

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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		54 Psychology	
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		61 Respiratory Care	
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		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. 104
AMENDING EXECUTIVE ORDER NO. 56, NORTH CAROLINA INTERAGENCY
COUNCIL FOR COORDINATING HOMELESS PROGRAMS**

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

Section 3 of Executive Order No. 56 issued by Michael F. Easley on January 20, 2004, is hereby amended as follows:

Section 3. Chair and Terms of Membership

Each appointment shall be for a term of three years. (All other language within this section is deleted.)

This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this thirteenth day of July in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.

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
Southern Bank and Trust Company**

Pursuant to N.C.G.S. § 130A-310.34, Southern Bank and Trust Company has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Edenton, Chowan County, North Carolina. The Property, which is known as the former Chowan Veneer Company site, consists of approximately 12.4 acres and is located at 259 and 262 Coke Avenue. Environmental contamination exists on the Property in groundwater. Southern Bank and Trust Company has committed itself to allow no use of the Property other than for residential, commercial office or commercial retail purposes. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Southern Bank and Trust Company, 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 Shepard Pruden Memorial Library, 106 West Water Street, Edenton, North Carolina, 27932 by contacting Rosa Lee Miller at (252)-482-4112 or at Shepard-pruden@pettigrewlibraries.org; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at (919) 508-8411 or at shirley.liggin@ncmail.net.

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 Southern Bank and Trust Company, 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 August 16, 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

NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING

NORTH CAROLINA BUILDING CODE COUNCIL

Notice of Rule-making Proceedings is hereby given by NC Building Code Council in accordance with G.S. 150B-21.5(d).

Citation to Existing Rule Affected by this Rule-Making: *NC Administrative and Building Codes.*

Authority for Rule-making: *G.S. 143-136; 143-138.*

Reason for Proposed Action: *To incorporate changes in the NC Building Codes as a result of rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the Council.*

Public Hearing: *September 11, 2006, 1:00PM, Asheville Public Works Building, 161 South Charlotte Street, Asheville, NC 28801.*

Comment Procedures: *Written comments may be sent to Barry Gupton, Secretary, NC Building Code Council, c/o NC Department of Insurance, 322 Chapanoke Road, Suite 200, Raleigh, NC 27603. Comment period expires on October 16, 2006.*

Statement of Subject Matter:

1. Request by the Special Inspections Ad Hoc Committee to amend the 2006 NC Administrative Code requirements for special inspections.

107.5 Special Inspections. Special inspections required by the building code or the building inspector shall be performed by a NC registered design professional or a qualified inspector under their responsible charge.

2. Request by the Special Inspections Ad Hoc Committee to amend the 2006 NC Building Code requirements for special inspections.

1704 Special Inspections

1704.1 General. Where application is made for construction as described in this section, the building official, at the official's discretion, may require the owner to employ one or more special inspectors to provide inspections during construction on the types of work listed under Section 1704 per 1704.1.2. The special inspector shall demonstrate competence, to the satisfaction of the building official, for inspection of the particular type of construction or operation requiring special inspection. These inspections are in addition to the inspections specified in the North Carolina Administrative Code and Policies.

~~Exceptions:~~

- ~~1. Special inspections are not required for work of a minor nature or as warranted by conditions in the jurisdiction as approved by the building official.~~
- ~~2. Special inspections are not required for building components unless the design involves the practice of professional engineering or architecture as defined by applicable state statutes and regulations governing the professional registration and certification of engineers or architects.~~
- ~~3. Unless otherwise required by the building official, special inspections are not required for occupancies in Group R-3 as application in 101.2 and occupancies in Group U that are accessory to a residential occupancy including, but not limited, those listed in 312.1~~

1704.1.1 Building permit requirement. The permit applicant shall submit a statement of special inspections prepared by the registered design professional in responsible charge in accordance with Section 106.1 as a condition for permit issuance. This statement shall include a complete list of materials and work requiring special inspections by this section, the inspections to be performed and a list of the individuals, approved agencies or firms intended to be retained for conducting such inspections.

1704.1.2 Special Inspections requirement.

Special inspections per Section 1704 are required for building, building components or other structures per the following:

1. Buildings or other structures listed in Table 1604.5 in category II if:
 - a. Building height exceeds 45 feet or three stories, or
 - b. The building is an Underground buildings per 405.1;
2. Buildings or other structures listed in table 1604.5 in categories III or IV;
3. Piles, piers and special foundations;
4. Retaining walls exceeding 5 feet height per 1610.3;
5. Smoke control and smoke exhaust systems;

- 6. Sprayed fire-resistant materials; or
- 7. Special case described in 1704.13.

1704.1.3 Report requirement. Special inspectors shall keep records of inspections. The special inspector shall furnish inspection reports to the building official, and to the registered design professional in responsible charge. Reports shall indicate that work inspected was done in conformance to approved construction documents. Discrepancies shall be brought to the immediate attention of the contractor for correction. If the discrepancies are not corrected, the discrepancies shall be brought to the attention of the building official and to the registered design professional in responsible charge prior to the completion of that phase of the work. A final report of inspections documenting required special inspections and correction of any discrepancies noted in the inspection shall be submitted periodically at a frequency agreed upon by the permit applicant and the building official prior to the start of work.

Butch Simmons requested that these two parts go through the rule making process. Al Bass made a motion to accept the two items. The motion was seconded. Mr. Bass requested that this wording be included in the printing of the code books if the requirements go through the rule making process. The motion carried without dissent.

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 01 – DEPARTMENT OF ADMINISTRATION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Environment and Natural Resources intends to repeal the rules cited as 01 NCAC 12 .0601 - .0605, .0701 - .0704, .1001 - .1008.

Proposed Effective Date: December 1, 2006

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Contact David Griffin, Division Director, by mail NC Aquariums, 417 N. Blount Street, Raleigh, NC 27601, or by email at david.griffin@ncmail.net.*

Reason for Proposed Action:

01 NCAC 12 .0601- is mostly incorrect and otherwise not needed.

01 NCAC 12 .0602 – is not needed.

01 NCAC 12 .0603 - .0604 – is incorrect.

01 NCAC 12 .0605 - is incorrect and does not comply with G.S. 150B.

01 NCAC 12 .0701 - .0704 – is no longer needed because the General Assembly repealed G.S. 143B-390.2(b).

01 NCAC 12 .1001 – .1008 – is not needed because the Aquariums no longer provide research space to other agencies.

Procedure by which a person can object to the agency on a proposed rule: *Contact David Griffin, Division Director, by mail, NC Aquariums, 417 North Blount Street, Raleigh, NC 27601, or by email at david.griffin@ncmail.net.*

Comments may be submitted to: *David Griffin, 417 N. Blount Street, Raleigh, NC 27601, email david.griffin@ncmail.net*

Comment period ends: *October 16, 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

SECTION .0600 - GENERAL PROVISIONS

01 NCAC 12 .0601 DEFINITIONS

As used in Chapter 12 of Title 1:

- ~~(1) "Aquarium" means the North Carolina Aquarium at Fort Fisher, at Pine Knoll Shores, or on Roanoke Island;~~
- ~~(2) "Charitable" means for a benevolent purpose;~~
- ~~(3) "Civic" means favoring the improvement of the environment, health, education, safety, general welfare, culture or recreation of the local community through non-political activities;~~
- ~~(4) "Council" means the North Carolina Marine Science Council;~~
- ~~(5) "Department" means the Department of Administration;~~
- ~~(6) "Director" means a director of one of the three Aquariums or his or her designee;~~
- ~~(7) "Facility" means the Aquarium building and associated buildings and grounds;~~
- ~~(8) "Permissible user or activity" means a user or activity that is compatible with the intent and conditions of the N.C. Aquariums' Facility Use Policy;~~
- ~~(9) "Person" means any natural person, corporation, partnership, association, or governmental unit;~~
- ~~(10) "Secretary" means the Secretary of Administration;~~
- ~~(11) "User" means any natural person, corporation, partnership, association or governmental unit.~~

Authority G.S. 143B-390.2(b).

01 NCAC 12 .0602 NAME CHANGE

~~Henceforth, the N.C. Marine Resources Center/Fort Fisher shall be known as the North Carolina Aquarium at Fort Fisher, the N.C. Marine Resources Center/Bogue Banks shall be known as the North Carolina Aquarium at Pine Knoll Shores, and the N.C.~~

~~Marine Resources Center/Roanoke Island shall be known as the North Carolina Aquarium on Roanoke Island.~~

~~Authority G.S. 143B-390.2(b).~~

~~Authority G.S. 143B-390.2(b).~~

SECTION .0700 - MARINE SCIENCE COUNCIL

01 NCAC 12 .0603 FORMS

~~The forms listed in this Rule affect the public and are available at:~~

~~N.C. Aquarium on Roanoke Island ————— N.C. Aquarium at Pine Knoll Shores
P.O. Box 967 ————— P.O. Box 580
Manteo, N.C. 27954 ————— Atlantic Beach,
N.C. 28512
(919) 473-3493 ————— (919) 247-4003
N.C. Aquarium at Fort Fisher ————— Office of Marine Affairs
Box 130 ————— N.C. Dept. of Administration
Kure Beach, N.C. 28449 ————— 417 North Blount Street
(919) 458-8257 ————— Raleigh, N.C. 27601
(919) 733-2290~~

- ~~(1) ————— Aquarium Facility Use Policy;~~
- ~~(2) ————— Application for Use of Facility;~~
- ~~(3) ————— Contract for Off Hours Use of Facility;~~
- ~~(4) ————— Application for Research Space;~~
- ~~(5) ————— Contract for Use of Research Space;~~
- ~~(6) ————— Cost Schedule for Use of Space;~~
- ~~(7) ————— Seasonal Aquarium Calendar of Events and Program Participation Procedures; and~~
- ~~(8) ————— Marine Science Council Operating Procedures.~~

~~Authority G.S. 143B-390.2(b).~~

01 NCAC 12 .0604 APPEALS

~~Any person affected by a decision made pursuant to this chapter who wishes to appeal the decision shall direct the appeal in writing to the Secretary of Administration, 116 West Jones Street, Raleigh, N.C. 27611. Appeals of decisions of the Secretary made pursuant to this chapter shall be governed by Chapter 150B (Administrative Procedure Act) of the North Carolina General Statutes.~~

~~Authority G.S. 143B-390.2(b).~~

01 NCAC 12 .0605 ORGANIZATION: POWERS AND DUTIES

~~The Office of Marine Affairs is organized to promote and advocate for public awareness, appreciation, study and wise utilization of the cultural and natural resources of coastal North Carolina. The office recommends state ocean policies, advocates for marine research, promotes wise stewardship and provides information and educational opportunities for the public. The office administers the three North Carolina Aquariums and the Outer Continental Shelf Resources Recovery Program and staffs the Marine Science Council. Information may be obtained from the office which is located at 417 North Blount Street, Raleigh 27601.~~

01 NCAC 12 .0701 STAFF

~~The Council is staffed by the Office of Marine Affairs, 417 North Blount Street, Raleigh, N.C. 27601.~~

~~Authority G.S. 143B-390.2(b);~~

01 NCAC 12 .0702 BYLAWS

~~The Council's operating procedures are governed by its bylaws which are available from the Office of Marine Affairs or the Aquariums.~~

~~Authority G.S. 143B-390.2(b).~~

01 NCAC 12 .0703 AGENDA

~~Any person desiring to have topics included on the agenda for discussion at a regular Council meeting shall notify the staff at least 20 days prior to the meeting date. Final approval for proposed agenda items rests with the Council executive committee.~~

~~Authority G.S. 143B-390.2(b).~~

01 NCAC 12 .0704 MINUTES

~~Minutes of Council meetings are available for inspection at the Office of Marine Affairs, 417 North Blount Street, Raleigh N.C. 27601.~~

~~Authority G.S. 143B-390.2(b).~~

SECTION .1000 - PROCEDURES FOR USE OF RESEARCH SPACE

01 NCAC 12 .1001 WHEN USE IS LESS THAN 60 DAYS

~~Research applicants may apply directly to and receive approval from the director of the preferred facility if the period of continuous use is for 60 days or less.~~

~~Authority G.S. 143B-390.2(b).~~

01 NCAC 12 .1002 WHEN USE EXCEEDS 60 DAYS

~~Potential researchers wishing to schedule space for a period greater than 60 days shall obtain a copy of the Facility Use Policy and file a completed application with the Office of Marine Affairs, 417 North Blount Street, Raleigh, N.C. 27601, no more than 12 months prior to the date the space will be needed but no less than 60 days prior to the next regularly scheduled Council meeting. Applications and copies of the Facility Use Policy are available at the Office of Marine Affairs and at each of the three Aquariums.~~

~~Authority G.S. 143B-390.2(b).~~

01 NCAC 12 .1003 APPLICATIONS FORWARDED

BY OFFICE OF MARINE AFFAIRS

~~Upon receipt of a completed application, the Office of Marine Affairs shall forward a copy to the appropriate director for confirmation of space availability and comments by the Aquarium staff.~~

Authority G.S. 143B-390.2(b).

01 NCAC 12 .1004 REVIEW OF APPLICATIONS

~~The director shall send his or her comments and recommendation for approval or disapproval to the Office of Marine Affairs for distribution along with the application to the Marine Science Council or a Council subcommittee for review.~~

Authority G.S. 143B-390.2(b).

01 NCAC 12 .1005 NOTIFICATION TO APPLICANT

~~If denied, the director shall notify the applicant of the decision. Upon request, the director will provide the applicant with the reasons for denial of his or her application. If approved, the director shall allocate the space and notify the applicant. The letter of notification shall contain a statement warning that failure to appear to utilize the space within one week following the date for which it was requested may result in the approval being withdrawn. The letter shall also include the exact dates of the time during which the applicant will be allowed to occupy the space, any special conditions that might apply, and any fees that will be assessed. The letter shall also indicate that the applicant will be required to sign a contract before occupying the space.~~

Authority G.S. 143B-390.2(b).

01 NCAC 12 .1006 ANNUAL RENEWAL

~~Approved researchers shall apply for renewal of the space on an annual basis at least 60 days before the end of the current period of use. Applications for renewal may be made by letter to the appropriate director who shall follow the steps outlined in Rules .1004 through .1005 of this Subchapter. The Council or subcommittee shall act on the request for renewal of space at the next regularly scheduled meeting of the Council.~~

Authority G.S. 143B-390.2(b).

01 NCAC 12 .1007 CRITERIA FOR SELECTING APPLICANTS

~~The following criteria shall apply in evaluating requests for use of research space:~~

- ~~(1) The research should address problems affecting the use of coastal or marine resources.~~
- ~~(2) The research must be compatible with the facilities of the Aquariums.~~
- ~~(3) Applications indicating any of the following will receive high priority:
 - ~~(a) research offering potential of immediate application;~~~~

- ~~(b) research which promotes public information, extension education programs, and advisory services of the Aquariums;~~
- ~~(c) research requiring the unique features of the Aquariums (e.g. coastal location, multi-disciplinary setting, accessibility to visiting tourists and students, etc.);~~
- ~~(d) research which contributes to fulfilling state goals and policies in marine affairs.~~

Authority G.S. 143B-390.2(b).

