The local health department shall have a mechanism by which the public can access community data and health status information maintained in the agency in accordance with applicable laws and rules.
- (3) The local health department shall provide information to the public on the availability and location of health data that are accessible in the public domain.
- (4) The local health department shall have written guidelines that it follows in responding to requests for information.

- (5) The local health department shall inform affected community members of changes in department policies or operations.
- (6) The local health department shall assure that information disseminated by the agency reflects the cultural and linguistic character of the local population as required by Title VI of the Civil Rights Act.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0402 BENCHMARK 10

(a) Benchmark: The local health department shall provide, support, and evaluate health promotion activities designed to influence the behavior of individuals and groups.

(b) Activities:

- (1) The local health department shall develop, implement and evaluate population-based health promotion/disease prevention programs and educational materials for the general public.
- (2) The local health department shall carry out or assist other agencies in the development, implementation and evaluation of health promotion/disease prevention programs and educational materials targeted to groups identified as at-risk in the community health assessment.
- (3) The local health department shall employ evidence-based health promotions/disease prevention strategies, when such evidence exists.
- (4) The local health department shall promote and support the use of evidence-based health promotion/disease prevention strategies by other community agencies and organizations.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .0500 - MOBILIZE COMMUNITY PARTNERSHIPS TO IDENTIFY AND SOLVE HEALTH PROBLEMS

10A NCAC 48B .0501 BENCHMARK 11

(a) Benchmark: The local health department shall convene key constituents and community partners to identify, analyze, and prioritize community health issues.

(b) Activities:

- (1) The local health department shall participate in a collaborative community steering committee to identify health issues and needs.
- (2) The local health department shall involve community members in assessing, setting priorities and establishing desired outcomes for addressing community health issues and needs.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0502 BENCHMARK 12

(a) Benchmark: The local health department shall develop strategies in collaboration with community partners to solve existing community health problems.

(b) Activities:

- (1) The local health department shall participate in a collaborative process to identify strategies for addressing community health problems.
- (2) The local health department shall participate in a collaborative process to assess resources needed, including personnel, funding, policy changes, and system change, to address community health problems.
- (3) The local health department shall participate in a collaborative process to implement population-based programs to address community health problems.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0503 BENCHMARK 13

(a) Benchmark: The local health department shall identify and build upon community assets and direct them toward resolving health problems.

(b) Activity: The local health department shall broaden existing partnerships by cultivating innovative and new community

contacts, such as businesses and industries, healthcare practitioners, faith communities, and grassroots organizations, and increasing their awareness of public health through outreach and training.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .0600 - DEVELOP POLICIES AND PLANS THAT SUPPORT INDIVIDUAL AND COMMUNITY HEALTH EFFORTS

10A NCAC 48B .0601 BENCHMARK 14

(a) Benchmark: The local health department shall work with local, state and federal policymakers to enact policies, laws, rules, and ordinances that support individual and community health efforts.

(b) Activities:

- (1) The local health department shall disseminate information relative to public health needs to elected and appointed officials.
- (2) The local health department shall provide information and recommendations to support the local board of health and the board(s) of county commissioners in setting public health priorities and planning public health programs.

- (3) The local health department shall evaluate, with the local board of health, the need for additional rules or ordinances to protect the health of the public.
- (4) The local health department shall assist the local board of health in drafting local ordinances and rules as needed and presenting them to elected officials in order to implement or enforce needed local public health prevention and protection activities.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0602 BENCHMARK 15

(a) Benchmark: The local health department shall develop plans to guide its work.

(b) Activities:

- (1) The local health department shall develop or update annually an agency strategic plan that:
 - (A) includes a review and analysis of factors influencing the health department's ability to improve the community's health.
 - (B) uses local health status data and information to set goals and objectives.
 - (C) uses community input where applicable.
 - (D) states desired outcomes for each element.
 - (E) sets priorities, and
 - (F) uses community collaborations to implement activities.
- (2) The local health department shall develop and adopt program policies and procedures that meet the following criteria:
 - (A) refer to the federal and state legislation, rules or regulations, or local rules or ordinances that provide the authority to carry out agency programs and activities, and
 - (B) delineate desired outcomes.
- (3) The local health department shall have a written procedure providing for annual review, and revision if necessary, of all policies.
- (4) The local health department shall assess the internal and external resources that are available or needed to implement proposed new or updated policies and procedures.
- (5) The local health department shall ensure that new staff is oriented to program policies and procedures and existing staff receives training on any updated or revised program policies and procedures.
- (6) The local health department shall ensure that program policies and procedures are accessible to all staff.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .0700 - ENFORCE LAWS AND REGULATIONS THAT PROTECT HEALTH AND ENSURE SAFETY

10A NCAC 48B .0701 BENCHMARK 16

(a) Benchmark: The local health department staff shall have knowledge of public health law and an understanding of the relationship between the law and public health practice.

(b) Activities:

- (1) The local health director and unit directors, such as directors of communicable disease, nursing, clinical services and environmental health, shall receive ongoing training in current public health law and its application.
- (2) Local health department new employee orientation shall address public health laws and rules.
- (3) Environmental health staff shall be trained in the implementation of laws, rules and ordinances that they enforce and shall have access to copies of the laws, rules and ordinances.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0702 BENCHMARK 17

(a) Benchmark: The local health department shall monitor compliance with public health laws and rules.

(b) Activities:

- (1) The local health department shall conduct inspection and permitting activities for state mandated environmental health regulatory programs.
- (2) The local health department shall conduct inspection and permitting activities assigned to the local health department by local rules, ordinances, or policies.
- (3) The local health department shall monitor compliance with communicable disease control laws and rules.
- (4) The local health department shall monitor compliance with animal control laws, ordinances and rules if the local health department is responsible for animal control.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0703 BENCHMARK 18

(a) Benchmark: The local health department shall enforce public health laws, rules and ordinances.

(b) Activities:

- (1) The local health department shall have written policies and procedures addressing enforcement of public health laws, rules and ordinances.

- (2) The local health department shall take enforcement action for violations of public health laws, rules and ordinances.
- (3) The local health department shall have written policies and procedures for handling complaints related to enforcement of laws, rules and ordinances.
- (4) The local health department shall address complaints in accordance with its policies and procedures.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

comprehensive list of community health and wellness resources.

- (2) The local health department shall make available complete and up-to-date information about local health department programs, services and resources.
- (3) The local health department shall develop and implement strategies to increase use of public health programs and services.
- (4) The local health department shall assure that the program planning and implementation involve community health advocates that represent populations being served in the local health department.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .0800 - LINK PEOPLE TO NEEDED PERSONAL HEALTH SERVICES TO ASSURE THE PROVISION OF HEALTH CARE WHEN OTHERWISE UNAVAILABLE

10A NCAC 48B .0804 BENCHMARK 22

10A NCAC 48B .0801 BENCHMARK 19

(a) Benchmark: The local health department shall identify populations that are not receiving preventive services or are otherwise underserved with respect to health care.