01 NCAC 12 .1008 APPROVAL OR DENIAL

~~At the next regularly scheduled meeting of the council, action shall be taken regarding approval or denial of the application and any applicable use restrictions. The Office of Marine Affairs shall forward the results of the actions taken to the appropriate director. If denied, the council or subcommittee will specify in writing the reasons for its decision.~~

Authority G.S. 143B-390.2(b).

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Agriculture intends to amend the rule cited as 02 NCAC 48B .0121.

Proposed Effective Date: *December 1, 2006*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rule by submitting a request in writing no later than August 30, 2006, to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.*

Reason for Proposed Action: *The proposed amendment would add nickel to the list of secondary plant nutrients that are allowed to be claimed in the application for registration of fertilizer products and establish minimum guarantees for secondary plant nutrients. There is increased demand for fertilizer products containing nickel. Adding nickel to this list will allow the sale of these products while requiring the manufacturer to guarantee the amount claimed. Establishing minimum guarantees will ensure that there is sufficient amount of secondary nutrient present to be beneficial to plant growth.*

Procedure by which a person can object to the agency on a proposed rule: *Any person may object to the proposed rule by submitting a written statement of objection(s) to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.*

Comments may be submitted to: *David S. McLeod, 1001 Mail Service Center, Raleigh, NC 27699-1001, phone (919) 733-7125 extension 249, fax (919) 716-0105, email david.mcleod@ncmail.net*

Comment period ends: *October 16, 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 (\geq \$3,000,000)
 None

CHAPTER 48 - PLANT INDUSTRY

SUBCHAPTER 48B - FERTILIZER

SECTION .0100 - FERTILIZER STANDARDS

02 NCAC 48B .0121 APPLICATION FOR REGISTRATION OF FERTILIZERS

(a) Each application for registration of any fertilizer shall include the:

- (1) net weight;
- (2) brand;
- (3) grade;
- (4) name and address of the person guaranteeing registration; and
- (5) sources from which nitrogen, phosphate, and potash are derived in mixed fertilizers.

(b) Each application for registration of any fertilizer in addition to the general information contained in Paragraph (a) of this Rule, shall include a guaranteed analysis showing the percentages of plant food in the following order and form:

- (1) tobacco fertilizers:
 - (A) total nitrogen (N) X Percent;
 [breakdown of nitrogen (N) is optional]
 - (B) available phosphate (P2O5) X Percent;
 - (C) soluble potash (K2O) X Percent;
 - (D) chlorine (maximum) X Percent;
- (2) fertilizer materials:
 - (A) total nitrogen (N) X Percent;
 - (B) available phosphate (P2O5) X Percent;
 - (C) soluble potash (K2O) X Percent;
- (3) specialty fertilizers, manures and fortified mulch:
 - (A) total nitrogen (N) X Percent;
 - (B) available phosphate (P2O5) X Percent;
 - (C) soluble potash (K2O) X Percent;
- (4) organic fertilizers:
 - (A) total nitrogen (N) (see \geq 02 NCAC 48B .0122) X Percent;
 - (B) available phosphate (P2O5) X Percent;
 - (C) soluble potash (K2O) X Percent.

(c) Immediately following the guarantees for primary plant nutrients, the following secondary plant nutrients, if used, shall be listed on the application and guaranteed by percentage of each in elemental form, with the following minimum guarantees:

<u>Element</u>	<u>Minimum Concentration, %</u>
(1) calcium (Ca); (Ca)	1.0000
(2) magnesium (Mg) (see \geq 02 NCAC 48B .0132); .0132)	0.5000
(3) sulfur (S); (S)	1.0000
(4) boron (B); (B)	0.0200
(5) chlorine (Cl); (Cl)	0.1000
(6) cobalt (Co); (Co)	0.0005

(7)	copper (Cu); (Cu)	0.0500
(8)	iron (Fe); (Fe)	0.1000
(9)	manganese (Mn) (see 2 02 NCAC 48B .0132 ; .0132)	0.0500
(10)	molybdenum (Mo); (Mo)	0.0005
(11)	nickel (Ni)	0.0010
(11) (12)	sodium (Na); and (Na)	0.1000
(12) (13)	zinc (Zn); (Zn)	0.0500

Sources of these elements and proof of availability shall be provided to the Commissioner upon request.

- (d) A person shall not make any guarantee or claim for a secondary or minor plant nutrient not listed in Paragraph (c) of this Rule.
- (e) A person shall express potential acidity or basicity as equivalent pounds per ton of calcium carbonate, if acid forming or nonacid forming potential is guaranteed.
- (f) Where no determination of available phosphate for organic phosphates is made, total phosphate shall be guaranteed, except as provided in Paragraph (g) of this Rule.
- (g) Where unacidulated mineral phosphates or basic slag is used, both total and available phosphate, as well as degree of fineness, shall be guaranteed.

Authority G.S. 106-660(a); 106-673.

TITLE 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Credit Union Division of the North Carolina Department of Commerce intends to adopt the rule cited as 04 NCAC 06C .1205 and amend the rule cited as 04 NCAC 06C .1202.

Proposed Effective Date: December 1, 2006

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Written request for hearing to Antonio Knox, NCCUD Rule-making Coordinator, 4314 Mail Service Center, Raleigh, NC 27699-4314*

Reason for Proposed Action: *To afford North Carolina state-chartered credit unions the authority to engage in activities in which they could engage, and to the same extent to which they could engage, as those afforded to federally chartered credit unions under 12 USC 1757(11), 12 CFR 710.39(d)(1), and 12 CFR 701.19, per the authority provided by NCGS 54-109.21(25).*

Procedure by which a person can object to the agency on a proposed rule: *Submission of written objections and/or a request for hearing to Antonio Knox, NCCUD Rule-making Coordinator, 4314 Mail Service Center, Raleigh, NC 27699-4314.*

Comments may be submitted to: *Antonio Knox, NC Credit Union Division, 4314 Mail Service Center, Raleigh, NC 27699-4314*

Comment period ends: October 16, 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 (\geq \$3,000,000)
- None

CHAPTER 06 - CREDIT UNION DIVISION

SUBCHAPTER 06C - CREDIT UNIONS

SECTION .1200 - INVESTMENTS

04 NCAC 06C .1202 PERMISSIBLE TRANSACTIONS

Credit unions may:

- (1) purchase or sell securities in accordance with the North Carolina Credit Union Law and when the purchase or sale is to be completed within five business days after the agreement is made;
- (2) buy or sell a future contract only if it is used as a hedging contract incidental to the assembly of a pool of loans for sale in the secondary market;
- (3) enter into reverse repurchase agreements to meet ordinary and unexpected liquidity needs such as temporary share withdrawal or loan demands, but such agreements represent borrowing and are limited to the borrowing

- limitations as specified in Regulation .0308 of this Subchapter;
- (4) enter into loan-type repurchase agreements only with their own members, other credit unions, or eligible credit union organizations;
 - (5) enter into investment-type repurchase agreements if the following essential elements of a sale of security are included:
 - (a) The Credit Union takes possession of the securities or receives a custodial or safekeeping receipt from a bank or other financial institution evidencing that the securities have been segregated from the general assets of the vendor.
 - (b) The Credit Union is not required to deliver the identical securities in the event of repurchase.
 - (c) The Credit Union assumes the risks of market fluctuation in the value of the securities at purchase.
 - (d) The Credit Union receives the coupons or stated interest rate dividend on the securities purchased for the time period owned.
 - (6) deliver written application to the Administrator to make investments and purchase insurance, mutual funds and fixed or variable annuity products so long as the investment or product is for the sole purpose of funding employee benefit, retirement or deferred compensation plans for employees of the credit union and the investment or purchase is to be made in light of applicable safety and soundness considerations of the credit union. The Administrator will promptly grant or deny said application, with or without conditions or provisions, and in any case within 60 calendar days following the receipt of the application by the Administrator.

Authority G.S. 54-109.12; 54-109.82; 54-109.92(a).

04 NCAC 06C .1205 AUTOMATIC LIENS UPON ALL SHARE TO SECURE ALL DEBTS

In addition to the lien on shares, deposits and accumulated dividends of members as granted by G.S. 54-109.59, a credit union shall also have an automatic lien upon all such shares, deposits and accumulated dividends to secure the full amount of all debts owed to the credit union by its member. This lien is to be equivalent to that lien upon members' shares granted to all federally chartered credit unions by the National Credit Union Act and its regulations.

Authority G.S. 54-109.21(25).

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to amend the rules cited as 10A NCAC 06P .0201, .0401, 06R .0101 - .0102, .0201, .0301, .0303, .0305 - .0306, .0402 - .0403, .0501 - .0508, .0601, .0701 - .0703, 06S .0102, .0203 - .0204, .0301, .0402 - .0405.

Proposed Effective Date: July 1, 2007

Public Hearing:

Date: October 18, 2006

Time: 10:00 a.m.

Location: Room 832, Albemarle Building, 325 N. Salisbury Street, Raleigh, NC

Reason for Proposed Action: *The majority of rules were originally effective in 1978-1979. There have been minor modifications to the rules, but the original language has remained the same. Interpretation & enforcement of many of these rules varies from county to county because, in many cases, the wording is vague and unclear. A committee comprised of adult day services program staff & State & county staff, met for over 3 years reviewing the rules to eliminate the vague language so that interpretation by those operating adult day programs & those regulating those programs is more consistent across the State. Additionally, updates in areas such as building & fire codes have been integrated & changes have been made to be consistent to other rules under the authority of the Secretary of the Department of Health and Human Services; therefore, bringing more consistency to the rules by eliminating conflicting language.*

Procedure by which a person can object to the agency on a proposed rule: *Susan Dail, NC Division of Social Services, 325 N. Salisbury Street, 2401 Mail Service Center, Raleigh, NC 27699-2401, 919-733-3055, susan.dail@ncmail.net*

Comments may be submitted to: *Susan Dail, 2401 Mail Service Center, Raleigh, NC 27699-2401, phone (919) 733-3055, fax (919) 733-9386, email susan.dail@ncmail.net*

Comment period ends: October 18, 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 06 – AGING: PROGRAM OPERATIONS

SUBCHAPTER 06P – ADMINISTRATION OF ADULT DAY CARE SERVICES

SECTION .0200 - CLIENT ELIGIBILITY: FEES AND CHARGES

10A NCAC 06P .0201 LIMITATIONS

Limitations on the provision of day care services for adults receiving state or federal funds include the following:

- (1) Day care services for adults ~~may~~ shall be provided on a time-limited basis to individuals enrolled in adult day care who are no longer able to maintain themselves in an independent living situation and for whom placement in group care is necessary. Under these circumstances, adult day care services may continue to be provided for a maximum of 90 days after entering the group care facility. State and federal funds may not be used to support the provision of adult day care for individuals in group care beyond this 90 day ~~period.~~ period, except in the circumstances of Item (2) of this Rule.
- (2) Day care services for adults ~~may~~ shall be provided on a time-limited basis for individuals preparing to leave a group care facility for an independent living arrangement. Under these circumstances, adult day care services may be provided for a period of up to 90 days prior to the individual's discharge from the group care facility. Continued eligibility for adult day care after discharge from the group care facility shall be determined on the basis of basic eligibility criteria and need for the service as stated in 10A NCAC ~~74Q~~ 71R .0501 or 10A NCAC 05A .0101(6) and (12). State and federal funds shall not be used to support the provision of adult day care for individuals in group care prior to this 90-day period, except in the circumstances of Item (1) of this Rule.
- (3) If a day care program's written admission criteria limit the number of persons with certain conditions which can be served at any one time and an eligible client with such a condition cannot be accepted because the program has its maximum number of persons with that condition, the client must be

considered for enrollment at the first opening for persons with that condition.

- ~~(4) Day care programs which receive federal or state funds administered by the Division of Social Services and which serve persons whose care is paid through some source other than federal or state funds must charge at least as much for those persons as for persons whose care is paid through funds administered by the division.~~

(4) Adult day care participants shall be:

- (a) adults who do not need nursing supervision but who require complete, full-time daytime supervision in order to live in their own home or the home of a relative; or
- (b) adults who need help with activities of daily living in order to maintain themselves in their own home; or
- (c) adults who need intervention in the form of enrichment and opportunities for social activities in order to prevent deterioration that would lead to placement in group care; or
- (d) adults enrolled in an adult day care program who need time-limited support in making the transition from independent living to group care, or adults who need time-limited support in making the transition from group care to independent living.

Authority G.S. 143B-153.

SECTION .0400 - ROLE RESPONSIBILITIES IN PROGRAM CERTIFICATIONS

10A NCAC 06P .0401 STATE DIVISION OF AGING AND ADULT SERVICES RESPONSIBILITIES

The Division of Aging and Adult Services ~~has the following responsibilities in certification of adult day care programs: is~~ responsible for:

- (1) Consultation. The adult day care consultant in the Division of Aging and Adult Services shall be available to ~~work with~~ county departments of social services and day care providers regarding the development of adult day care services, interpretation of the North Carolina Adult Day Care and Day Health Services Standards for Certification standards and related issues; The regional service representatives shall be available to county departments of social services for consultation regarding the development of adult day care services as part of a county social services system;
- (2) Certification. The Division of Aging and Adult Services shall be responsible for all

actions regarding initial certification and annual recertification of adult day care programs based on the report and recommendations of the county department of social services and the adult day care consultant in the central office-office; and

- (3) Monitoring. The Division of Aging and Adult Services shall establish criteria for the local department of social services adult day care consultant to make announced and unannounced monitoring visits to certified adult day programs. An administrative letter identifying the criteria shall be signed by the Division Director and sent to all county departments of social services directors and adult day care providers.

Authority G.S. 143B-153.

SUBCHAPTER 06R - ADULT DAY CARE STANDARDS FOR CERTIFICATION

SECTION .0100 - INTRODUCTION

10A NCAC 06R .0101 CERTIFICATION REQUIREMENT

(a) ~~Subchapter 06r-06R contains standards which have been developed for certification of adult day care programs. The standards relate to all aspects of operation of an adult day care program including administration, facility, and program operation. Adult day care programs, as defined in G.S. 131D-6, must shall be certified as meeting these standards. Programs exempted from certification requirements by G.S. 131D-6 must shall meet these standards for certification only if receiving funds administered by the Division of Aging and Adult Services for social services programs established by federal legislation. Certification is the responsibility of the county department of social services and the Department of Health and Human Services.~~

(b) ~~Any program making application for certification or making timely and sufficient application for renewal of certification must shall be in compliance with all standards for certification. If all standards are not being met, certification will shall be denied or limited as appropriate. Certification of any program in willful violation of standards as defined in Rule .0102(b) .0102(e) of this Subchapter will shall be revoked. Procedures in G.S. 150B-3 will shall be followed.~~

(c) ~~Any program which was in operation, not currently certified, and serving individuals prior to January 1, 1986, will have a period of no more than 90 days to make application for certification. During this time period the program may continue to operate unless continued operation will endanger the health, safety or welfare of the participants. During this time period consultation and technical assistance will be provided by the county department of social services to aid the program to achieve full compliance with the rules in this Subchapter.~~

Authority G.S. 131D-6; 143B-153.

10A NCAC 06R .0102 CORRECTIVE ACTION

(a) ~~Adult day care programs shall be inspected annually and monitored at least monthly in accordance with the Division of Aging and Adult Services criteria for making announced and unannounced visits to assure compliance with the standards. Where a violation of G.S. 131D-6 or of this Subchapter is identified by staff of the county department of social services or the Division of Aging, Aging and Adult Services, or other authorized inspectors such as sanitarians, environmental health specialists, building and fire safety inspectors, the program director of the adult day care program must shall be notified in writing of the nature of the violation by that inspector and requested to take corrective action by the county department of social services. The county department of social services will shall determine, in consultation with the program director, the date by which corrective action must shall be completed based upon the severity of the violation and the effect of the violation on the participants of the program.~~

(1)(b) ~~Where a violation presents a clear and an immediate danger to the participants' health or safety, the program director is required to shall take immediate corrective action, after written notification, action to correct the source of danger or to remove the participants from the source of danger. Such action shall be documented in writing within 72 hours. The specific time for completion of corrective action will be included in the written notice.~~

(2)(c) ~~Where a violation has the potential to endanger the participants' health, safety, or welfare, the program director is required to shall take corrective action. The date specified for the completion of the corrective action must shall be no later than 30 days after the of written notification.~~

(3)(d) ~~Where a violation does not directly endanger the participants, such as a violation of administrative or record keeping standards, the program director is required to shall take corrective action. The date specified for the completion of the corrective action must shall be no later than within 90 days after the of written notification.~~

(b)(e) ~~If the violation continues beyond the established time for completion of corrective action, the program will shall be considered to be in willful violation of the standards and negative action will shall be taken in accordance with Rules .0802, .0804, and .0805 of this Subchapter.~~

Authority G.S. 131D-6; 143B-153.

SECTION .0200 - DEFINITION OF TERMS

10A NCAC 06R .0201 DEFINITIONS

As used in this Subchapter, unless the context requires otherwise, the following definitions shall apply:

(1) "Activities of Daily Living (ADL)" means eating; dressing; bathing; toileting; bowel and bladder control; transfers; and ambulation.

(a)(2) "Adaptable space" Space—means space in a facility that can be used for several purposes with little effort and without sacrificing safety and health standards; for example, an activities room that is used for crafts in the morning,

- used to serve lunch and used for exercise activities in the afternoon.
- (3) "Adaptable activity" means an activity where participation can be varied from individual, small group, or large group, and can occur seated, standing or lying down.
- ~~(b)(4)~~ "Adult" is means an individual 18 years of age or older.
- (5) "Adult Day Care Center" means a day care program operated in a structure other than a single family dwelling.
- (6) "Adult Day Care Home" means a day care program for up to 16 people operated in a single family dwelling where the owner resides.
- (7) "Adult Day Care Program" means the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. This term is used to refer to adult day care programs, adult day health programs, and adult day care and combined adult day health programs (i.e., combination programs).
- ~~(e)(8)~~ "Alzheimer's Disease" is means a progressive, degenerative disease that attacks of the brain resulting and results in impaired memory, thinking and behavior. Characteristic symptoms of the disease include gradual memory loss, impaired judgement, disorientation, personality change, difficulty in learning and loss of language skills.
- ~~(d)(9)~~ "Ambulatory" refers to means a person who is fully mobile and does not need the continuing help of a person or object for support (except a walking cane).
- ~~(e)(10)~~ "Capacity" is means the number of participants for which a day care program is certified.
- ~~(f)(11)~~ "Caretaker" (or "Caregiver") is means an adult who regularly provides an impaired adult with continuous supervision, assistance with preparation of meals, assistance with housework and assistance with personal grooming.
- ~~(g)(12)~~ "Certification" is means the process whereby an adult day care program is approved as meeting adult day care standards. the North Carolina Adult Day Care Rules in 10A NCAC 06.
- ~~(h)(13)~~ "Certifying agency" is means the Department of Health and Human Services, Division of Aging, Aging and Adult Services.
- ~~(i)~~ "Day Care Center" means a day care program operated in a structure other than a single family dwelling.
- ~~(j)~~ "Day Care Home" means a day care program for two to six people operated in a single family dwelling.
- ~~(14)~~ "Dementia" means the loss of intellectual functions (such as thinking, remembering, and reasoning) of sufficient severity to interfere with a person's daily functioning. Dementia is not a disease itself but rather a group of symptoms that may accompany certain diseases or conditions. Symptoms may also include changes in personality, mood and behavior.
- ~~(k)(15)~~ "Group Process" process" means at least three persons engaged in a common activity that can bring pleasure, satisfaction and improvement to all members activity.
- ~~(l)(16)~~ "Institution" is means a facility that is established to serve a particular purpose and is required by state law to be provided and maintained by the state and any facility defined in federal regulations as an institution. In North Carolina, the list of institutions includes but is not necessarily limited to: includes: general hospitals, state psychiatric hospitals, state centers for the retarded, mentally ill, skilled nursing facilities, and intermediate care facilities.
- (17) "Instrumental Activities of Daily Living (IADL)" means meal preparation, medication intake, housekeeping, money management, phone use, laundering, reading, shopping, communication such as speaking, writing, signing, gestures, using communication devices and going to necessary activities.
- (18) "Medication schedule" means a listing of all medications taken by participants with dosages, route of administration, and times medications are to be taken.
- ~~(m)(19)~~ "Mental health disability" is a severe, lifelong, chronic condition that is due to a mental or physical impairment or a combination of mental and physical impairments. means disorders with psychological or behavioral symptoms or impairment in functioning due to a social, psychological, genetic, physical, chemical or biological disturbance.
- (20) "Modifiable activity" means an activity that can be simplified and adapted as a participant's abilities decline or improve.
- (21) "Nucleus area" means adult day care programs located in a multi-use building and refers to the area not shared by any other programs located in the building but used only by the adult day care program.
- ~~(n)(22)~~ "Non-ambulatory" refers to means a person who is bedfast.
- ~~(o)(23)~~ "Nursing Care" is care" means skilled nursing care or intermediate care.
- (24) "On-site" means the area certified for the day care program.

- (p)(25) ~~"Operator" is "Owner"~~ means the person responsible for management of a day care home. ~~home or day health home.~~
- (q)(26) ~~"Other special needs disease or condition" refers to~~ means a diagnosis, disease or disability, such as AIDS/HIV, that benefits from monitoring or oversight in a supervised setting.
- (r)(27) ~~"Participant" is~~ means a person enrolled in an adult day care program.
- (28) "Personal care" means tasks that range from assistance with basic personal hygiene and grooming, feeding, and ambulation, to medical monitoring and other health care related tasks.
- (s)(29) ~~A "Physical Therapy Program" is "Physical therapy program"~~ means a series of activities prescribed by a licensed physical therapist or activities administered under the supervision of a physical therapist.
- (t)(30) ~~"Program director" means Director" is~~ the person responsible for program planning, development and implementation in a day care center. ~~program.~~
- (31) "Progress notes" means written reports in the participant's file of staff discussions, conferences, or consultation with family or other interested parties, for the purpose of evaluation of a participant's progress and any other information regarding the participant's situation.
- (u)(32) ~~"Related disorders" means dementing dementia or impaired memory impairing conditions~~ characterized by irreversible memory dysfunction.
- (33) "Respite care," as a component of adult day care programs, means a service provided to give temporary relief to the family or caregiver. Primarily, respite is provided to families caring for children or adults with disabilities or families caring for frail or disabled older adults.
- (34) "Responsible party" means the caretaker with primary day-to-day responsibility for an impaired adult.
- (v)(35) ~~"Semi-ambulatory" refers to~~ means a person who needs and uses the assistance of objects such as a wheelchair, crutches, walker, or other appliance or the support of another person on a regular and continuing basis to move about.
- (w)(36) ~~A "Senior Center" is~~ "Senior center" means a community or neighborhood facility for the organization and provision of a broad spectrum of services including health, social, nutritional and educational services and a facility for recreational and group activities for older persons. —(Administration on Aging definition)

- (v)(37) ~~"Special care services" are~~ means services by a certified adult day care center ~~program~~ that promotes itself as providing programming, activities or care specifically designed for persons with Alzheimer's Disease, or other dementias, or related disorders, mental health disabilities, or other special needs diseases or conditions.
- (w)(38) ~~"Supervising agency" is~~ means the county department of social services in the county in which the day care program is located. The county department is responsible for seeing that certification standards are met on an on-going basis and for making a recommendation to the Division of Aging and Adult Services regarding certification.

Authority G.S. 131D-6; 143B-153; S.L. 1999-334.

SECTION .0300 - ADMINISTRATION

10A NCAC 06R .0301 GOVERNING BODY

- (a) Responsibility for ~~sound~~ management rests with the governing body of the day care program. In a private for-profit program, responsibility for management rests with the owner or board of directors; in a private, non-profit program, with the board of directors; in a public agency, with the board of that agency.
- (b) The governing body of a day care ~~center~~ program shall establish and maintain ~~sound~~ management procedures, including:
 - (1) approval of organizational structure;
 - (2) adoption of an annual budget;
 - (3) regular review of financial status, making sure that the program is under ~~sound~~ fiscal management; This includes ~~an~~ conducting a review of the annual budget, monthly accounts of income and expenditures to reflect against the projected budget, and an annual audit;
 - (4) appointment of the program director who ~~may~~ shall delegate responsibility for conduct of specific programmatic and administrative activities in accordance with policies adopted by the governing body; and
 - (5) ~~establishment~~ adoption of written policies regarding operation, including:
 - (A) ~~program policy statement~~ policies outlining program goals; enrollment and discharge criteria and procedures; hours of operation; types of services provided, including transportation if offered; rates and payments; and management of medications; and any other information considered appropriate to include in this document; the policy statement policies must shall be designed so copies ~~can~~ may be given to interested

parties who request information about the day care program;

- (B) personnel policies; and
- (C) any other policies deemed ~~necessary,~~ necessary by the governing body, such as agreements with other agencies and organizations.

~~(D)(c) All~~ All policies affecting clients shall be written in ~~the~~ the most direct and understandable language.

~~(e)(d) The operator-owner~~ The operator-owner of a day care home shall establish and maintain ~~sound~~ operating procedures, including the following:

- (1) develop an annual budget;
- (2) maintain monthly accounts of income and expenditures; and
- (3) establish written policies regarding operation, including:

- (A) ~~program policy statement policies~~ outlining program goals; enrollment and discharge criteria and procedures; hours of operation; types of services provided, including transportation if offered; rates and payments; and management of medications; and any other information considered appropriate to include in this document; the policy statement policies must shall be designed so copies ~~can~~ may be given to interested parties who request information about the day care program;
- (B) personnel policies; and
- (C) any other policies deemed necessary, such as agreements with other agencies and organizations.

Authority G.S. 143B-153.

10A NCAC 06R .0303 AGREEMENTS

(a) When ~~the~~ a day care program is located in a multiple-use facility (e.g., school, church) there ~~must~~ shall be a written agreement regarding the facility's cooperative use. The agreement shall contain the following as they apply to the adult day care program: time of use, maintenance of space, use of equipment, security, liability, and insurance.

(b) For a program to utilize space currently certified or licensed for another purpose by a state agency, such as the North Carolina Division of Facility Services or the North Carolina Division of Child Development, a letter from the licensing agency shall be obtained granting permission to use the space for a purpose other than the original licensed one.

Authority G.S. 131D-6; 143B-153.

10A NCAC 06R .0305 PERSONNEL: CENTERS: HOMES WITH OPERATOR AND STAFF

(a) General Requirements

~~(1)~~ The owner of adult day care homes initially certified after January 1, 2003, or homes that make structural building modifications after this date, shall reside in the home.

~~(4)(2)~~ Staff positions shall be planned and filled according to the goals of the program and the manpower needed to develop and direct the activities which meet these goals.

~~(2)~~ All staff of the program shall be competent, ethical, and qualified for the position held.

~~(3)~~ There shall be a criminal history record check of all newly-hired employees of adult day programs.

~~(3)(4)~~ There shall be a written job description for each position, full-time or part-time. The job description shall specify qualifications of ~~education, experience, and personal traits (including such characteristics as ability to relate to people, patience, positive mental attitude, ability to listen, sense of responsibility to the program, etc.);~~ education and experience; to whom employee is responsible; duties and responsibilities; and salary range.

~~(4)(5)~~ References, including former employers, shall be required in recruitment of staff.

~~(5)(6)~~ There shall be an established review process for each employee at least annually and following any probationary period.

~~(6)(7)~~ Provision shall be made for ~~There shall be a written plan for orientation and staff development of new employees and volunteers and ongoing development and training of all staff. Documentation of such orientation, staff development and training shall be recorded.~~

~~(7)(8)~~ At least one substitute staff person shall be available to provide direct care in the absence of a regular staff person in order to maintain the required staff-participant ratio. Such substitute ~~There shall be a written plan for staff substitutions in case of absences. The plan shall include the coverage of usual responsibilities as well as maintenance of staff/participant ratio. Substitute staff shall have the same qualifications and training as those required by the position and in this Subchapter. Substitutes are not required to have current certified CPR and First Aid training as long as other staff are present with this training at all times. qualifications, training, and personal credentials as a regular staff person giving direct care.~~ Trained volunteers may be used instead of paid substitutes.

~~(8)(9)~~ Each ~~Prior to beginning employment, each new employee must shall present a medical evidence statement, completed within the prior 12 months by a physician, nurse practitioner or physician's assistant, certifying that the~~

~~employee has no illness or health condition that would pose a health risk to others and that the employee can perform the duties assigned in the job. he is free from communicable disease or condition prior to beginning work and annually thereafter. When such evidence cannot be presented, employment may commence, continue, terminate, or be reassigned based on an assessment of whether the employee's work tasks would pose a significant risk to the health of the employee, co-workers or the public, or whether the employee is unable to perform the normally assigned job duties.~~

(b) Personnel Policies

(1) Personnel policies and their content are the responsibility of each adult day care ~~program center~~. Each ~~center is required to program~~ shall state its policies in writing. A copy of this statement of personnel practice shall be given to each employee and shall state the ~~center's program's~~ policy on the following:

- (A) annual leave,
- (B) educational opportunities,
- (C) pay practices,
- (D) employee benefits,
- (E) grievance procedures,
- (F) performance and evaluation procedures,
- (G) criteria for advancement,
- (H) termination procedures,
- (I) hiring and firing responsibility,
- (J) use of any probationary period,
- (K) staff participation in reviews of personnel practices,
- (L) maternity leave,
- (M) military leave,
- (N) civil leave (jury duty and court attendance), ~~and attendance~~.
- (O) protection of confidential information.

(2) All policies developed ~~must shall~~ conform to the United States Department of Labor wage and hour regulations. ~~regulation.~~

(c) Staffing Pattern. The staffing pattern shall be dependent upon the enrollment criteria and the particular needs of the participants who are to be served. The ratio of ~~paid~~ staff to participants shall be adequate to meet the goals and objectives of the program. Whenever ~~paid~~ regularly scheduled staff are absent, substitutes ~~must shall~~ be used to maintain the staff-participant ratio. The minimum ratios shall be as follows:

- (1) Adult Day Care Homes
One ~~paid~~ staff person with responsibility for direct participant care for ~~up to~~ each six participants, up to 16 participants total. ~~participants;~~
- (2) Adult Day Care Centers

One ~~paid~~ staff person with responsibility for direct participant care for each eight participants.

(d) Program Director

(1) The program director shall have the authority and responsibility for the management of activities and direction of staff to insure that activities and services are provided appropriately and in accordance with established policies.