(b) Activities:

- (1) The local health department shall assess use of public health programs and health care services by underserved, at-risk and vulnerable populations.
- (2) The local health department shall take actions to include linguistically and culturally representative persons in planning and implementing programs intended to reach underserved population groups.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

(a) Benchmark: The local health department shall serve as a health care provider when local needs and authority exist, and the agency capacity and resources are available.

(b) Activities:

- (1) When the local health department determines that there are compelling unmet health care needs in the community, the local health department shall develop a plan with community leaders and providers to meet the unmet needs, which may include the establishment and provision of such services by the local health department if the department has the authority, capacity and resources to address the unmet needs.
- (2) The local health department shall comply with laws, rules and contractual requirements for programs and services provided pursuant to the local health department's consolidated agreement and agreement addenda, including requirements for corrective action.
- (3) The local health department shall comply with laws and rules relating to programs and services offered by local health department but not covered by the consolidated agreement and agreement addenda.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0802 BENCHMARK 20

(a) Benchmark: The local health department shall mobilize the community to address health care resource needs.

(b) Activities:

- (1) The local health department shall collaborate with community health care providers to provide personal and preventive health services.
- (2) The local health department shall collaborate with community health care providers and agencies to reduce barriers to access to care.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .0900 - ASSURE A COMPETENT PUBLIC HEALTH WORKFORCE AND PERSONAL HEALTH WORKFORCE

10A NCAC 48B .0901 BENCHMARK 23

(a) Benchmark: The local health department shall lead efforts in the community to link individuals with preventive, health promotion, and other health services.

(b) Activities:

- (1) The local health department shall make available to the general public a current,

(a) Benchmark: The local health department staff shall meet statutory and regulatory qualifications for their positions.

(b) Activities:

- (1) The local health department shall have, or be recruiting, a health director who meets the legal requirements for the position.

- (2) The local health department staff shall meet all registration, certification or licensure requirements for positions held and duties assigned.
- (3) The local health department shall employ or contract with one or more physicians licensed to practice in North Carolina to serve as medical director.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0902 BENCHMARK 24

- (a) Benchmark: The local health department shall regularly evaluate staff training and development needs and provide opportunities for continuing education, training and leadership development.
- (b) Activities:

- (1) The local health department shall have policies that promote and provide staff access to training.
- (2) The local health department shall have a staff development plan that includes identifying and addressing the training and continuing education needs of the staff.
- (3) The local health department staff shall participate in orientation and on-going training and continuing education activities required by law, rule or contractual obligation.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0903 BENCHMARK 25

- (a) Benchmark: The local health department shall build relationships with entities that conduct education or research to enrich public health practice.
- (b) Activities:

- (1) The local health department shall work with academic institutions and other programs such as universities, colleges, community colleges, Area Health Education Centers, CDC and professional associations to provide training opportunities for current staff and future public health practitioners.
- (2) The local health department shall work with at least two academic institutions and other programs such as universities, colleges, community colleges and Area Health Education Centers to facilitate research and evaluation of public health programs and issues.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .0904 BENCHMARK 26

- (a) Benchmark: The local health department shall promote diversity in the public health workforce.
- (b) Activities:
 - (1) The local health department shall have and implement a non-discrimination policy as required by state and federal law and train staff in its application.
 - (2) The local health department shall develop and implement a plan consistent with the health department's non-discrimination policy to recruit and retain a management team and staff that reflects the population of the service area.
 - (3) The local health department shall assure that agency staff receives training in cultural sensitivity and competency.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .1000 - EVALUATE EFFECTIVENESS, ACCESSIBILITY AND QUALITY OF PERSONAL AND POPULATION-BASED HEALTH SERVICES

10A NCAC 48B .1001 BENCHMARK 27

- (a) Benchmark: The local health department shall evaluate all services it provides for effectiveness in achieving desired outcomes.
- (b) Activities:

- (1) The local health department shall have in place a process for assessing consumer and community satisfaction with its services.
- (2) The local health department shall use data from the consumer and community satisfaction assessment to make changes to improve its services.
- (3) The local health department shall employ a quality assurance and improvement process to assess the effectiveness of services and improve health outcomes.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .1100 - RESEARCH FOR NEW INSIGHTS AND INNOVATIVE SOLUTIONS TO HEALTH PROBLEMS

10A NCAC 48B .1101 BENCHMARK 28

- (a) Benchmark: The local health department shall use research to develop and evaluate public health programs.
- (b) Activity: Before implementing a proposed public health program, the local health department shall review, when available, research evaluating the potential effectiveness of the program.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1102 BENCHMARK 29

(a) Benchmark: The local health department shall ensure that its participation in research meets ethical standards.

(b) Activity:

- (1) The local health department shall develop and implement policies ensuring that state and federal requirements are followed regarding the rights of participants in local public health research programs and requiring that any requests to access health department clients have Institution Review Board approval obtained by the host research organization.
- (2) The local health department shall develop and implement policies for participation in research activities that impact its clients or community members.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .1200 - PROVIDE FACILITIES AND ADMINISTRATIVE SERVICES

10A NCAC 48B .1201 BENCHMARK 30

(a) Benchmark: The local health department shall provide safe and accessible physical facilities and services.

(b) Activities:

- (1) The local health department shall have facilities that are clean, safe and secure for the specific activities being carried out in the facility or any area of the facility, such as laboratory analyses or patient examinations.
- (2) The local health department shall have facilities that are accessible to persons with physical disabilities and services that are accessible to persons with limited proficiency in the English language.
- (3) The local health department shall have examination rooms and direct client service areas that are configured in a way that protects client privacy.
- (4) The local health department shall ensure privacy and security of records containing privileged patient medical information or information protected by the federal Health Insurance Portability and Accountability Act.
- (5) The local health department shall comply with OSHA regulations.
- (6) The local health department shall ensure cleaning, disinfection and maintenance of clinical and laboratory equipment and service areas and shall document all cleanings, disinfections and maintenance.
- (7) The local health department shall have and comply with policies and procedures for infection control required by law in providing clinical services.
- (8) The local health department's hours of operation shall be based on documented community need.

(9) The local health department shall prohibit the use of tobacco in its facility.

(10) The local health department shall make efforts to prohibit the use of tobacco in all areas and grounds within 50 feet of the health department facility.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1202 BENCHMARK 31

(a) Benchmark: The local health department shall develop and implement administrative policies and procedures.

(b) Activities:

- (1) The local health department shall develop and implement policies and procedures regarding the administration of the local health department and shall assure policies and procedures are accessible to staff.
- (2) The local health department shall have a current organizational chart showing lines of authority.
- (3) The local health department shall have written personnel policies that address disciplinary, grievance and harassment issues.
- (4) The local health department shall have current written position descriptions and qualifications for each staff position.
- (5) The local health department shall implement a performance appraisal system for all staff.
- (6) The local health department shall have an inventory of equipment that includes a plan for replacement.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1203 BENCHMARK 32

(a) Benchmark: The local health department shall operate a secure and effective management information system.

(b) Activities:

- (1) The local health department shall have computer equipment and software needed to interface with state data management systems.
- (2) The local health department shall ensure that staff are able to use the management information system to participate in electronic communications and public health program implementation.
- (3) The local health department shall have a written policy regarding authorized and prohibited use of computer equipment, email and Internet.
- (4) The local health department shall have policies and procedures to assure management information system security, and use passwords and screensavers to safeguard the privacy of electronic information.

History Note: Authority G.S. 130A-34.1;

Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1204 BENCHMARK 33

(a) Benchmark: The local health department shall assure its financial accountability.

(b) Activities:

- (1) The local health department shall demonstrate that it receives financial support from a local taxing authority.
- (2) The local health department shall operate under a budget approved by the county commissioners.
- (3) The local health department shall follow generally accepted accounting principles.
- (4) The local health department shall have policies that assure segregation of financial management duties and accountability for funds.
- (5) The local health department shall determine the cost of services in setting fees.
- (6) The local health department shall develop and present periodic budget, expenditure and other financial tracking reports to the board of health for its review.
- (7) The local health department shall have a financial risk management system in place to address uncollected fees and bad debt.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

SECTION .1300 - GOVERNANCE

10A NCAC 48B .1301 BENCHMARK 34

(a) Benchmark: The local board of health shall exercise its authority to adopt and enforce rules necessary to protect and promote the public's health.

(b) Activities:

- (1) If the local board of health has bylaws describing its operating procedures, the bylaws shall comply with state law.
- (2) The local board of health shall have access to legal counsel.
- (3) The local board of health shall follow the procedures for adopting rules in G.S. 130A-39.
- (4) The local board of health shall evaluate the need for the adoption or amendment of local rules or ordinances.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1302 BENCHMARK 35

(a) Benchmark: The local board of health shall assure a fair and equitable adjudication process.

(b) Activity: The local board of health shall assure it follows the procedures for adjudications in G.S. 130A-24.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1303 BENCHMARK 36

(a) Benchmark: The local health department shall provide training and reference materials for board of health members regarding service on the board.

(b) Activities:

- (1) The local health department shall provide board of health members with access to a written board handbook developed or updated within the past 12 months.
- (2) The local health department shall assure board of health members receive training on the authorities and responsibilities of the local board of health.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1304 BENCHMARK 37

(a) Benchmark: The local board of health shall assure the development, implementation and evaluation of local health services and programs to protect and promote the public's health.

(b) Activities:

- (1) The local board of health shall approve policies for the administration of local public health programs.
- (2) The local board of health shall describe and define the knowledge, skills, and abilities that must be met by the local health director, consistent with the requirements in G.S. 130A-40.
- (3) The local board of health shall review and approve the job description of the local health director.
- (4) The local board of health shall conduct an annual performance review of the health director.
- (5) The local board of health shall approve policies for the training and continuing education for agency staff.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1305 BENCHMARK 38

(a) Standard: Benchmark: The local board of health shall participate in the establishment of public health goals and objectives.

(b) Activities:

- (1) The local board of health shall annually review reports provided by the local health department on the community's health.
- (2) The local board of health shall review community health assessment data and citizen input used to plan and monitor progress toward health-related goals.

- (3) The local board of health shall assure that individuals, agencies, and organizations have the opportunity to participate in the community health improvement process.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1306 BENCHMARK 39

(a) Benchmark: The local board of health shall assure the availability of resources to implement the essential services described in G.S. 130A-34.1(e)(2).

(b) Activities:

- (1) The local board of health shall communicate with the board of county commissioners, units of government and private foundations in support of local health department efforts to secure national, state and local financial resources.
- (2) The local board of health shall review fiscal reports to assure essential services of public health are being provided in accordance with local, state and federal requirements.
- (3) The local board of health shall annually review and approve the local health department budget and approve fees in accordance with G.S. 130A-39(g).
- (4) The local board of health shall communicate with the board of county commissioners, units of government and private foundations in support of the development, implementation and evaluation of public health programs and a community health improvement process.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1307 BENCHMARK 40

(a) Benchmark: The local board of health shall advocate in the community on behalf of public health.

(b) Activities:

- (1) The local board of health shall inform elected officials and community boards about community health issues.
- (2) The local board of health shall communicate support for the enactment and retention of laws and rules and the development of public health interventions that protect health and ensure safety.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

10A NCAC 48B .1308 BENCHMARK 41

(a) Benchmark: The local board of health shall promote the development of public health partnerships.

(b) Activities:

- (1) The local board of health shall take actions to foster community input regarding public health issues.
- (2) The local board of health shall take actions to foster local health department partnership-building efforts and staff interactions with the community.
- (3) The local board of health shall take actions to foster the coordination of resources to enhance partnerships and collaboration to achieve public health objectives.

History Note: Authority G.S. 130A-34.1; Temporary Adoption Eff. January 1, 2006.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday January 19, 2006, 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 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
Lee Settle
Dana E. Simpson
John Tart

RULES REVIEW COMMISSION MEETING DATES

January 19, 2006 February 16, 2006
March 16, 2006 April 20, 2006

**RULES REVIEW COMMISSION
DECEMBER 15, 2005
MINUTES**

The Rules Review Commission met on Thursday, December 15, 2005, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Graham Bell, Jim Funderburk, Jennie Hayman; Thomas Hilliard; Lee Settle, and John Tart.

Staff members present were: Joseph DeLuca, Staff Counsel; and Lisa Johnson, Administrative Assistant.

The following people attended:

Craig Michalak	NC Local Health Department Accreditation Board
John Davis	NC Local Health Department Accreditation Board
Jean Stanley	Board of Nursing
Julia Lohman	Department of Justice
Harry Wilson	State Board of Education
David Griffin	NC Aquariums
Reed Fountain	Electrical Contractors Board
Julie Brincefield	OAH
Dana Sholes	OAH
Molly Masich	OAH
Stefanie Shore	Board of Cosmetic Art Examiners
Carlotta Dixon	Department of Social Services
Susan Dail	Department of Social Services
David McLeod	Department of Agriculture and Consumer Services
Barry Gupton	Building Code Council
Erin Gould	Department of Labor
John Hoomoni	Department of Labor
Tom Chambers	Department of Labor
Jonathan Brooks	Department of Labor
Diane Miller	Department of Justice
James Clark	Department of Social Services
Lorie Pugh	Child Care Commission
Anna Carter	Child Care Commission
Dedra Alston	Child Care Commission
John Barkley	Department of Justice/Commission for Health Services

Jack Nichols

Allen & Pinnix/Board of Nursing

APPROVAL OF MINUTES

The meeting was called to order at 10:10 a.m. with Chairman Hayman presiding.

She reminded the Commissioners of their obligations under the governor's Executive Order #1 to refrain from taking part in consideration of any rules for which they have or may appear to have a conflict of interest.

Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the November 17, 2005 meeting. The minutes were approved as written.

FOLLOW-UP MATTERS

The Nursing Board asked that their rules be placed at the end of the meeting to allow their attorney time to arrive at the meeting.

101.2; 1704.1; 1805.4.6; 1806.2; 1808.2.8.3; 1810.3.7: Building Code Council – Building Code Section – The Commission approved the rewritten rules submitted by the agency.