(2) The program director ~~shall~~ shall meet all of the minimum qualifications and personal traits stated below:

- (A) ~~shall~~ be at least 18 years of age;
- (B) ~~shall~~ have completed ~~at least a~~ minimum of two years of formal post secondary education from an agency accredited institution of education by the United States Department of Education (including colleges, universities, technical institutes, and ~~accredited~~ correspondence schools) or shall have a high school education diploma or the equivalent and a combination minimum of five years experience and training in services to elderly or ~~handicapped~~ disabled adults;
- (C) ~~shall~~ have at least two years of work experience ~~in a human services area, and demonstrated ability in~~ supervision and administration;
- (D) ~~shall provide~~ provide, prior to employment, a written medical statement from a physician, nurse practitioner, or physician's ~~assistant~~ assistant, completed within the prior 12 months, certifying absence of a health condition that would pose a risk to others and ability to perform the duties assigned on the job; and good health, including freedom from ~~communicable disease or condition prior to employment and annually thereafter. When such a certification cannot be made, employment may commence, continue, terminate, or be reassigned based on an assessment of whether the employee's work tasks would pose a significant risk to the health of the employee, co-workers or the public, or whether the employee is unable to perform the normally assigned job duties;~~
- (E) ~~shall~~ provide at least three ~~current~~ reference letters or the names of individuals with whom a reference interview can be conducted, including at least one former

~~employer, employer, if any.~~ The individuals providing reference information ~~must be knowledgeable~~ shall have knowledge of the applicant director's background and qualifications.

- (3) In employing a program director, the governing body, agency or owner shall consider whether or not applicants exhibit the following characteristics. Only persons exhibiting the following characteristics shall be considered for the position of program director. These characteristics include:
- (A) ~~maturity—good judgment, emotional stability,~~ ability to make decisions and set goals;
 - (B) knowledge and understanding of the needs of the aging and disabled;
 - (C) ability to design and implement a varied, structured program of group and individual activities; and
 - (D) managerial and administrative skills - ability to supervise staff and to plan and coordinate ~~meaningful—~~staff training.
- (4) The adult day care ~~center—~~program shall have a full-time program director or a full-time substitute meeting the requirements as specified above. The program director shall assign authority and responsibility for the management of activities and direction of staff when the program director is not on site. ~~director.~~

Authority G.S. 130A-148; 131D-6; 143B-153.

10A NCAC 06R .0306 PERSONNEL: DAY CARE HOMES: ONLY STAFF PERSON IS OPERATOR

(a) The operator ~~shall of an adult day care program shall meet~~ the qualifications of director as defined in Rule .0305 of this Section.

- (1) ~~be competent, ethical and qualified to carry out the responsibilities of providing a day care program;~~
- (2) ~~have a minimum of a high school education or the equivalent;~~
- (3) ~~be at least 18 years of age;~~
- (4) ~~have at least two years of full-time work experience and demonstrated ability to manage all aspects of a day care program;~~
- (5) ~~provide a written medical statement from a physician, nurse practitioner, or a physician's assistant certifying good health, including freedom from communicable disease or condition prior to employment and annually thereafter. When such a certification cannot be made, employment may commence, continue, terminate, or be reassigned based on an assessment of whether the employee's work~~

~~tasks would pose a significant risk to the health of the employee, co workers or the public, or whether the employee is unable to perform the normally assigned job duties;~~

- (6) ~~provide at least three current reference letters or the names of individuals with whom a reference interview can be conducted, including at least one former employer, if any. The individuals providing reference information must be knowledgeable of the applicant operator's background and qualifications.~~

(b) There shall be a minimum of one staff person during all hours of operation meeting the requirements set forth in Rule .0305 of this Section for each six participants, up to 16 participants total. ~~two six participants.~~

(c) ~~The~~ A day care home shall have substitute or relief staff to enable the day care home to remain open on days when the operator is not available to supervise the program. The substitute or relief staff shall meet the requirements for this position as set forth in Rule .0305 of this Section.

Authority G.S. 130A-148; 131D-6; 143B-153.

SECTION .0400 – THE FACILITY

10A NCAC 06R .0402 BUILDING CONSTRUCTION

(a) ~~The~~ An adult day care building ~~must shall~~ meet the approval of the local building inspector (~~or local fire inspector or fire marshal if a building inspector is not available~~) in terms of structural soundness and fire safety.

(b) The program ~~must shall~~ provide at least one entrance at ground level with no steps or an entrance ramp with rails and a maximum slope of 1 in 12 (eight percent). The ramp ~~must shall~~ be covered with a securely fastened non-skid floor covering which is safely secured at both ends. ~~Exception: day care homes which serve only ambulatory persons are not required to meet this standard.~~

(c) The facility shall provide accessible toilets according to the North Carolina Accessibility Code. ~~grab bars or safety frames at all toilets used by participants.~~

(d) Facilities where six or fewer adults are served in a single family dwelling ~~must shall~~ meet building construction requirements for adult day care homes specified in Section .0700 of this Subchapter.

(e) ~~In programs administered in facilities other than single family dwellings, which are initially certified since March 1, 1977, the facilities must meet the handicapped section (Volume 1-C) of the~~ All facilities initially certified after January 1, 2003, or those that make structural building modifications after this date shall meet the North Carolina State Building Code.

Authority G.S. 143B-153.

10A NCAC 06R .0403 EQUIPMENT AND FURNISHINGS

(a) Facility—Adult Day Care facility equipment and furnishings shall ~~be adequate to~~ meet the needs of participants and staff and

enable efficient operation of the program. ~~At a minimum, the~~
The facility shall have:

- (1) at least one sturdy straight back chair or sturdy folding chair for each participant and each staff person, excluding those in wheelchairs; person;
- (2) table space adequate for all participants to be served a meal at a table at the same time and for program activities;
- (3) lounge, sofa or recliner seating chairs or sofas that allow for position changes, are upholstered or of soft material, and water and stain resistant, so that at least half of the participants can relax and rest at the same ~~time. time;~~ If all participants take a daily rest period at the same time, the facility shall have enough of such seating for all participants; and lounge, sofa or recliner seating so that all participants can rest and relax at the same time;
- (4) a quiet space with a minimum of one bed or cot ~~beds or cots~~ so that participants can lie down as needed separate from other program activities.

(b) All equipment and furnishings shall be in good condition and safe for use by all participants and staff of the facility.

Authority G.S. 143B-153.

SECTION .0500 - PROGRAM OPERATION

10A NCAC 06R .0501 PLANNING PROGRAM ACTIVITIES

(a) Enrollment Policies and Procedures

- (1) Each adult program shall have enrollment policies. Enrollment policies shall be in writing as a part of the program ~~policy statement, policies and~~ shall define the population served, who can be served and shall be flexible. These policies serve as the basis for determining who ~~can~~ shall be accepted into the program and for planning activities appropriate for the participants. The policies ~~should~~ shall be specific so as to guard against prevent enrolling people whose needs cannot ~~realistically~~ be met by the planned activities and ~~should~~ shall provide for dismissal of participants whose needs can no longer be met or who can no longer be cared for safely. If a day care program serves semi-ambulatory or non-ambulatory persons, it shall be so stated in the admissions criteria.
- (2) ~~Enrollment procedures shall be in writing as a part of the program policy statement.~~ Prior to enrollment, the ~~applicant and applicant,~~ family members or other ~~significant person (if appropriate)~~ must ~~caretaker~~ shall have a minimum of at least one personal interview with ~~at least a minimum of~~ one program staff

member. During the interview, the staff shall complete initial documentation identifying social and medical care needs, any designated spiritual, religious or cultural needs, and a determination of whether the program can meet the individual's expressed needs. The staff person doing the interviewing shall sign the determination of needs and the responsible party shall sign the application for enrollment. The signed application for enrollment and a current medical examination report must These signed documents shall be obtained before the individual's first day of attendance as a participant in the program.

- (3) ~~A medical examination report signed by a physician, nurse practitioner or physician's assistant, completed within the prior six months, shall be obtained by the program within 30 days of enrollment. This report must be updated annually no later than the anniversary date of the initial report.~~
- (3)(4) At enrollment, or in the ~~preliminary~~ initial interview, the program policies shall be discussed with each applicant and family member or other caretaker, significant person (if applicable) and a copy of the program ~~policy statement~~ policies shall be provided, given to each.
- (5) Documentation of receipt of and agreement to abide by the program policies by the participant or responsible party shall be obtained by the program and kept in the participant's file.
- (6) The program policies shall contain:
 - (A) a discharge policy outlining: the criteria for discharge and notification procedures for discharge; the timeframe and procedures for notifying family or responsible party of termination; and referral or follow-up procedures;
 - (B) a medication policy as specified in Rule .0505 of this Section;
 - (C) a description of participant's rights;
 - (D) grievance policies and procedures for families;
 - (E) advance directives policy;
 - (F) non-discrimination policies;
 - (G) procedure to maintain confidentiality;
 - (H) policy on reporting suspected elder abuse or neglect;
 - (I) description of the geographical area served by the program; and
 - (J) inclement weather policies.

(b) Planning Services for Individual Participants

- (1) Within 30 days of enrollment of a new participant, the program shall perform a comprehensive assessment and written service plan for each individual. The assessment shall

- address the individual's ability to perform activities of daily living and instrumental activities of daily living while in the program. The mental, social, living environment, economic and physical health status of the individual shall also be assessed. The service plan shall be signed and dated by the program director or the director's designee. For adult day health participants the service plan shall be written and signed by a registered nurse.
- (1)(2) Each participant shall have an individualized written plan for services in the program. In developing the written service plan, the participant and his family program shall include the participant, family members, or responsible party and other agency professionals with knowledge of the individual's needs. The service plan shall be based on strengths, needs and abilities identified in the assessment. should be included, as appropriate. The assessment and service plan shall be initiated at enrollment and shall be reviewed at regular intervals, and no less than once every six months. intervals. The service plan shall include:
- (A) the needs and strengths of the participant; person;
 - (B) the interests of the participant;
 - ~~(B)~~(C) the measurable service goals and objectives of care for the participant person while in the day care program;
 - ~~(C)~~ activities the person shall participate in;
 - (D) the type of interventions to be provided by the program in order to reach desired outcomes;
 - (E) the services to be provided by the program to achieve the goals and objectives;
 - (F) the roles of participant, family, caregiver, volunteers and program staff; and
 - ~~(D)~~(G) the time limit for the plan, with provision for review and renewal.
- (3) Progress notes in the participant's record shall be updated at least every three months.
- (4) The participant, caregiver and other service providers shall have the opportunity to contribute to the development, implementation and evaluation of the service plan.
- ~~(2)~~(5) Any unusual behavior, change in mood, change in attitude or attitude, suggestion of family problems or personal problems, need for help or services will shall be reported to the program. appropriate person. If the participant is a social services client, the report should shall be made to the participant's family, caregiver, or responsible party and the department of social services worker or the
- social worker designated as consultant to the day care program by the department. If the participant is not a social services client, the report ~~should shall~~ be made to the person's family, ~~caretaker, friend or whomever is caregiver or responsible party for the person.~~ A note ~~should shall~~ be made in the participant's record of action taken.
- ~~(3)~~(6) The participant or the party-responsible party for the participant may choose the days and number of days the participant will attend, with the program director's approval.
- ~~(4)~~(7) AnyThe reason for any unscheduled participant absence shall be checked out at least by phone determined by the program staff and documented on the day it occurs. The program shall have the responsibility to attempt to contact the absent participant or the responsible party. occurs to find out the reason for the absence. If possible, the absent participant should be contacted directly. If impossible to contact the participant directly, the participant's social worker, family, caretaker, friend or other responsible person should be contacted.
- ~~(5)~~(8) Responsibility for supervision rests with the facility. The adult day care program shall have responsibility for the participant when a participant is registered in attendance. A participant leaving the program for part of a day shall sign out relieving the staff of further responsibility. If a participant has emotional or mental impairment which requires close supervision and that person needs or wants to leave the program during the day, the social worker, family, caretaker, caregiver, friend, or whomever is responsible party shall sign the person out. for the person shall be notified prior to the person's leaving the facility. Such contacts shall be documented in the participant's record.
- (c) Program Activities Plan
- (1) The day care center or home shall have a program plan an activities schedule which meets the following criteria:
 - (A) Overall planning of activities shall be based on elements of the individual service plans.
 - (B) The primary program mode shall be the group process, both large and small groups, with provision for individual activities and services as needed.
 - ~~(C)~~ Activities shall be adaptable and modifiable to allow for greater participation and to maintain participant's individual skill level.
 - ~~(C)~~(D) Activities shall be consistent with the stated program goals.

- ~~(D)~~(E) Activities shall be planned jointly by staff and participants. Staff shall encourage participants to participate in the planning and operation of the program as much as they are able, and to use their skills, talent and knowledge in program planning and operation.
- ~~(E)~~(F) All program activities shall be supervised by program staff.
- ~~(F)~~(G) Participants shall have the choice of refusing to participate in any given activity.
- ~~(H)~~ Activities shall be age appropriate to participants.
- (2) The ~~program plan~~ activities schedule shall provide for the inclusion of following five types of cognitive activities to be available on a daily ~~basis~~: basis, and be designed to: stimulate thinking and creativity; provide opportunities for learning new ideas and skills; help maintain existing reasoning skills and knowledge base; and provide opportunities to utilize previously learned skills.
- ~~(A)~~ diversional activities to divert attention from self by focusing on projects that will result in a finished product and will foster feelings of achievement and self worth. Such projects shall be designed to encourage learning, group interaction, creativity and a sense of personal fulfillment.
- ~~(B)~~ educational activities and programs to provide exposure to and opportunities to learn new ideas and skills, to rekindle old skills, and to help participants become more self-sufficient.
- ~~(C)~~ social activities to provide fun and enjoyment.
- ~~(D)~~ volunteer service activities and projects to provide opportunities to do something for someone else in a manner that contributes to an attitude of self worth and awareness of ability to contribute to the community.
- ~~(E)~~ program assistance involvement in and assistance in carrying out program activities (ex. help with snacks, devotions, watering plants). Such participant involvement shall not be substituted for staff responsibility for program activities.
- (3) The program plan shall provide for a balance of activities among the five categories specified in (c)(2) of this Rule with such activities designed to:
- ~~(A)~~ improve the capacity of the participant for self care and personal hygiene, increased feelings of self worth and dignity;
- ~~(B)~~ improve the social and interactional skills of the participants;
- ~~(C)~~ provide opportunities for exposure to, awareness of, and involvement in social and community activities that promote creative use of leisure time;
- ~~(D)~~ improve participant's capacity for independence.
- (3) The activities schedule shall provide for the inclusion of physical activities to be available on a daily basis, and be designed to: improve or maintain mobility and overall strength; and increase or maintain joint range of motion.
- (4) The activities schedule shall provide for the inclusion of psychosocial activities to be available on a daily basis, and be designed to: provide opportunities for social interaction; develop a sense of belonging; promote goal-oriented use of time; create feelings of accomplishment; foster dignity and self-esteem; prompt self expression; and provide fun and enjoyment.
- ~~(4)~~(5) The ~~program plan~~ activities schedule shall be in writing and shall specify:
- (A) be in writing, specifying the name of each activity to be provided, the days of the week each activity shall be conducted, and the approximate length of time of each activity;
- (B) indicate the length of time the ~~plan~~ schedule is to be followed; and followed.
- ~~(C)~~ be posted weekly or monthly in a prominent place in the facility.
- ~~(5)~~ A schedule of activities shall be posted weekly or monthly, in a prominent place in the facility, listing by date the planned activities.
- ~~(6)~~ Physical activity shall be encouraged within the limits of the individual, as determined by medical information furnished by his physician.
- ~~(7)~~ Outings shall be scheduled as often as possible in order to stimulate the potential of each participant to be involved in the community.
- ~~(8)~~ Program staff shall be encouraged to explore and utilize other available community resources as part of the program.
- ~~(9)~~ Community services and resources (such as recreation programs, senior centers) shall be used as much as possible by the day care participants as a regular part of day care program activities.