102.10: Building Code Council – Fire Code Section – The Commission approved the rewritten rule submitted by the agency.

1001.1: Building Code Council – Mechanical Code Section – The Commission approved the rewritten rule submitted by the agency.

LOG OF FILINGS

Chairman Hayman presided over the review of the log of permanent rules. All rules were approved unanimously with the following exceptions:

10A NCAC 9 .1701: Child Care Commission – The Commission objected to the rule due to failure to comply with the APA. The agency did not publish notice of its plan to adopt Paragraph (i) which requires each operator to develop and adopt a written plan of care for completing routine tasks. The addition of this provision is a substantial change to the proposed rule and the adoption of it without republication is a violation of G.S.150B-21.2(g)

10A NCAC 9 .1718: Child Care Commission – The Commission objected to the rule due to ambiguity in item (5). It is unclear whether the agency is requiring visual observation of all children, both sleeping and awake, at all times other than during the nighttime hours.

12 NCAC 10B .0905; .0915: Sheriffs Education and Training Standards Commission – The Commission objected to both .0905 and .0915 due to lack of statutory authority and ambiguity. In (e) in both rules, it is not clear what the standards are for rating an instructor's delivery as acceptable or unacceptable. There is no authority to set these requirements by form.

21 NCAC 14O .0101: Cosmetic Art Examiners Board - The Commission objected to the rule due to ambiguity and failure to comply with the Administrative Procedure Act. The Notice of Text for this rule was never published in the NC Register. Therefore they have not substantially complied with the APA rulemaking notice requirements. In addition the Commission also determined that it is unclear what constitutes "professional attire" for a student in training as an esthetician.

21 NCAC 14P .0105: Cosmetic Art Examiners Board – The Commission objected to the rule due to failure to comply with the Administrative Procedure Act. The Notice of Text for this rule was never published in the NC Register. Therefore they have not substantially complied with the APA rulemaking notice requirements.

21 NCAC 14P .0112: Cosmetic Art Examiners Board – The Commission objected to the rule due to ambiguity. In (f) it is unclear what constitutes "professional attire" for students.

21 NCAC 18B .0104: Board of Examiners of Electrical Contractors – The Commission objected to the rule due to lack of necessity. This rule appears to be one dealing with mostly internal matters and would not need to be a rule. N.C.G.S. 143B-10(j)(3) specifies that internal management procedures "shall not be adopted or filed pursuant to Chapter 150B of the General Statutes." To the extent that the provisions of this rule "do not affect private rights or procedures available to the public" these provisions are internal management. G.S. 143B-10(j)(3). Unless the provisions of this rule "govern the management of the department [to] include the functions of planning, organizing, staffing, directing, coordinating ... which affect private rights or procedures" (G.S. 143B-10(j)(2) emphasis added) they are not subject to the provisions of Chapter 150B. To the extent that it seems to delegate certain legal actions to staff members it appears that it is either unnecessary or simply a legal conclusion.

21 NCAC 18B .1104: Board of Examiners of Electrical Contractors – The Commission objected to the rule due to ambiguity. It is unclear what is meant by the requirement in (c), line 11, that "extra hours [of continuing education above the required number of hours] shall be carried forward in multiples as specified in Paragraph (1) of this rule." (Emphasis added. I will also assume that the rule intends to reference (a) rather than (1).) The provision concerning "multiples," found in lines 4 – 6, is being deleted. So it is unclear what the carry forward requirements or multiples are.

TEMPORARY RULES

Chairman Hayman presided over the review of the log of temporary rules. All rules were approved except as noted below.

13 NCAC 15 .0705: Department of Labor – The Commission objected to the rule due to failure to comply with the Administrative Procedure Act. G.S.150B-21.1(a3)(2) requires agencies at least 30 business days prior to adopting a temporary rule to "[n]otify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt the

RULES REVIEW COMMISSION

temporary rule and of the public hearing". The agency gave the notice at least 30 days before the adoption, but the notice was given October 3, 2005, five days after the public hearing on September 28, 2005. By giving the notice after the hearing had occurred, the interested parties were not given an opportunity to participate in the hearing as envisioned by the Administrative Procedure Act. 051213 Item D-3 10.10; Article 100: Building Code Council - The Commission determined that the agency's statement of its findings of need for the temporary rules do not meet the criteria set out in G.S. 150B-21.1(a) in that there is a failure to show a serious and unforeseen threat to the public health, safety, or welfare. Commissioner Funderburk voted in opposition to the motion to object. The

Council may supplement the statement of need with additional findings or submit a new statement and the Commission will continue its review of these rules. Reed Fountain spoke in opposition to these rules.

21 NCAC 36 .0303; .0317; .0320: Board of Nursing - The agency submitted a rewritten rule .0320 which was approved by the Commission. Mr. Jack Nichols appeared before the Commission and provided the board's response to the objections to the other two rules. He stated that it was his belief and recollection that the Commission had voted to ask OSBM to look into the rule and make a determination whether a fiscal note was necessary. He did not recall any other specific objection. The Chairman instructed the staff to review the tape from the November meeting and verify the action taken. The Commission took no further action concerning these two rules.

FURTHER DISCUSSION

At the conclusion of the December rules review Commissioner Funderburk said that he wanted to explain his vote on the Building Code Council rule. He stated that he believed there were problems with the rule and he thought the Commission should object to it. But it was his view that if the rule was within the authority of the agency and clearly written, then the Code Council had sufficiently established the need for a temporary rule and there was no basis for an objection on these grounds. There was further discussion among the Commissioners on the merits of this rule, both substantively and procedurally. However no new or additional action was taken.

COMMISSION PROCEDURES AND OTHER BUSINESS

Mr. DeLuca informed the Commission that the Pharmacy Board had filed an appeal in their law suit. They have taken an appeal as of right from the Appeals Court decision that the agency has no authority to regulate the working conditions of pharmacists. They may appeal because there was a dissenting opinion in this portion of the ruling. However, since the three judges on the appellate court all agreed that Judge Hill's decision as to the constitutional issue raised was correct; there is no automatic right to appeal. In this case they have filed a petition for discretionary review and asked the Supreme Court to consider the constitutional issue along with the authority issue. While the Supreme Court has to consider the authority question, they do not have to make any decision on the constitutional portion of the case unless they decide they want to do so.

The meeting adjourned at 12:32 p.m.

The next scheduled meeting of the Commission is Thursday, January 19, 2006 at 10:00 a.m.

Respectfully submitted,

Lisa Johnson

AGENDA RULES REVIEW COMMISSION January 19, 2006, 10:00 A.M.

- I. *Review of minutes of last meeting***
- II. Follow-Up Matters**
 - A. Child Care Commission – 10A NCAC 09 .1701 and .1718 (Bryan)
 - B. Sheriffs Education and Training Standards Commission – 12 NCAC 10B .0905 and .0915 (Bryan)
 - C. Cosmetic Art Examiners Board – 21 NCAC 14O .0101 (DeLuca)
 - D. Cosmetic Art Examiners Board – 21 NCAC 14P .0105 and .0112 (DeLuca)
 - E. Board of Examiners of Electrical Contractors – 21 NCAC 18B .0104 and .1104 (DeLuca)

RULES REVIEW COMMISSION

- F. Board of Nursing – 21 NCAC 36 .0303 and .0317 (Bryan)
- Commission for Mental Health – 10A NCAC 27G .1301; .1701-.1708 (DeLuca)

III. Review of Rules (Log Report)

IV. Review of Temporary Rules

- 1. Department of Labor – 13 NCAC 15 .0705 (Bryan)
- 2. Building Code Council – 051213 Item D-3 10.10 and Article 100

V. 2006 Medical Facilities Plan

VI. Commission Business

VII. Next meeting: February 16, 2006

Commission Review/Permanent Rules
Log of Filings
November 22, 2005 through December 20, 2005

INDIAN AFFAIRS, COMMISSION OF

<u>Authorization</u>	01	NCAC	15	.0201
Amend/*				
<u>Definitions</u>	01	NCAC	15	.0202
Amend/*				
<u>Groups Eligible for Petitioning Process</u>	01	NCAC	15	.0203
Amend/*				
<u>Groups Ineligible for Recognition</u>	01	NCAC	15	.0204
Amend/*				
<u>Commission Assistance to Petitioner</u>	01	NCAC	15	.0205
Amend/*				
<u>Notice of Intent to Petition for Recognition</u>	01	NCAC	15	.0207
Amend/*				
<u>Recognition Committee</u>	01	NCAC	15	.0208
Amend/*				
<u>Procedure for Recognition</u>	01	NCAC	15	.0209
Amend/*				
<u>Recognition Requirement</u>	01	NCAC	15	.0211
Repeal/*				
<u>Criteria for Recognition as an American Indian Tribe</u>	01	NCAC	15	.0212
Amend/*				
<u>Special Committee on Recognition</u>	01	NCAC	15	.0213
Repeal/*				
<u>Tribal Roll</u>	01	NCAC	15	.0214
Repeal/*				

ADMINISTRATION, DEPARTMENT OF

RULES REVIEW COMMISSION

The rules in Chapter 30 concern state construction. The rules in Subchapter 30I concern the goals for minority business participation including rules about good faith efforts (.0100).

<u>Scope</u> Adopt/*	01	NCAC	30I	.0301
<u>Definitions</u> Adopt/*	01	NCAC	30I	.0302
<u>Adjustments to Goal</u> Adopt/*	01	NCAC	30I	.0303
<u>Office for Historically Underutilized Businesses Responsi...</u> Adopt/*	01	NCAC	30I	.0304
<u>State Construction Office Responsibilities</u> Adopt/*	01	NCAC	30I	.0305
<u>Owner Requirements</u> Adopt/*	01	NCAC	30I	.0306
<u>Designer Requirements</u> Adopt/*	01	NCAC	30I	.0307
<u>Designer Requirements</u> Adopt/*	01	NCAC	30I	.0308
<u>Minority Business Responsibilities</u> Adopt/*	01	NCAC	30I	.0309
<u>Dispute Procedures</u> Adopt/*	01	NCAC	30I	.0310

INSURANCE, DEPARTMENT OF

The rules in Chapter 6 are from the Agent Services Division. The rules in Subchapter 6A cover general provisions (.0100); forms (.0200); examinations (.0300); licensing (.0400); license renewals and cancellations (.0500); license denials (.0600); prelicensing education (.0700); continuing education (.0800); and public adjusters (.0900).

<u>Definitions</u> Amend/*	11	NCAC	06A	.0901
<u>Transactions With Insureds</u> Amend/*	11	NCAC	06A	.0902
<u>Regulatory Matters</u> Amend/*	11	NCAC	06A	.0904
<u>Catastrophic Disasters</u> Adopt/*	11	NCAC	06A	.0905

CODE OFFICIALS QUALIFICATION BOARD

The rules in Chapter 8 are the engineering and building codes including the State Building Code (.0200); approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); and home inspector continuing education (.1300).

<u>Renewal</u> Amend/*	11	NCAC	08	.0507
<u>Renewal</u> Amend/*	11	NCAC	08	.0709
<u>Continuing Education General</u> Adopt/*	11	NCAC	08	.0712
<u>Continuing Education Requirements</u>	11	NCAC	08	.0713

RULES REVIEW COMMISSION

<u>Adopt/*</u>				
<u>Inactive Code Enforcement Officials</u>	11	NCAC	08	.0714
<u>Adopt/*</u>				
<u>Failure to Complete Continuing Education</u>	11	NCAC	08	.0715
<u>Adopt/*</u>				
<u>Compliance</u>	11	NCAC	08	.0716
<u>Adopt/*</u>				
<u>Extensions of Time</u>	11	NCAC	08	.0717
<u>Adopt/*</u>				
<u>Course Sponsors</u>	11	NCAC	08	.0718
<u>Adopt/*</u>				
<u>Continuing Education Coordinator</u>	11	NCAC	08	.0719
<u>Adopt/*</u>				
<u>Approved Courses</u>	11	NCAC	08	.0720
<u>Adopt/*</u>				
<u>Course Accreditation Requirements</u>	11	NCAC	08	.0721
<u>Adopt/*</u>				
<u>Distance Education Courses</u>	11	NCAC	08	.0722
<u>Adopt/*</u>				
<u>Denial or Withdrawal of Approval of Sponsor or Course</u>	11	NCAC	08	.0723
<u>Adopt/*</u>				
<u>Sponsor and Course Changes</u>	11	NCAC	08	.0724
<u>Adopt/*</u>				
<u>Scheduled Courses</u>	11	NCAC	08	.0725
<u>Adopt/*</u>				
<u>Advertising and Providing Course Information</u>	11	NCAC	08	.0726
<u>Adopt/*</u>				
<u>Fee for CE Courses</u>	11	NCAC	08	.0727
<u>Adopt/*</u>				
<u>Cancellation and Refund Policies</u>	11	NCAC	08	.0728
<u>Adopt/*</u>				
<u>Course Attendance</u>	11	NCAC	08	.0729
<u>Adopt/*</u>				
<u>Accommodations for Person With Disabilities</u>	11	NCAC	08	.0730
<u>Adopt/*</u>				
<u>Course Completion Reporting</u>	11	NCAC	08	.0731
<u>Adopt/*</u>				
<u>Retention of Course Records</u>	11	NCAC	08	.0732
<u>Adopt/*</u>				
<u>Board Monitors</u>	11	NCAC	08	.0733
<u>Adopt/*</u>				

MANUFACTURED HOUSING BOARD

The rules in Chapter 8 are the engineering and building codes including the State Building Code (.0200); approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); and home inspector continuing education (.1300).