Authority G.S. 143B-153.

10A NCAC 06R .0502 NUTRITION

(a) A midday meal shall be provided to each participant in attendance at ~~the an adult day care program~~ during mealtime. The meal shall provide at least one-third of an adult's daily nutritional requirement as specified by the Dietary Guidelines for Americans, at the following website: (<http://www.usda.gov/cnpp/DietGd.pdf>), a registered dietitian or certified nutritionist. ~~The menu shall be approved by a registered or licensed dietitian or nutritionist. Meals shall be prepared and served in a sanitary manner using safe food handling techniques.~~

(b) Snacks and fluids shall be offered to meet the participant's nutritional and fluid needs. At a minimum, a nutritious mid-morning and mid-afternoon snack shall be offered daily to participants. Snacks shall be planned to keep sugar, salt and cholesterol intake to a minimum.

(c) A therapeutic diet shall be provided, if prescribed in writing by a physician, physician's assistant or nurse practitioner for any participant. If therapeutic diets are prepared by program staff, such staff shall have training in planning and preparing therapeutic diets or shall provide documentation of previous training and education sufficient to assure ability to prepare meals in accordance with a physician's prescription.

(d) A registered dietitian or certified nutritionist shall give consultation to the staff on basic and special nutritional needs and proper food handling techniques and the prevention of foodborne illness. techniques.

(e) An adult day care program shall neither admit nor continue to serve a participant whose dietary requirements cannot be accommodated by the program.

(f) Meals shall be stored, prepared and served in a sanitary manner using safe food handling techniques such as those recommended by the

United States Department of Agriculture, at the following website:

http://www.fsis.usda.gov/Fact_Sheets/Safe_Food_Handling_Fact_Sheets/index.asp). The food service provider shall abide by the food safety and sanitation practices required by the Commission for Health Services rules applying to adult day care facilities, at the following website: (<http://www.deh.enr.state.nc.us/ehs/Rules/t15a-18a.33.pdf>).

Authority G.S. 143B-153.

10A NCAC 06R .0503 TRANSPORTATION

(a) For programs providing or arranging for public transportation, the adult day care program shall have a transportation policy that includes routine and emergency procedures, with a copy of the relevant procedures located in all vehicles. Accidents, medical emergencies, weather emergencies and escort issues shall be addressed.

~~(a)~~(b) When the adult day care program provides transportation, the following requirements ~~must~~ shall be met to ensure the health and safety of the participants:

- (1) Each person transported ~~must~~ shall have a seat in the vehicle.
- (2) Participants shall be transported no more than 30 minutes without being offered the opportunity to have a rest stop.

(3) Vehicles used to transport participants shall be equipped with seatbelts. Participants shall be instructed to use seatbelts while being transported.

(4) Vehicles shall be equipped with a first aid kit, consisting of the items listed in 10A NCAC 06S .0301(a), and a fire extinguisher.

~~(b) It is desired that participants use public transportation, if available. Relatives and other responsible parties are encouraged to provide regular transportation, if possible.~~

Authority G.S. 143B-153.

10A NCAC 06R .0504 EMERGENCIES AND FIRST AID

(a) A fire safety and evacuation plan, approved by the office of the fire marshal or its designee, shall be prepared and maintained by each adult day care program in compliance with the North Carolina State Building and Fire Prevention Code.

~~(a)~~(b) Plan for Emergencies. A written plan for handling emergencies shall be established and displayed prominently in the facility:

(1) The plan shall relate to medical and non-medical emergencies and shall specify responsibilities of each staff member in an emergency.

(2) All staff shall be knowledgeable about the plan.

(3) The plan shall include conducting and documenting, as to date and kind of emergency, quarterly drills in handling emergencies, such as medical emergencies, natural disasters, fires and facility security. ~~Regular drills in handling different kinds of emergencies shall be conducted and documented as to date and kind of emergency.~~

~~(b)~~(c) Evacuation Plan. An evacuation plan shall be posted in each room and ~~regular~~ fire drills shall be conducted quarterly by programs with a fire safety sprinkler system and monthly by programs without a fire safety sprinkler system. at least quarterly. A record shall be kept of dates and time required to evacuate the facility.

~~(c)~~(d) All physically able staff who have direct contact with participants are determined physically able shall complete certified training in standard first aid and cardio-pulmonary resuscitation (CPR), resuscitation. If a staff member determined to be physically unable to complete this training, a signature by a licensed physician, physician assistant or nurse practitioner attesting to such shall be provided indicating the time limit of such physical inability. The first aid and CPR ~~This training shall be: be current, as determined by the organization conducting the training and issuing the certification.~~

(1) taught by an instructor certified through the American Heart Association, American Red Cross, National Safety Council, American Safety and Health Institute, or Emergency Medical Services;

(2) current, as determined by the organization conducting the training and issuing the certification; and

- (3) documented on an official attendance card issued by the organization certifying the training, or documented by the attendance course roster, in which case the roster shall be signed by the instructor, indicate pass or fail for each student, indicate the length of time the training is valid, and be accompanied by a copy of the instructor's certification.

- (4) date and time medication is administered; and
- (5) name or initials of person giving the medication. If initials are used, a signature equivalent to those initials ~~is to~~ shall be entered on this record.

~~(d)~~(e) The program shall arrange for medical assistance to be available in the event of an emergency.

(f) The program shall have a portable basic emergency information file available on each client that includes:

- (1) hospital preference, physician of record and telephone number;
- (2) emergency contact (family or caregiver);
- (3) insurance information;
- (4) medications and allergies;
- (5) current diagnosis and history; and
- (6) advance directives, if any.

~~(e)~~(g) Adult day care staff shall report actions taken in case of sickness. Sickness and all accidents—incidents resulting in physical injury or suspected physical injury—injury, including incidents involving missing participants shall be reported to the program director. The program director or operator—adult day care staff shall make sure that all persons needing medical attention receive such attention as soon as possible. Families of participants, or The family or responsible party of the participant involved and other responsible persons, and program staff are to shall be notified of emergency action taken as soon as possible. The program director or operator shall compile and keep on record a report of all emergency actions taken. A copy of the report shall be sent to the county department of social services within 72 hours of the incident. services.

Authority G.S. 143B-153.

10A NCAC 06R .0505 MEDICATIONS

All adult day care programs shall have written policies on participant medication use, medication administration order changes and medical disposal.

~~(a)~~(b) Medications shall be administered according to the participant's ~~established~~ medication schedule as defined in Rule .0508(1)~~(d)~~ (e) (v) of this Section or as authorized by the participant's caregiver. ~~responsible caretaker.~~

(b) Participants may keep and administer their own medicines while attending the day care program. If a participant is determined to be unable to be responsible for his medication, it shall be kept for him during the time he is present at the program and given to him to take at the prescribed time and dosage. Documentation of whether or not the medications are kept by the program shall be included in each participant's file.

(c) A record of all medications given to each participant ~~must~~ shall be updated at a minimum of once every quarter and as needed and shall document kept indicating each dose given and is to include the following:

- (1) participant's name;
- (2) name, strength, dosage, quantity and route ~~and quantity~~ of the medication;
- (3) instructions for giving medication;

(d) Medications ~~kept by the program~~ shall be kept in the original pharmacy containers in which they were dispensed. The containers shall be ~~clearly~~ labeled with the participant's full name, the name and strength of the medicine, and dosage and instructions for administration. Medicines ~~kept by the program~~ shall be kept in a locked location, in a safe place.

(e) Only adult day health or adult day care and day health combination programs shall enroll or serve participants who require intravenous, intramuscular or subcutaneous medications while attending the program.

~~(e) The program policy statement shall include the policy on medications, specifying that participants who are able to keep their medicines shall keep them safely and that the program will keep medicine of participants who are unable to be responsible for their own.~~

Authority G.S. 131D-6; 143B-153.

10A NCAC 06R .0506 HOURS AND DAYS OF OPERATION

~~(a) The hours and days of operation shall be set to meet the needs of the participants and their families.~~

~~(b)~~(a) Care Supervision of adult day program participants and adult day care program services shall be provided throughout all hours participants are present at the program.

~~(e)~~(b) The program ~~must~~ shall operate for a minimum of six hours. ~~hours each day.~~

~~(d)~~(c) Day care programs shall provide ~~care~~ supervision of participants and program activities at least five days per week, except that a facility may be closed for designated holidays, for hazardous weather conditions, for vacations, and for other reasons as agreed by the director and the county department of social services. Late openings or early closures may be scheduled on days when hazardous weather conditions exist or when emergency situations arise.

~~(e) Attendance schedules for individual participants should be designed to accommodate the work schedules of participants' caretaker.~~

Authority G.S. 131D-6; 143B-153.

10A NCAC 06R .0507 AVAILABILITY AND ACCESSIBILITY OF PROGRAM POLICIES

The adult day care program policy statement policies shall be posted in the facility during hours of operation provided to the participant's family member, responsible party or caretaker at the time of enrollment and copies shall be available on request [.0301(b)(5)(A) or (c)(3)(A) of this Subchapter].

Authority G.S. 131D-6; 143B-153.

10A NCAC 06R .0508 RECORDS

(a) Each adult day care program shall maintain records to document the progress of each participant and to document

program operation. Such records shall be kept in a locked file. The following records are required:

- (1) Individual Client Records. An individual folder for each participant shall be established and maintained, including a signed application recording: including:
 - ~~(a)~~ a signed application recording;
 - ~~(i)~~(A) client's full name;
 - ~~(ii)~~(B) address and telephone number;
 - ~~(iii)~~(C) date of birth, marital status and living arrangement of client;
 - ~~(iv)~~(D) time of day client will arrive and time of day client will leave the program; ~~center, on the average;~~
 - ~~(v)~~(E) travel arrangements to and from the center program for the client;
 - ~~(vi)~~(F) name, address and telephone number of at least two family members or friends who are responsible for the client and can be contacted in emergencies;
 - ~~(vii)~~(G) name, address and telephone number of a licensed medical service provider who will see the client on request; and
 - ~~(H)~~ personal concerns and knowledge of the caregiver that may have an impact on the care plan.
- ~~(b)~~(2) An individual folder for each participant shall be established and maintain copies of all current and former signed authorizations for the day care program to receive and give out confidential information on the participant, participant when necessary to maintain the participant's health and to help the participant improve. Such authorization shall include the name of the party from whom information is requested and to whom information is given. Such authorization ~~must~~ shall be dated within the prior 12 months and obtained each time a request for client participant information is made. ~~made from a different party;~~
- ~~(c)~~(3) An individual folder for each participant shall be established and maintain a signed authorization for the client to receive emergency medical care from any licensed medical practitioner, if such emergency care is needed by the client;
- ~~(d)~~(4) An individual folder for each participant shall be established and maintain a medical examination report conducted within the past three months of enrollment and updated annually, signed by a licensed physician, or physician's assistant, assistant or nurse practitioner. This report must be completed prior to enrollment and updated annually thereafter. The report shall include information on:

- ~~(i)~~(A) current diseases and chronic conditions and the degree to which these diseases and conditions require observation by day care staff, and restriction of normal activities by the client; ~~diseases/conditions require:~~
 - ~~(A)~~ special attention by day care staff,
 - ~~(B)~~ restriction of normal activities by the client;
 - ~~(ii)~~(B) presence and degree of psychiatric problems;
 - ~~(iii)~~(C) amount of direct supervision the client requires;
 - ~~(iv)~~(D) any limitations on physical activities; ~~activities, such as walking, exercises, etc.;~~
 - ~~(v)~~(E) listing of all medications with dosages and times medications are to be administered; and
 - ~~(vi)~~(F) most recent date participant was seen by doctor, doctor;
- ~~(5)~~ An individual folder for each participant shall be established and maintain assessment forms as identified in Rule .0501(a)(2), (b)(1) and (b)(2) of this Section.
- ~~(e)~~(6) An individual folder for each participant shall be established and maintain progress notes: the written report of staff discussions, conferences, consultation with family or other interested parties, evaluation of a participant's progress and any other significant information regarding a participant's situation. ~~situation;~~
- ~~(f)~~(7) An individual folder for each participant shall be established and maintain all service plans for the participant, including scheduled days of attendance, for the preceding 12 months, participant;
- ~~(g)~~(8) An individual folder for each participant shall be established and maintain a signed authorization if the participant or his responsible party will permit photographs, video, audio recordings or slides of the participant to be made by the day care program and specifying the publicity efforts program, whether for medical documentation, publicity, or any other purpose. Such authorization shall specify how and where in which such photographs, video, audio recordings or slides will be used. Such authorization used, and must be obtained prior to taking photographs, video, audio recordings or slides of the participant;
- ~~(h)~~(9) An individual folder for each participant shall be established and maintain a statement signed by the participant, a family member or other responsible person party (when applicable) acknowledging receipt of the program's policy statement program policies and agreeing to

uphold program policies pertaining to ~~their~~ the participant.

~~(2)(b) Program Records for Day Care Centers. Centers and Homes shall be kept a minimum of three years and Program records shall contain:~~

- ~~(a)(1) copies of activity schedules; program plans;~~
- ~~(b)(2) monthly records of expenses and income, including fees collected, and fees to be collected;~~
- ~~(c)(3) all bills, receipts and other pertinent information which document expenses and income; income, to be kept for a minimum of three years;~~
- ~~(d)(4) a daily record of attendance of participants by name;~~
- ~~(e)(5) accident reports;~~
- ~~(f)(6) a record of staff absences, annual leave and sick leave, including dates and names of substitutes;~~
- ~~(g)(7) reports on emergency and fire drills;~~
- ~~(h)(8) individual personnel records on all staff members including:

 - ~~(i)(A) application for employment;~~
 - ~~(B) evidence of a state criminal history check on each employee providing direct care;~~
 - ~~(ii)(C) job description;~~
 - ~~(iii)(D) medical certification of absence of a health condition that would pose a risk to others; communicable disease;~~
 - ~~(iv)(E) written note or report on any personnel action taken with the employee;~~
 - ~~(v)(F) written report of annual employee review;~~
 - ~~(G) CPR and first aid training documentation; and~~
 - ~~(H) signed statement to keep all participant information confidential.~~~~
- ~~(i)(9) a copy of all written policies, including:

 - ~~(i)(A) program policies; policy statement;~~
 - ~~(ii)(B) personnel policies;~~
 - ~~(iii)(C) agreements; agreements regarding shared space or space licensed by other Divisions;~~
 - ~~(iv)(D) plan for emergencies; and~~
 - ~~(v)(E) evacuation plan; evacuation;~~~~
- ~~(j)(10) evaluation reports; and~~
- ~~(k)(11) control file of DSS-1360s for all participants for whom Social Services Block Grant (Title XX) reimbursement is claimed.~~
- ~~(3) Program Records for Day Care Homes. Program records shall contain:

 - ~~(a) copies of program plans;~~
 - ~~(b) a monthly record of the expenses and income of the day care program;~~
 - ~~(c) all bills, receipts and other pertinent information which document~~~~

expenses and income, to be kept for a minimum of three years;

- ~~(d) a daily record of attendance of participants;~~
- ~~(e) accident reports;~~
- ~~(f) a copy of all written policies, including:

 - ~~(i) program policy statement;~~
 - ~~(ii) personnel policies;~~
 - ~~(iii) agreements;~~
 - ~~(iv) plan for emergencies;~~
 - ~~(v) evacuation plan;~~~~
- ~~(g) program evaluation reports;~~
- ~~(h) reports on emergency and fire drills;~~
- ~~(i) control file of DSS-1360s on all participants for whom Social Services Block Grant (Title XX) reimbursement is claimed.~~

Authority G.S. 131D-6; 143B-153.