<u>Forms</u>	11	NCAC	08	.0904
<u>Amend/*</u>				
<u>Salesman Exam; Temporary License; License Transfer; Fees</u>	11	NCAC	08	.0911
<u>Amend/*</u>				

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Chapter 7 are the rules of the private protective services board. The rules in Subchapter 7D are from the N. C. Private Protective Services Board and cover general provisions (.0100); licenses and trainee permits (.0200); guard dog services (.0300); counterintelligence (.0400); polygraphs (.0500); psychological stress evaluators (PSE) (.0600); unarmed and armed security guards (.0700-.0800); firearms certificate (.0900); recovery funds (.1000); private investigator associates (.1100); firearms instructor trainers (.1200); and continuing education (.1300).

<u>Status of Unlicensed Individuals Participating in Ride-Along</u> Adopt/*	12	NCAC	07D	.0405
<u>Training Requirements for Armed Security Guards</u> Amend/*	12	NCAC	07D	.0807

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs). The rules in Subchapter 9A cover the Commission organization and procedure (.0100) and enforcement of the rules (.0200).

<u>Suspension: Denial: or Revocation of Certification</u> Amend/*	12	NCAC	09A	.0204
<u>Period of Suspension: Revocation: or Denial</u> Amend/*	12	NCAC	09A	.0205

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs). The rules in Subchapter 9B cover minimum standards for: employment (.0100); schools and training programs (.0200); criminal justice instructors (.0300); completion of training (.0400); school directors (.0500); and certification of post-secondary criminal justice education programs (.0600).

<u>Specialized Driver Instructor Training</u> Amend/*	12	NCAC	09B	.0227
<u>Trainee Attendance</u> Amend/*	12	NCAC	09B	.0404

The rules in Subchapter 9C cover administration of the criminal justice education and training standards including division responsibilities (.0100), forms (.0200), certification of officers (.0300), accreditation of schools and courses (.0400), and equipment and procedures (.0600).

<u>Speed Measurement Instrument (SMI) Operators Certification...</u> Amend/*	12	NCAC	09C	.0308
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The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs). The rules in Subchapter 9E relate to the law enforcement officers' in-service training program.

<u>Failure to Complete Annual In-Service Training</u> Amend/*	12	NCAC	09E	.0108
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The rules in Subchapter 9G are the standards for correction including scope, applicability and definitions (.0100); minimum standards for certification of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0200); certification of correctional officers, probation/parole officers, probation/parole officers intermediate and instructors (.0300); minimum standards for training of correctional officers, probation/parole officers, and probation/parole officers-intermediate

(.0400); enforcement of rules (.0500); professional certification program (.0600); and forms (.0700).

<u>Basic Training for Probation/Parole Officers</u>	12	NCAC	09G	.0412
Amend/*				
<u>Corrections Specialized Instructor Training-Firearms</u>	12	NCAC	09G	.0415
Amend/*				

COASTAL RESOURCES COMMISSION

The rules in Chapter 7 are the rules of the Division of Governor's Crime Commission including rules about the purpose and organization (.0100), grant pre-application process (.0200), grant application process and administration (.0300), penalties (.0400), and appeals (.0500). The rules in Subchapter 7B are land use planning guidelines including introduction (.0600); land use planning (.0700); CAMA land use plan review and CRC certification (.0800); and CAMA land use plan amendments (.0900).

<u>Public Hearing and Local Adoption Requirements</u>	15A	NCAC	07B	.0801
Amend/*				
<u>Cama Land Use Plan Amendments</u>	15A	NCAC	07B	.0901
Amend/*				

The rules in Subchapter 7H are the state guidelines for areas of environmental concern including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters, (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); boat ramps along estuarine shorelines and into estuarine and public trust waters (.1300); wooden groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); marsh enhancement breakwaters for shoreline protection in estuarine and public trust waters (.2100); general permits for construction of freestanding moorings in established waters and public trust areas (.2200); general permits for replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); and general permit for placement of riprap for wetland protection in estuarine and public trust waters (.2400).

<u>Public Trust Areas</u>	15A	NCAC	07H	.0207
Amend/*				
<u>AECS Within Ocean Hazard Areas</u>	15A	NCAC	07H	.0304
Amend/*				
<u>Specific Use Standards for Ocean Hazard Areas</u>	15A	NCAC	07H	.0308
Amend/*				
<u>Use Standards for Ocean Hazard Areas: Exceptions</u>	15A	NCAC	07H	.0309
Amend/*				

The rules in Subchapter 7O cover the N C Coastal Reserve Program including general provisions (.0100); and management, use, and protection of the N C Coastal Preserve (.0200).

<u>Reserve Components</u>	15A	NCAC	07O	.0105
Amend/*				

WILDLIFE RESOURCES COMMISSION

The rules in Chapter 10 are from the Wildlife Resources Commission. The rules in Subchapter 10D are game lands rules.

<u>Hunting on Game Lands</u>	15A	NCAC	10D	.0103
Amend/*				

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

Belews Lake 15A NCAC 10F .0371
Amend/*

CERTIFIED PUBLIC ACCOUNTANT EXAMINERS, BOARD OF

The rules in Chapter 8 are from the N C State Board of Certified Public Accountant Examiners. The rules in Subchapter 8N are professional ethics and conduct rules including scope and applicability (.0100), rules applicable to all CPAs (.0200), rules applicable to CPAs who use the CPA title in offering or rendering products or services to clients (.0300), and rules applicable to CPAs performing attest services (.0400).

Forecasts 21 NCAC 08N .0210
Amend/*

Responsibilities in Tax Practice 21 NCAC 08N .0211
Amend/*

Auditing Standards 21 NCAC 08N .0403
Amend/*

Accounting and Review Services Standards 21 NCAC 08N .0404
Amend/*

Governmental Accounting Standards 21 NCAC 08N .0405
Amend/*

Attestation Standards 21 NCAC 08N .0406
Amend/*

COSMETIC ART EXAMINERS, BOARD OF

The rules in Chapter 14 are from the Cosmetic Art Examiners. The rules in Subchapter 14H are from the Cosmetic Art Examiners and cover sanitation for both operators and facilities.

Sanitation Floor Coverings 21 NCAC 14H .0108
Amend/*

LANDSCAPE ARCHITECTS, BOARD OF

The rules in Chapter 26 are from the N. C. Board of Landscape Architects and include statutory and administrative provisions (.0100); practice of registered landscape architects (.0200); examination and licensing procedures (.0300); rules, petitions and hearings (.0400); and board disciplinary procedures (.0500).

Application of Professional Seal 21 NCAC 26 .0207
Amend/*

PHARMACY, BOARD OF

The rules in Chapter 46 and from the Board of Pharmacy and cover organization of the Board (.1200), general definitions (.1300), hospitals and other health facilities (.1400), admission requirements and examinations (.1500), licenses and permits (.1600), drugs dispensed by nurse and physician assistants (.1700), prescriptions (.1800), forms (.1900), administrative provisions (.2000), elections (.2100), continuing education (.2200), prescription information and records (.2300), dispensing in health department (.2400), miscellaneous provisions (.2500), devices (.2600), nuclear pharmacy (.2700), sterile parenteral pharmaceuticals (.2800), product selection (.2900), disposal of unwanted drugs (.3000), clinical pharmacist practitioner (.3100), and impaired pharmacist per review program (.3200).

Remote Medication Order Processing Services 21 NCAC 46 .1417

RULES REVIEW COMMISSION

<u>License by Reciprocity</u> Amend/*	21	NCAC	46	.1602
<u>Charge for Verification for Reinstatement</u> Amend/*	21	NCAC	46	.1605
<u>Out-Of-State Pharmacies</u> Amend/*	21	NCAC	46	.1607
<u>Fee for Submittal of Dishonored and Returned Check</u> Amend/*	21	NCAC	46	.1611
<u>Reinstatement of Licenses and Permits</u> Amend/*	21	NCAC	46	.1612
<u>Responsibilities of Pharmacist-Manager</u> Amend/*	21	NCAC	46	.2502
<u>Charge for Status</u> Adopt/*	21	NCAC	46	.2511
<u>Dispensing and Delivery</u> Amend/*	21	NCAC	46	.2601
<u>Anti-Neoplastic Agents</u> Amend/*	21	NCAC	46	.2807
<u>Registration</u> Amend/*	21	NCAC	46	.3301

VETERINARY MEDICAL BOARD

The rules in Chapter 66 are from the Veterinary Medical Board and include rules about statutory and administrative provisions (.0100); practice of veterinary medicine (.0200); examination and licensing procedures (.0300); and administrative hearings (.0600 and .0700).

<u>Special Registration of Veterinary Technicians, Interns</u> Amend/*	21	NCAC	66	.0303
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STATE PERSONNEL COMMISSION

The rules in Title 25 are from the Office of State Personnel and cover all aspects of regulation of state employment under the State Personnel Act.

<u>Program Administration</u> Amend/*	25	NCAC	01N	.0104
<u>State Agency Responsibilities</u> Amend/*	25	NCAC	01N	.0105
<u>Committee Responsibilities</u> Amend/*	25	NCAC	01N	.0106
<u>State Employees' Responsibilities</u> Amend/*	25	NCAC	01N	.0107
<u>Equipment</u> Amend/*	25	NCAC	01N	.0203
<u>Personal Protective Equipment Guide</u> Amend/*	25	NCAC	01N	.0206

BUILDING CODE COUNCIL 041214 Items B-2B1-B-2D1 903.2.7

Group R Sprinklers
Amend/*

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 <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>
<u>ALCOHOL AND BEVERAGE COMMISSION</u>				
Richard S Blazak, Park View Lounge v. ABC	96 ABC 0053	Gray	07/06/05	
ABC Comm. & City of Asheville v. Elijah Ulysses Jones T/A Jones Convenience Store	98 ABC 0962	Gray	07/12/05	
ABC Comm v. Rudean Robinson Harris T/A Rudean's Diner & Lounge 3	03 ABC 1214	Conner	06/28/05	
ABC Comm v. Desperado's Inc T/A Desperado's	04 ABC 1192	Wade	07/20/05	
ABC Comm. v Nuntia Ester Davis T/A N and R Grocery 2	05 ABC 0209	Lassiter	09/13/05	
Cameron's One Stop, Sank Cameron v. ALE Agent B Haynes, Ann H. Johnson, Permit Comm Mgr	05 ABC 0799	Elkins	07/28/05	
<u>BOARD OF LICENSING OF GEOLOGISTS</u>				
James W King, PG v Board of Licensing of Geologists	05 BOG 0149	Morrison	08/10/05	
<u>BOARD OF MEDICAL EXAMINERS</u>				
Ricky E. Townsend v. Medical Board	05 BME 1435	Morrison	12/12/05	
<u>ACUTIONEERS LICENSING BOARD</u>				
Robert H. Rankin, Jr., NCAL #6727 v. Auctioneers Licensing Board	04 CFA 1497	Mann	05/13/05	
<u>COMMERCE, DEPARTMENT OF</u>				
Land-of-Sky Regional Council v. Dept of Commerce, Div of Emp. & Trning	96 COM 1921	Gray	07/05/05	
<u>CRIME VICTIMS COMPENSATION</u>				
Dwight D Hoover Sr. v. Victims Compensation Commission	04 CPS 0988	Conner	07/07/05	
Moreno Edoardo Lovejoy v. Crime Control & Public Safety, Victime Comp. Services Division, Crime Victims Compensation Commission	04 CPS 1176	Wade	09/22/05	
Myrtle Perry v. Crime Victims Compensation Commission	04 CPS 1190	Chess	06/21/05	
Marion A Liles v Dept. of Crime Control & Public Safety, Victims Compensation Service Division	05 CPS 0150	DeLuca	07/29/05	
Cecelia Reid v DCCPS, Div of Vic Comp Svcs, Crime Vic Comp Comm	05 CPS 0220	Lassiter	08/08/05	
Rhonda Lynnette Rhodes v. Crime Victims Compensation Program	05 CPS 0484	Gray	06/23/05	
Brenda Edwards, d/b/a B&H Wrecker Service v. Dept. of Crime Control & Public Safety, Div. of State Highway Patrol	05 CPS 0510	Lassiter	10/19/05	
Terry Ramey, d/b/a Ramey Wrecker Service v. Dept. of Crime Control & Public Safety, Division Of State Highway Patrol	05 CPS 0511	Lassiter	10/18/05	
Curtis Glenn Davis v. Crime Control and Public Safety Crime Victims Compensation Commission	05 CPS 0529	Bryan	10/10/05	
Jamaal O Staten v. Crime Victims Compensation Commission	05 CPS 0711	Elkins	07/28/05	
Sandra A. Tinsley v. Crime Victims Compensation Services	05 CPS 0850	Lassiter	12/02/05	
Ora Evan v. Crime Control and Public Safety, Division of Victim Compensation Services	05 CPS 1578	Gray	11/18/05	
<u>BOARD OF ELECTIONS</u>				
Republican Governors Association & Holly Lynn Koerber v. State Board of Elections	04 BOE 2051	Morrison	06/30/05	20:02 NCR 100