SECTION .0600 – CERTIFICATION PROCEDURE

10A NCAC 06R .0601 PROCEDURE

- (a) All individuals, groups or organizations operating or wishing to operate an adult day care program as defined by G.S. 131D-6 ~~must~~ shall apply for a certificate to the county department of social services in the county where the program is to be operated.
- (b) ~~A designated social worker will supply necessary forms and standards for certification and will~~ shall provide technical assistance and shall conduct ~~make~~ a study of the program with the Division of Aging and Adult Services Form DAAS-1500 or DAAS-6205. ~~program.~~
- (c) The initial certification package shall be submitted through the county department of social services to the state Division of Aging and Adult Services. The materials and forms to be included in the package are: The following forms and materials make up an initial certification package and must be submitted through the county department of social services to the state Division of Aging:
 - (1) ~~The program policy statement; program policies;~~
 - (2) ~~Organizational organizational diagram;~~
 - (3) ~~Job job descriptions;~~
 - (4) ~~Documentation documentation showing planned expenditures and resources available to carry out the program of service for a 12 month period;~~
 - (5) ~~A a floor plan of the facility showing measurements, restrooms and planned use of space;~~
 - (6) ~~Form DSS-1498 DOA-1498 (Fire Inspection Report) or the equivalent completed and signed by the local fire inspector, indicating approval of the facility, no more than 30 days prior to submission with the certification package;~~

- (7) Form ~~DSS-1499—DOA-1499~~ (Building Inspection Report for Adult Day Care Centers), ~~Services for Adults~~DOA-1499a (Building Inspection Form for Adult Day Care Homes), or the equivalent completed and signed by the local building ~~inspector, or fire inspector or fire marshall if a building inspector is not available,~~ inspector indicating approval of the facility, no more than 30 days prior to submission with the certification package;
- (8) Form ~~DSS-2386—DENR-4054~~ (Sanitation Evaluation Report) or the equivalent completed and signed by a local sanitarian, indicating approval of the facility, no more than 30 days prior to the submission with the certification package;
- (9) ~~Written~~ written notice and the effective ~~date,~~ date if a variance of local zoning ordinances has been made in order for property to be utilized for an adult day care program;
- (10) ~~A~~ a copy of the articles of incorporation, bylaws and names and addresses of board ~~members,~~ members for adult day care programs sponsored by a non-profit corporation;
- (11) ~~The~~ the name and mailing address of the owner if a proprietary program;
- (12) ~~A~~ a written medical statement from a physician, nurse practitioner or a physician's assistant, completed within the 12 months prior to submission of the certification package, for each proposed staff member certifying absence of a health condition that would pose a risk to others and that the employee can perform the duties normally assigned on the job; to freedom from communicable disease or condition and to good health signed by a licensed physician, physician assistant or nurse practitioner no more than 30 days prior to submission with the certification package. When such certification cannot be made, the proposed staff member may be hired based on an assessment of whether the work tasks would pose a significant risk to the health of the employee, co-workers, or the public, or whether the employee is unable to perform the normally assigned job duties; and
- (13) verification of standard first aid and cardio-pulmonary resuscitation certification (CPR) for each proposed staff member who is physically able and who will have direct contact with participants. If a staff member is determined to be physically unable to complete this training, a signature by a licensed physician, physician assistant or nurse practitioner attesting to such shall be provided indicating the time limit of such physical inability. The first aid and CPR training shall be:
- (A) taught by an instructor certified through the American Heart Association, American Red Cross, National Safety Council, American Safety and Health Institute, or Emergency Medical Services;
- (B) current, as determined by the organization conducting the training and issuing the certification; and
- (C) documented on an official attendance card issued by the organization certifying the training, or documented by the attendance course roster, in which case the roster shall be signed by the instructor, indicate pass or fail for each student, indicate the length of time the training is valid and be accompanied by a copy of the instructor's certification.
- (14) evidence of the completion of a state criminal history check for the program owner and each proposed staff member having direct contact with participants; and
- (13)(15) ~~DSS-1500—DAAS-1500~~ (Adult Day Care Certification Report). This form must be submitted by the county department of social services with a copy to the program.
- (d) The following forms and materials make up a certification package for the renewal of a certification and ~~must~~ shall be submitted through the county department of social services, no more than 60 days prior to the end of the current period of certification, to the state Division of Aging and Adult Services:
- ~~Aging:~~
- (1) Form ~~DSS-1498—DOA-1498~~ (Fire Inspection Report) or the equivalent completed and signed by the local fire inspector, indicating approval of the facility, dated no more than 12 months prior to submission with the certification package;
- (2) Form ~~DSS-1499—DOA-1499~~ (Building Inspection Report for Adult Day Care Centers), DOA-1499a (Building Inspection Form for Adult Day Care Homes), ~~Services for Adults~~ or the equivalent when structural building modifications have been made during the previous 12 months, completed and signed by the local building ~~inspector, or fire inspector or fire marshall if a building inspector is not available,~~ inspector indicating approval of the facility, within 30 days following completion of the structural building modifications;
- (3) Form ~~DSS-2386—DENR-4054~~ (Sanitation Evaluation Report) or the equivalent completed and signed by a local ~~sanitarian,~~ environmental health specialist, indicating approval of the facility, no more than 12

- months prior to submission with the certification package;
- (4) ~~A~~ a written medical statement from a physician, nurse practitioner or physician's assistant for each staff member hired subsequent to the previous certification or recertification expiration date, certifying absence of a health condition that would pose a risk to others and that the employee can perform the duties normally assigned on the job; to freedom from communicable disease or condition and to good health signed by a licensed physician, physician assistant or nurse practitioner no more than 12 months prior to submission with the certification package. When such a certification cannot be made, employment may be continued, terminated, or reassigned based on an assessment of whether the employee's work tasks would pose a significant risk to the health of the employee, co-workers, or the public, or whether the employee is unable to perform normally assigned job duties;
- (5) ~~An~~ an updated copy of the policy statement, program policies, organizational diagram, job descriptions, names and addresses of board members if applicable, and a floor plan showing measurements, restrooms, and planned use of space, if any changes have been made since the previous certification package was submitted;
- (6) ~~Documentation~~ documentation showing planned expenditures and resources available to carry out the program of service for a 12 month period; and
- (7) verification of standard first aid and cardio-pulmonary resuscitation certification (CPR) for each proposed staff member who is physically able and who will have direct contact with participants. If a staff member is determined to be physically unable to complete this training, a signature by a licensed physician, physician assistant or nurse practitioner attesting to such shall be provided indicating the time limit of such physical inability. The first aid and CPR training shall be:
- (A) taught by an instructor certified through the American Heart Association, American Red Cross, National Safety Council, American Safety and Health Institute or Emergency Medical Services;
- (B) current, as determined by the organization conducting the training and issuing the certification; and
- (C) documented by an official attendance card or attendance course roster, in which case the roster shall indicate

pass or fail for each participant and be accompanied by the instructor's certification, signature, and length of time the training is valid.

~~(7)~~(8) ~~DSS 1500~~ DAAS-1500 (Adult Day Care Certification Report). This form must be submitted with the certification package by the Department of Social Services to the Division of Aging and Adult Services at least 30 days in advance of the expiration date of the certificate, with a copy to the program.

~~(e)~~ If during the study of the program it does not appear that all standards can be met, the county department will so inform the applicant, indicating in writing the reasons, and give the applicant an opportunity to withdraw the application. Upon the applicant's request, the application will be completed and submitted to the Division of Aging for consideration.

~~(f)~~(e) Following review of the certification package, a pre-certification visit may be made by staff of state Division of Aging and Adult Services. Aging-

~~(g)~~(f) The Within 14 business days, the Division of Aging and Adult Services will promptly notify in writing shall provide written notification to the applicant and the county department of social services of the action taken after a review of the certification package and visit, if made.

Authority G.S. 130A-148; 131D-6; 143B-153.

SECTION .0700 - CONSTRUCTION REQUIREMENTS FOR DAY CARE HOME

10A NCAC 06R .0701 RESIDENTIAL BUILDING CODE REQUIREMENTS

Construction ~~Adult Day Care Homes initially certified after January 1, 2003 and those that make structural building modifications after this date shall ~~must~~ meet the residential building code requirements of the North Carolina Commercial Building Code. The requirements shall include: Insurance Department, including:~~

- (1) ~~Standard~~ standard wood frame, brick, block or veneer construction;
- (2) ~~One story in height; Two stories in height are allowed provided:~~
- (a) ~~Neither floor shall be greater than 1800 square feet in area.~~
- (b) ~~No aged or physically infirm persons may be housed on the second floor.~~
- (c) ~~No required participant facilities shall be located on the second floor.~~
- (d) ~~A complete fire alarm system shall be installed with pull stations on each floor.~~
- (e) ~~Interconnected products of combustion detectors directly wired to the house current shall be installed on each floor;~~
- ~~(3)~~(2) ~~Attic cannot~~ attic shall not be used for storage;
- ~~(4)~~(3) ~~Porches~~ porches and stoops ~~must~~ shall be protected by handrails;

- ~~(5)(4) Steps must steps shall be protected by handrails; and~~
- ~~(5) all entrances, pathways and exits shall adhere to the North Carolina State Accessibility Code.~~
- ~~(6) Corridor:

 - ~~(a) in existing buildings, a minimum width of three feet;~~
 - ~~(b) in new buildings, a minimum width of three and one-half feet;~~
 - ~~(c) well lighted sufficiently enough for residents to see clearly;~~~~
- ~~(7) Outside entrances:

 - ~~(a) All outside doors must be three feet wide;~~
 - ~~(b) Must be at ground level;~~
 - ~~(c) All steps, porches, ramps or stoops protected by handrails.~~~~

Authority G.S. 143B-153.

10A NCAC 06R .0702 FIRE AND SAFETY REQUIREMENTS

Adult Day Care Homes shall:

- ~~(1) have fire extinguishers of the type recommended by the fire inspector and governed by the North Carolina Fire Prevention Code, centrally located in the kitchen;~~
- ~~(2) provide automatic station products of combustion type smoke detectors as required by the North Carolina Fire Prevention Code;~~
- ~~(3) provide listed heat detectors in the attic and basement from the approved list in the North Carolina Fire Prevention Code; and~~
- ~~(4) provide a fire safety and evacuation plan to be prepared according to requirements of the North Carolina Fire Prevention Code.~~

- ~~(a) Fire extinguishers of the type recommended by the fire inspector but no less than a two and one-half gallon water type, centrally located and a dry powder or CO(2) type in the kitchen.~~
- ~~(b) Provide automatic single station U.L. products of combustion type smoke detectors as determined by the local fire department or local building inspector as appropriate. These units must be operated by the house current. U.L. approved heat detectors in the attic and basement.~~
- ~~(c) Other U.L. approved fire detection system as required by city ordinances or county building inspectors.~~
- ~~(d) A written evacuation plan, in case of fire, approved by the local fire department, must be posted and rehearsed four times each year by staff and participants.~~

Authority G.S. 143B-153.

10A NCAC 06R .0703 OTHER

Adult day care programs initially certified after January 1, 2003, or those that make structural building modifications after this date, shall comply with the North Carolina building codes where are hereby incorporated by reference, including subsequent amendments and additions. Copies of the building codes may be

obtained from the North Carolina Department of Insurance, Office of State Fire Marshall, 2101 Mail Service Center, Raleigh, NC 27699-2101, or telephone (919) 661-5880, at a cost of fifty dollars (\$50.00); or available at the following website: <http://www.ncdoi.com/OSFM/default.asp>.

- ~~(a) An approved central heating system (portable heaters of any kind are not allowed).~~
- ~~(b) An approved hot water tank large enough to provide continuous hot water to kitchen and bath.~~
- ~~(c) At least one toilet shall have a seat 20 inches from the floor and two handrails 30-36 inches high parallel to the floor securely fastened at each end, or safety frames.~~

Authority G.S. 143B-153.

SUBCHAPTER 06S – ADULT DAY HEALTH STANDARDS FOR CERTIFICATION

SECTION .0100 - INTRODUCTION AND DEFINITIONS

10A NCAC 06S .0102 DEFINITIONS

(a) Adult day health services is the provision of an organized program of services during the day in a community group setting for the purpose of supporting an adult's personal independence, and promoting his social, physical, and emotional well-being. Services must include health care services as defined in Rule .0403(a) of this Subchapter and a variety of program activities designed to meet the individual needs and interests of the participants, and referral to and assistance in using appropriate community resources. Also included are food and food services to provide a nutritional meal and snacks as appropriate to the program. Transportation to and from the service facility is an optional service that may be provided by the day health program.

(b) The community group setting is:

- (1) a day health center, which is a program operated in a structure other than a single family dwelling; or
- (2) a day health home, which is a program operated in a single family dwelling limited to ~~two to five~~ 16 adults; or
- (3) a day health program in a multi-use facility, which is a day health center established in a building which is used at the same time for other activities; or
- (4) a combination program, which is a program offering both adult day care and adult day health services.

(c) In addition to Paragraphs (a) and (b) of this Rule, the definitions of terms set forth in 10A NCAC 06R .0200 shall apply.

Authority G.S. 131D-6.

SECTION .0200 – ADMINISTRATION

10A NCAC 06S .0203 STAFFING PATTERN

(a) The staffing pattern in day health centers and homes shall be dependent upon the enrollment criteria and the particular needs of the participants who are to be served. ~~The ratio of paid staff~~

to participants shall be adequate to meet the goals and objectives of the program.

(b) There ~~must~~ shall be a minimum of one ~~paid~~ full-time equivalent staff position with responsibility for direct participant care for each five participants. In combination programs, there ~~must~~ shall be a minimum of one ~~paid~~ full-time equivalent staff position with responsibility for direct participant care for each six participants.

(c) Substitutes ~~must~~ shall be used to maintain the staff-participant ratio and to assure ~~proper~~ supervision of the delivery of the health care services whenever ~~paid~~ regularly scheduled staff are absent.

Authority G.S. 131D-6.