CONTESTED CASE DECISIONS

HEALTH AND HUMAN SERVICES

MedVisit, Inc. v. Div. of Medical Assistance (DHR)	94 DHR 0012	Gray	07/12/05	
Patsy Norris v. Department of Human Resources	94 DHR 0895	Gray	07/06/05	
Small World DC II, Trena McDaniel v DHHS, Div of Child Dev.	00 DHR 2202 ²	Gray	08/08/05	
Trena S McDaniel & Small World DC II v. DHHS, Div of Child Dev.	01 DHR 0321 ²	Gray	08/08/05	
Richard McKinley Whited v. DHHS	02 DHR 0024	Gray	08/04/05	
Jeffrey D. Cannon v. DHHS, Walter B Jones ADACT	03 DHR 0488	Conner	06/29/05	
Aundria Shante Edwards v DHHS, Division of Facility Services	03 DHR 0806	Gray	08/10/05	
Jamie Kearney v. DHHS	03 DHR 0924	Gray	10/04/05	
Thomas Reiter, a minor, by his mother & legal guardian, Kathryn Reiter	03 DHR 1253	Gray	06/27/05	20:03 NCR 144
Teresa South and Michael South v. DHHS, DMA, Third Party Recovery Section	03 DHR 1515	Gray	10/04/05	
Nina Sherean Hughes v. DHHS, Div of Facility Services	03 DHR 1595	Gray	10/03/05	
Louise Li Lai Fong v. DHHS, Division of Facility Services	03 DHR 1714	Wade	06/27/05	
Lenwood E Hargrove, Wilma Hargrove v. Div. of Medical Assistance	03 DHR 1737	Conner	07/27/05	
Geana E. Anderson v. DHHS, Division of Facility Services	03 DHR 2063	Gray	06/24/05	
Gaile Thomas v. DHHS, Division of Facility Services	04 DHR 0110	Lassiter	06/21/05	
Mecca L Stewart v DHHS, Division of Facility Services	04 DHR 0213	Elkins	08/15/05	
Fatmata Gbondo v. DHHS, DFS	04 DHR 0241	Elkins	10/05/05	
Otis D. Wyche, Jr., v. DHHS, Div. of Facility Services	04 DHR 0294	Chess	05/16/05	
North Brook Rest Home, Inc v. DHHS, Adult Licensure Section	04 DHR 0407	Conner	07/26/05	
Priscilla Thomas d/b/a Thomas, Priscilla Small Day Care Home-ID#4605036 v. DHHS, Division of Child Development	04 DHR 0539 ¹	Mann	06/03/05	
Jamie Lynn Hensley v. DHHS, Div. of Facility Services	04 DHR 0917	Wade	05/16/05	
Aaron Anderson v. DHHS, Div. of Medical Assistance (DMA)	04 DHR 0929	Gray	08/10/05	
Carla Jean Summers v. DHHS, DFS	04 DHR 1020	Lassiter	09/21/05	
Patricia A. Reece v. DHHS, Division of Facility Services	04 DHR 1062	Mann	07/27/05	20:05 NCR 266
Mario Flores v. DHHS, Division of Facility Services	04 DHR 1110	Mann	08/01/05	
Kid's Day Out Child Care and Learning Cneter, Inc, ID #76000079 v. DHHS, Division of Child Development	04 DHR 1119	Conner	10/27/05	
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Priscilla Thomas d/b/a Thomas, Priscilla Small Day Care Home-ID#4605036 v. DHHS, Division of Child Development	04 DHR 1413 ¹	Mann	06/03/05	
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Candace L Wood on behalf of Waylon S Keeter v. OPC Men Hlth Area Prog	05 DHR 0650	Conner	08/01/05
Candace L Wood on behalf of Caitlyn A Wood v Alamance Caswell MHDDSA	05 DHR 0651	Conner	07/12/05
Candace L Wood on behalf of Caitlyn A Wood v Alamance Caswell MHDDSA	05 DHR 0652	Conner	07/12/05
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A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncsoh.com/decisions.

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Gary Lee King v Private Protective Services Board	05 DOJ 0830	Lassiter	09/12/05	
Kevin Jon Kern v. Criminal Justice Education & Training Stds. Comm.	05 DOJ 0928	Lassiter	10/10/05	
Donald Lee Newton v Criminal Justice Educ. & Training Standards Comm.	05 DOJ 0929	Gray	09/12/05	
Robert Baxter Wilkerson III v Private Protective Services Board	05 DOJ 1074	Bryan	08/22/05	
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Tony M Martin v Dept. of State Treasurer, Retirement Systems Division	05 DST 0253	Lassiter	08/31/05	
Robert A. Gabriel , Sr., v. Dept. of State Treasurer	05 DST 0586	Gray	10/21/05	
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JFG, Inc, Mr. Wayne Pierce, Pres. v. Onslow Co Health Dept & DEH&NR, Division of Environmental Health	95 EHR 0110	Gray	07/06/05	
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Ralph K & Carolyn Emery v. Montgomery Co Health & Env. Section	95 EHR 0317	Gray	07/06/05	
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Cynthia Williamson Putnam v DENR	03 EHR 2383	Conner	09/12/05	
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Vicki B Tamer v. Department of Public Instruction	03 OSP 0243	Gray	08/15/05	
Arlene R Burwell v Department of Corrections	03 OSP 0621	Conner	09/12/05	
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Kathy Sledge v. Department of Corrections	03 OSP 1092	Conner	06/27/05	
Arlene Burwell v. DOC, Division of Prisons, Polk Youth Institution	03 OSP 1141 ⁵	Conner	11/07/05	
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Jack Mason v. Wildlife Resources Commission, Div. of Wildlife Mgt.	03 OSP 1555	Gray	09/07/05	
David Thomas Sawyer v. Wildlife Resources Commission, Div. of Wildlife Mgt.	03 OSP 1556	Gray	09/07/05	
Arlene Burwell v. DOC, Division of Prisons, Polk Youth Institution	03 OSP 1743 ⁵	Conner	11/07/05	
Robert Earl Regan, Jr v DCCPS, State Highway Patrol	03 OSP 2321	Conner	09/12/05	
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Cindy Owens v Justice Academy	05 OSP 1038	Conner	09/19/05
Thomas M. Chamberlin v. Vance-Granville Community College	05 OSP 1170	Chess	09/30/05
Joe L. Harris, MSW, LCSW v. Alamance Caswell MHDDSA/LME	05 OSP 1221	Chess	10/11/05
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Darian C. Jones Ph.D v. UNC Hospitals	05 UNC 0315	Lassiter	06/02/05
Tereasa King v. UNC Hospitals	05 UNC 0376	Lassiter	06/02/05
Lenora White v. UNC Hospitals	05 UNC 0574	Bryan	09/13/05
Ellen Griffith v. UNC Hospitals	05 UNC 0585	Conner	07/26/05
Dawn B & John A Gladden v. UNC Hospitals via Dept. of Revenue	05 UNC 0608	Conner	07/26/05
Joyce Porter v UNC Hospitals	05 UNC 0623	Elkins	08/11/05
Martin T Myers v UNC Hospitals	05 UNC 0632	Elkins	08/11/05
Bettie Brame v UNC Hospitals	05 UNC 0638	Conner	08/01/05
Joyce Daugherty v. UNC Hospitals	05 UNC 0663	Elkins	08/11/05
Margarida Goulart v UNC Hospitals	05 UNC 0683	Conner	07/26/05
Tashuia Williams v UNC Hospitals	05 UNC 0684	Conner	07/26/05
Audrey Ghia v UNC Hospitals	05 UNC 0856	Gray	09/14/05
De'Juana Middleton v UNC Chapel Hill Hospital	05 UNC 0701	Conner	07/26/05
Marjorie Hindsdale-Shouse v UNC Hospitals	05 UNC 1002	Elkins	09/15/05
Dawn R Dickerson v UNC Hospitals	05 UNC 1028	Elkins	08/11/05

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Josephine Perdue v. WRC	05 WRC 1440	Gray	11/18/05
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- 1 – Combined Cases
- 2 – Combined Cases
- 3 – Combined Cases
- 4 – Combined Cases
- 5 – Combined Cases