10A NCAC 06S .0204 STAFF REQUIREMENTS

(a) Program Director of Adult Day Health Centers:

- (1) Adult day health centers with a capacity of more than 10 participants ~~must~~ shall have a full-time program director or qualified substitute as defined in this Subchapter. The program director for director. Adult-adult day health centers with a capacity of 10 or fewer participants may also serve ~~must have a full time program director or a program director who also serves as~~ the health care coordinator provided that the individual meets all the requirements set forth in Paragraphs (a) and (b) of this Rule and if requirements in Rule .0203 of this Section related to program capacity are met. If requirements of Paragraphs (a) and (b) of this Rule are met, and the capacity is greater than ten participants, the program director may serve as the substitute health care coordinator for up to but not exceeding three consecutive weeks.
- (2) The program director shall have the authority and responsibility for the management of activities and direction of staff to insure that activities and services are provided ~~appropriately and~~ in accordance with established program policies. The program director shall assign authority and responsibility for the management of activities and direction of staff when the program director is not on site.
- (3) The program director shall: ~~must meet all of the following minimum qualifications and personal traits:~~
 - (A) ~~shall~~ be at least 18 years of age;
 - (B) ~~shall~~ have completed at least a minimum of two years of formal post secondary education from an agency accredited by the United States Department of Education institution of education (including colleges, universities, technical institutes, and ~~accredited~~ correspondence schools) or shall have a high school ~~education~~

diploma or the equivalent, and a combined minimum of two-five years experience and training in services to elderly or adults with disabilities; handicapped adults;

- (C) ~~shall~~ have at least ~~one year~~ two years of work experience ~~in a human services area, and demonstrated ability~~ in supervision and administration;
- (D) ~~shall provide~~ provide, prior to employment, a written medical statement from a physician, nurse practitioner, or physician's assistant, completed within the prior 12 months, assistant certifying absence of a health condition that would pose a risk to others and ability to perform the duties assigned on the job; and good physical health, including freedom from communicable disease or condition prior to employment in the day health program and annually thereafter. When such certification cannot be made, employment may commence, continue, terminate, or be reassigned based on an assessment on whether the employee's work tasks would pose a significant risk to the health of the employee, co-workers or the public, or whether the employee is unable to perform the normally assigned job duties;
- (E) ~~shall~~ provide at least three current reference letters or the names of individuals with whom a reference interview can be conducted, including at least one former employer, if any. The individuals providing reference information ~~must be knowledgeable~~ shall have knowledge of the applicant program director's background and qualifications.
- (4) In employing a program director, the governing body, agency or owner shall consider whether or not applicants exhibit ~~the following characteristics. Only persons having these characteristics required to~~ shall be considered for the position of program ~~director: director.~~ These characteristics include:
 - (A) ability to design and implement a varied, structured program of group and individual activities; and
 - (B) managerial and administrative skills - ability to supervise staff and to plan and coordinate meaningful staff training.

(b) Health Care Coordinator of Adult Day Health Centers:

- (1) Adult day health centers ~~must~~ shall have a health care coordinator to coordinate the delivery of health care services and participate in direct care as specified in Subparagraph (b)(2) of this Rule. The health care coordinator shall be on-site a minimum of four hours per day and any additional hours necessary to meet the requirements for the provision of health care services as set forth in this Subchapter. The health care coordinator may assume responsibility for the position in Paragraph (a) of this Rule, if qualified for that position and if requirements in Paragraph (a) of this Rule and requirements in Rule .0203 of this Section related to program capacity are met.
- (2) The nursing responsibilities of the health care coordinator, consistent with the Nursing Practice Act, include: ~~include but are not limited to:~~
- (A) completing preadmission health assessment for initial acceptance into program, including problem-identification and care planning;
 - (B) implementing the health care components of the established service plan which shall include medication administration, wound care, enteral or parenteral feedings, bowel or bladder training and maintenance programs, tracheotomy care and suctioning, and delegating nursing care tasks to unlicensed personnel; ~~may include, but are not limited to:~~
 - (i) ~~medication administration;~~
 - (ii) ~~wound care;~~
 - (iii) ~~enteral or parenteral feedings;~~
 - (iv) ~~bowel or bladder training and maintenance programs;~~
 - (v) ~~tracheostomy care and suctioning;~~
 - (vi) ~~delegating appropriate nursing care tasks to qualified unlicensed personnel;~~
 - (C) monitoring participant's response to medical treatment plan and nursing interventions and revising plan of care as necessary;
 - (D) reporting and recording results of the nursing assessment, care rendered and participant's response to care;
 - (E) collaborating with other health care professionals and caregivers regarding provision of participant's health care;
 - (F) educating other staff members to emergency procedures and providing information to staff and caregivers about health concerns and conditions of participants; ~~and~~
 - (G) providing first aid treatment as needed; ~~and needed.~~
 - (H) make certain health and personal care services as outlined in 10A NCAC 06S .0403 are provided to participants consistent with the participant's service plans.
- (3) The health care coordinator: ~~coordinator must meet the following minimum qualifications:~~
- (A) ~~must~~ shall be either a registered nurse or a licensed practical nurse currently licensed to practice in North Carolina; and
 - (B) if the health care coordinator is a licensed practical nurse, supervision shall be provided by a registered nurse consistent with the Nursing Practice Act G.S. 90-171 and 21 NCAC 36 .0224 through .0225. Copies of these Rules shall be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, telephone (919) 733-2678, at a cost of two dollars and fifty cents (\$2.50) for up to 10 pages and twenty-five cents (\$.25) for each additional page, or available at the following website: <http://reports.oah.state.nc.us/ncac.asp>. The licensed practical nurse shall also receive on-site supervision by a registered nurse as needed, or at minimum, every two weeks; nurse:
 - (i) ~~supervision must be provided by a registered nurse consistent with the Nursing Practice Act and 21 NCAC 36 .0224 .0225. Copies of these Rules may be obtained from the Office of Administrative Hearings, Post Office Drawer 27447, Raleigh, NC 27611 7447, (919) 733 2678, at a cost of two dollars and fifty cents (\$2.50) for up to 10 pages and fifteen cents (\$0.15) for each additional page; and~~
 - (ii) ~~on site supervision by the registered nurse must occur no less frequently than every two weeks.~~

- (C) shall have knowledge and understanding of the physical and emotional aspects of aging, the resultant diseases and infirmities and related medications and rehabilitative measures;
- (D) shall be at least 18 years of age;
- (E) shall ~~provide~~ provide, prior to employment, a written medical statement from a physician, nurse practitioner, or physician's assistant assistant, completed within the prior 12 months, certifying absence of a health condition that would pose a risk to others and ability to perform the duties assigned on the job; and good physical health, including freedom from communicable disease or condition prior to employment and annually thereafter. When such certification cannot be made, employment may commence, continue, terminate, or be reassigned based on an assessment of whether the employee's work tasks would pose a significant risk to the health of the employee, co-workers or the public, or whether the employee is unable to perform the normally assigned job duties;
- (F) shall provide at least three current reference letters or the names of individuals with whom a reference interview can be conducted, including at least one former employer, if any. The individuals providing reference information ~~must be knowledgeable~~ shall have knowledge of the applicant ~~director's~~ coordinator's background and qualifications.

(c) Staff Responsible for Personal Care in Adult Day Health Centers. All day health center staff providing personal care ~~must~~ shall present evidence of meeting the following qualifications ~~before prior to~~ assuming such responsibilities:

- (1) successful completion of nurse's aide, home health aide or equivalent training course, or
- (2) a minimum of one year of experience in caring for impaired adults, related experience.

(d) Personnel in Adult Day Health Homes:

- (1) A minimum of one full-time equivalent staff person ~~must~~ shall be designated as having responsibility for direct participant care for ~~two up to~~ five participants. The staff person with this responsibility ~~may~~ shall be the operator or other designated ~~paid~~ staff.
- (2) The operator or designated ~~paid~~ staff shall meet the requirements for health care coordinators as set forth in Paragraph (b) of this Rule and shall have at least two years of

work experience and ability to manage all aspects of a day health program. and:

- ~~(A) be competent and qualified to carry out the responsibilities of providing a day health program; and~~
- ~~(B) have at least two years of related work experience and ability to manage all aspects of a day health program.~~

(3) The day health home shall have substitute or relief staff to enable the day health home to remain open on days when the operator is not available to supervise the program. This substitute or relief staff shall meet the requirements for health care coordinators as set forth in Paragraph (b) of this Rule.

Authority G.S. 130A-148; 131D-6.

SECTION .0300 - FACILITY REQUIREMENTS FOR CENTERS AND HOMES

10A NCAC 06S .0301 REQUIREMENTS

(a) General requirements governing facilities, construction, equipment and furnishings for adult day care as set forth in 10A NCAC 06R .0400 shall apply to adult day health.

(b) Additional facility requirements are as follows:

- (1) Facility space ~~must~~ shall be of sufficient dimension and size to allow for required program group activities. Notwithstanding the space requirements of 10A NCAC 06R .0401:
 - (A) day health centers and day health homes shall provide at least 60 square feet of indoor space excluding hallways, offices and restrooms for each participant;
 - (B) combination programs shall provide at least 50 square feet of indoor space excluding hallways, offices and restrooms for each participant; and
 - (C) day health programs or combination programs which share space with other programs or activities in a multi-use facility ~~must~~ shall have a nucleus area separate from other activities in the rest of the building and shall have a fire-resistant rated separation according to the North Carolina Building Code. building. The nucleus area must provide at least 40 square feet of indoor space per participant excluding hallways, offices and restrooms, and a minimum of 20 square feet per participant must be provided in other space in the facility designated for use by the day health program. When the other space is being used at the same time by individuals

participating in other services provided in the multi-use facility, the 20 square feet per participant is in addition to any minimum square footage requirement for other use of such space. Shared facility space outside the nucleus area which may be used by the day health program and counted in meeting the 20 square feet per participant requirement includes craft, therapy and other activity areas. Dining space may be included if also used for activities. Offices, restrooms, hallways, kitchens and shared treatment rooms may not be counted in meeting the 20 square feet per participant requirement. Participation shall be open only to persons enrolled in the program and to visitors on a planned basis. Involvement of day health participants in other activities in the building shall be on planned basis, as a part of the day health program plan, and supervised by a day health staff member.

(i) ~~The nucleus area must provide at least 40 square feet of indoor space per participant excluding hallways, offices and restrooms, and a minimum of 20 square feet per participant must be provided in other space in the facility designated for use by the day health program. When the other space is being used at the same time by individuals participating in other services provided in the multi-use facility, the 20 square feet per participant is in addition to any minimum square footage requirement for other use of such space. Shared facility space outside the nucleus area which may be used by the day health program and counted in meeting the 20 square feet per participant requirement includes craft, therapy and other activity areas. Dining space may be included if also used for activities. Offices, restrooms, hallways, kitchens and shared treatment rooms may not be~~

~~counted in meeting the 20 square feet per participant requirement.~~

~~(ii) Participation is open only to persons enrolled in the program and to visitors on a planned basis. Depending on the nature of the other activities in the building, it may or may not be appropriate for day health participants to share in them on a planned basis. Such involvement must be as part of the day health program plan and must be supervised by a day health staff member.~~

~~(iii) The Department will grant certification to programs operating in multi-use facilities, even though they are not otherwise in compliance with space requirements, if the integrity of the program and the health, safety, and well being of the participants at or above the level of the requirements of this Subchapter. No variance shall be allowed by the department to standards adopted by the Building Code Council and subject to the general supervision and enforcement of the Commissioner of Insurance, or to any standard adopted by the Health Services Commission. If certification is granted despite non-compliance with the space requirement, such certification may be renewed if the Department determines that the health, safety and well being of the participants are not being threatened, and if the integrity of the program is not being compromised.~~

(2) Facilities with a capacity of more than 12 adults, including staff, shall have a minimum of one male and one female accessible toilet in accordance with the North Carolina Accessibility Code, separate restrooms for males and females. Each restroom shall contain a minimum of one toilet and one

~~lavatory. One toilet shall be available for each 12 adults, including staff and participants who utilize the facility. One hand lavatory shall be provided for each two toilets.~~

(3) ~~The facility shall have a minimum of one private office for staff use with equipment and furnishings for administrative purposes and for conferences with individual participants and families.~~

(3)(4) ~~The facility shall include a treatment room which is enclosed and private from the rest of the facility. The treatment room shall meet the requirements of the North Carolina State Building Code. The treatment room must shall have a sink or have a door-way which that connects it to a room containing a sink. The room shall contain a treatment table, table or bed with a waterproof mattress cover that will serve as a treatment table, storage cabinet for first aid and medical supplies and equipment, table or desk and two chairs. The storage cabinet shall be kept locked.~~

(4)(5) ~~The facility treatment room shall provide a means of insuring the privacy of the person on the treatment table. have sufficient private offices for staff use, including use for conferences with individual participants and their families. Programs must have a minimum of one private office with sufficient equipment and furnishings for administrative purposes and for conferences. Programs in multi-use facilities must have their own offices readily accessible to family members, staff and participants.~~

(5)(6) ~~The facility treatment room shall have, at a minimum, have the following medical supplies and equipment:~~

- (A) ~~standard first aid supplies adequate to meet the needs of participants, consisting of absorbent compress, adhesive bandages, adhesive tape, antiseptic, burn treatment, medical exam gloves, sterile pads and triangular bandage;~~
- (B) ~~fever thermometer; thermometer;~~
- (C) ~~blood pressure cuff; cuff;~~
- (D) ~~stethoscope; stethoscope;~~
- (E) ~~medical scales; scales;~~
- (F) ~~privacy screen; screen;~~
- (G) ~~emesis basin; basin;~~
- (H) ~~bed pan; pan;~~
- (I) ~~urinal; and urinal;~~
- (J) ~~wash basin.~~

Authority G.S. 131D-6.

SECTION .0400 - PROGRAM OPERATION

10A NCAC 06S .0402 ADDITIONAL ENROLLMENT

AND PARTICIPATION REQUIREMENTS

(a) Adult day health programs may serve persons 18 years of age or older who need day health services in order to support their independence and who require one or more of the following during the hours of the day health program:

- (1) ~~Monitoring of a medical condition; or~~
- (2) ~~Provision of assistance with or supervision of activities of daily living; or~~
- (3) ~~Administration of medication, special feedings or provision of other treatment or services related to health care needs.~~

(b) Day health programs shall not enroll or continue to serve persons whose needs exceed the capability of the program.

(c) Each individual's service plan, in addition to the requirements set forth in 10A NCAC 06R .0501, shall include the health needs and the goals for meeting the health needs of the individual.

~~(d) A minimum of 25 percent of the participants in daily attendance in a combination program must be enrolled for adult day care services. Enrollment criteria for adult day care participants shall be consistent with the following target populations:~~

- (1) ~~Adults who do not need nursing supervision but who require complete, full-time daytime supervision in order to live in their own home or the home of a relative; or~~
- (2) ~~Adults who need help with activities of daily living in order to maintain themselves in their own homes; or~~
- (3) ~~Adults who need intervention in the form of enrichment and opportunities for social activities in order to prevent deterioration that would lead to placement in group care; or~~
- (4) ~~Individuals enrolled in an adult day care program who need time limited support in making the transition from independent living to group care, or individuals who need time limited support in making the transition from group care to independent living.~~

Authority G.S. 131D-6.

10A NCAC 06S .0403 HEALTH AND PERSONAL CARE SERVICES

(a) The following health care and personal care services shall be provided:

- (1) ~~assistance with activities of daily living including, but not limited to feeding, ambulation, or toileting as needed by individual participants in adult day health programs; participants;~~
- (2) ~~health care monitoring of each participant's general health and medical regimen. This includes documenting the periodic assessment of the vital signs, weight, dental health, general nutrition, and hygiene of each participant. When significant health changes occur, positive or negative, the adult day care program staff shall notify the family, caretaker~~

or responsible party of the changes. ~~such changes shall be reported as soon as possible to the caretaker.~~ The change in health status and notification of the appropriate person shall be recorded in the participant's file;

- (3) assistance to participants and ~~caretakers~~ caregivers with medical treatment plans, diets, and referrals as needed;
- (4) health education programs for all participants on a regular basis, at least monthly, and health care counseling tailored to meet the needs of participants and caregivers; and caretakers;
- (5) ~~providing~~ first aid treatment as needed.

(b) Specialized services, e.g. speech therapy, physical therapy, and counseling, shall be facilitated by the adult day health program as ~~required~~ ordered by a physician and as available through community resources.

Authority G.S. 131D-6.

10A NCAC 06S .0404 TRANSPORTATION

Standards as set for in 10A NCAC 06R .0503 shall be met by adult day health programs.

~~(a) When the day health program provides transportation, the following requirements must be met to ensure the health and safety of the participants:~~

- ~~(1) Each person transported must have a seat in the vehicle;~~
- ~~(2) Participants shall be transported no more than 30 minutes without being offered the opportunity to have a rest stop;~~
- ~~(3) Vehicles used to transport participants shall be equipped with seatbelts. Participants shall be instructed to use seatbelts while being transported.~~

~~(b) It is desired that participants use public transportation, if available. Relatives and other responsible parties shall be encouraged to provide transportation if possible.~~

Authority G.S. 131D-6.

10A NCAC 06S .0405 EMERGENCIES AND FIRST AID

Standards as set forth in 10A NCAC 06R .0504 shall be met by adult day health programs.

~~(a) A written plan for handling emergencies must be established and displayed prominently in the facility:~~

- ~~(1) The plan shall relate to medical and non-medical emergencies and shall specify responsibilities of each staff member in an emergency;~~
- ~~(2) All staff shall be knowledgeable about the plan;~~
- ~~(3) Regular drills in handling different kinds of emergencies must be conducted and documented as to date and kind of emergency.~~

~~(b) An evacuation plan must be posted in each room and fire drills must be conducted at least quarterly. A record must be kept of dates and time required to evacuate the facility.~~

~~(c) All staff who are determined able shall complete training in standard first aid and cardiopulmonary resuscitation. This training must be current, as determined by the organization conducting the training and issuing the certification.~~

~~(d) The program must arrange for medical assistance to be available in the event of an emergency.~~

~~(e) Sickness and all accidents resulting in physical injury or suspected physical injury must be reported to the program director who will involve the health care coordinator, as appropriate. The program director or operator shall make sure that all persons needing medical attention receive such attention as soon as possible. Families of participants, or other responsible persons, and staff are to be notified of emergency action taken as soon as possible. The program director or operator shall compile and keep on record a report of all emergency actions taken. A copy of the report shall be sent to the county department of social services and the county health department.~~

Authority G.S. 131D-6.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Sheriff's Education and Training Standards Commission intends to adopt the rules cited as 12 NCAC 10B .2003 - .2008, amend the rules cited as 12 NCAC 10B .0204-.0205, .0305, .0601, .0605 - .0607, .0713, .2001 - .2002 and repeal the rules cited as 12 NCAC 10B .1701 - .1705, .1801 - .1806.

Proposed Effective Date: *January 1, 2007*

Public Hearing:

Date: *August 30, 2006*

Time: *8:30 a.m.*

Location: *Pete Kulynych Family Life Center, 507 Courthouse Drive, Wilkesboro, NC*

Reason for Proposed Action:

12 NCAC 10B .0204 – Proposed amendment to correct a cross-reference to a rule cite and to revamp currently required 24-hour in-service training program for deputy sheriffs; establish a 16-hour in-service training requirement for Detention Officers and Telecommunicators.

12 NCAC 10B .0205 – Proposed amendment to delete incorrect rule cite.

12 NCAC 10B .0305 – Proposed amendment to add requirement to verify characterization of military discharge, which if not honorable, would also require military records check.

12 NCAC 10B .0601, .0605 - .0607 – Proposed amendments would change the grading format of the state examination for the Detention Officer Certification Course. Currently an individual is only required to obtain a 70% score on the entire exam. A unit format is proposed which would require an individual to obtain a 70% on four units. This change will ensure competency in each unit area.

12 NCAC 10B .0713 – Proposed amendment would require institutions offering the Telecommunicator and Detention Officer Certification Courses to ensure the students admitted to the course do not have a known prohibition to obtaining certification. In addition, amendment would require students admitted into the Telecommunicator Certification Course to undergo a reading assessment.

12 NCAC 10B .1701 - .1705; .1801 - .1806; .2001 - .2008 – Proposed amendments revamp currently required 24-hour in-service training program for deputy sheriffs; establish a 16-hour in-service training requirement for Detention Officers and Telecommunicators.

Procedure by which a person can object to the agency on a proposed rule: Objections shall be submitted in writing explaining the reasons for objection and specifying the portion of the rule to which the objection is being made. Such objection should be sent to: Julia Lohman, Sheriff's Standards Division, NC Department of Justice, P.O. Box 629, Raleigh, NC 27602.

Comments may be submitted to: Julia Lohman, P.O. Box 629, Raleigh, NC 27602, phone (919) 716-6460, fax (919) 716-6453, email jlohman@ncdoj.gov

Comment period ends: October 16, 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 10 - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0200 - ENFORCEMENT RULES

12 NCAC 10B .0204 SUSPENSION; REVOCATION; OR DENIAL OF CERTIFICATION

(a) The Commission shall revoke or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

- (1) a felony; or
- (2) a crime for which the authorized punishment could have been imprisonment for more than two years.

(b) The Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

- (1) has not enrolled in and satisfactorily completed the required basic training course in its entirety within a one year time period as specified by the rules in this Subchapter; or
- (2) fails to meet or maintain any of the employment or certification standards required by 12 NCAC 10B .0300; or
- (3) fails to satisfactorily complete the in-service training requirements as presented in 12 NCAC 10B ~~.1700, .1800, .2000~~ and .2100; or
- (4) has refused to submit to the drug screen as required in 12 NCAC 10B ~~.0306(a)(6)~~ .0301(a)(6) or .0410(a) or in connection with an application for or certification as a justice officer or a criminal justice officer as defined in 12 NCAC 09A .0103(6); or
- (5) has produced a positive result on any drug screen reported to the Commission as specified in 12 NCAC 10B .0410 or reported to any commission, agency, or board established to certify, pursuant to said commission, agency, or boards' standards, a person as a justice officer or a criminal justice officer as defined in 12 NCAC 09A .0103(6), unless the positive result is due to a medically indicated cause.

(c) The Commission may revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or certified justice officer:

- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or
- (2) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or

- (3) has knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aided another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain in-service firearms requalification as required by 12 NCAC 10B .2000 and .2100; or
 - (4) has been removed from office by decree of the Superior Court in accordance with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230; or
 - (5) has been denied certification or had such certification suspended or revoked by the North Carolina Criminal Justice Education and Training Standards Commission, or a similar North Carolina, out-of-state or federal approving, certifying or licensing agency.
- (d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:
- (1) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor and which occurred after the date of initial certification; or
 - (2) a crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor within the five-year period prior to the date of appointment; or
 - (3) four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(b) as Class B misdemeanors regardless of the date of commission or conviction; or
 - (4) an accumulation of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor, regardless of the date of commission or conviction except the applicant shall be certified if the last conviction or commission occurred more than two years prior to the date of appointment; or
 - (5) any combination of four or more crimes or unlawful acts defined in 12 NCAC 10B .0103(10)(a) as a Class A misdemeanor or defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor regardless of the date of commission or conviction.
- (e) Without limiting the application of G.S. 17E, a person who has had his certification suspended or revoked shall not exercise the authority or perform the duties of a justice officer during the period of suspension or revocation.
- (f) Without limiting the application of G.S. 17E, a person who has been denied certification revoked shall not be employed or

appointed as a justice officer or exercise the authority or perform the duties of a justice officer.

(g) If the Commission does revoke, suspend, or deny the certification of a justice officer pursuant to this Rule, the period of such sanction shall be as set out in 12 NCAC 10B .0205.

Authority G.S. 17E-7.

12 NCAC 10B .0205 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL

When the Commission suspends, revokes, or denies the certification of a justice officer, the period of sanction shall be:

- (1) permanent where the cause of sanction is:
 - (a) commission or conviction of a felony; or
 - (b) commission or conviction of a crime for which authorized punishment included imprisonment for more than two years; or
 - (c) the second revocation, suspension, or denial of an officer's certification for any of the causes requiring a five-year period of revocation, suspension, or denial as set out in Item (2) of this Rule.
- (2) not less than five years where the cause of sanction is:
 - (a) commission or conviction of offenses as specified in 12 NCAC 10B ~~.0204(d)(1), .0204(d)(1) and (4)~~.
 - (b) material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission.
 - (c) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission.
 - (d) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation or cheating whatsoever, aiding another in obtaining or attempting to obtain credit, training, or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission. This Rule shall also apply to obtaining or attempting to obtain credit for in-service training as required by 12 NCAC 10B .1700, .1800, .2000, or .2100.

- (e) failure to make either of the notifications as required by 12 NCAC 10B .0301(a)(7); or
- (f) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230.
- (g) a positive result on a drug screen, or a refusal to submit to drug testing both pursuant to 12 NCAC 10B .0301 and 12 NCAC 10B .0406, or in connection with an application for certification as a criminal justice officer as defined in 12 NCAC 09A .0103(6).

The Commission may either reduce or suspend the periods of sanction under this Item or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension, in the discretion of the Commission.

- (3) for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:
 - (a) failure to meet or satisfy relevant basic training requirements.
 - (b) failure to meet or maintain the minimum standards of employment or certification;
 - (c) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 10B .1700 or .2100.
 - (d) commission or conviction of offenses as specified in 12 NCAC 10B .0204(d)(2), (3), (4) and (5).
 - (e) denial, suspension, or revocation of certification pursuant to 12 NCAC 10B .0204(c)(5).

The Commission may either reduce or suspend the periods of sanction where revocation, denial or suspension of certification is based upon Subparagraphs .0204(d)(3), (d)(4), and (d)(5) or substitute a period of probation in lieu of revocation, suspension or denial following an administrative hearing. This authority to reduce or suspend the period of sanction may be utilized by the Commission when extenuating circumstances brought out at the administrative hearing warrant such a reduction or suspension, in the discretion of the Commission.

Authority G.S. 17E-4; 17E-7.

SECTION .0300 – MINIMUM STANDARDS FPR EMPLOYMENT AND CERTIFICATION AS A JUSTICE OFFICER

12 NCAC 10B .0305 BACKGROUND INVESTIGATION

(a) Prior to the background investigation conducted by the employing agency to determine the applicant's suitability to perform essential job functions, the applicant shall complete the Commission's Personal History Statement (F-3) to provide a basis for the investigation. The Personal History Statement (F-3) submitted to the Division shall be completed no more than 120 days prior to the applicant's date of appointment.

(b) If the Personal History Statement (F-3) was completed more than 120 days prior to the applicant's date of appointment the Personal History Statement (F-3) shall be updated by the applicant who shall initial and date all changes or a new Personal History Statement (F-3) must be completed.

(c) The employing agency shall ensure the proper dates, signatures, and notarizations are affixed to the Personal History Statement (F-3); and shall also certify that the results of the background investigation are consistent with the information provided by the applicant on the Personal History Statement (F-3), and if not, provide the applicant the opportunity to update the F-3 prior to submission to the Division.

(d) The employing agency, prior to employment, shall examine the applicant's character traits and habits relevant to his/her performance as a justice officer and shall determine whether the applicant is of good moral character as defined in Rule .0301(a)(8). The investigator shall summarize the results of the investigation on the Commission-mandated Background Investigation Form (F-8) which shall be signed and dated by the investigator.

(e) The Background Investigation Form (F-8) shall include records checks from:

- (1) a state-wide search of the Administrative Office of the Courts (AOC) computerized system;
- (2) the national criminal record database accessible through the Division of Criminal Information (DCI) network;
- (3) the North Carolina Department of Motor Vehicles, if the applicant has ever possessed a driver's license issued in North Carolina; and
- (4) out-of-state motor vehicles check from the appropriate agency, if the applicant has ever been issued a driver's license by a state other than North Carolina.

(f) The Background Investigation must also include, if available, county-wide and certified records checks from each jurisdiction where the applicant has resided for the past 10 years and from the jurisdiction where the applicant attended high school. These records shall be performed on each name by which the applicant for certification has ever been known.

(g) If the applicant had prior military service within the 10 year period prior to the date of appointment, then the Background Investigation must also include a copy of the applicant's DD214 which shows the characterization of discharge and military discipline received, if any. If the DD214 indicates a discharge characterization of any type other than Honorable, then a military records check is also required.

~~(g)~~(h) The employing agency shall also forward to the Division certified copies of any criminal charge(s) and disposition(s) known to the agency or listed on the applicant's Personal History Statement (F-3) or both. The employing agency shall explain to the satisfaction of Division staff that charges or other violations which may result from the records checks required in Paragraph (e) of this Section do not pertain to the applicant for certification. This documentation shall be included with all other documentation required in 12 NCAC 10B .0408.

~~(h)~~(i) The employing agency shall include a signed and notarized Release Authorization Form which authorizes the Division staff to obtain documents and records pertaining to the applicant for certification which may be required in order to determine whether certification can be granted.

Authority G.S. 17E-7.

SECTION .0600 - MINIMUM STANDARDS OF TRAINING FOR DETENTION OFFICERS

12 NCAC 10B .0601 DETENTION OFFICER CERTIFICATION COURSE

(a) This Section establishes the current standard by which Sheriffs' Office and district confinement personnel shall receive detention officer training. The Detention Officer Certification Course shall consist of a minimum of 162 hours of instruction designed to provide the trainee with the skills and knowledge necessary to perform those tasks considered essential to the administration and operation of a confinement facility.

(b) Each Detention Officer Certification Course shall include the following identified topic areas and approximate minimum instructional hours for each area:

- (1) LEGAL UNIT
 - ~~(1)~~(A) Orientation 2 hours
 - ~~(2)~~(B) Criminal Justice System 3 hours
 - ~~(3)~~(C) Legal Aspects of Management & Supervision 19 hours
 - ~~(12)~~(D) Introduction to Rules & Regulations Governing Jails 2 hours
- (2) PHYSICAL UNIT
 - ~~(4)~~(A) Contraband/Searches 6 hours
 - ~~(8)~~(B) Patrol & Security Functions of the Jail 5 hours
 - ~~(9)~~(C) Key and Tool Control 2 hours
 - ~~(14)~~(D) Investigative Process in the Jail 9 hours
 - ~~(17)~~(E) Transportation of Inmates 7 hours
- (3) PRATICAL UNIT
 - ~~(5)~~(A) Processing Inmates 7 hours
 - ~~(10)~~(B) Supervision &

- Management of Inmates 5 hours
- ~~(14)~~(C) Suicides & Crisis Management 5 hours
- ~~(16)~~(D) Aspects of Mental Illness 6 hours
- ~~(18)~~(E) Fire Emergencies 4 hours
- (4) MEDICAL UNIT
 - ~~(6)~~(A) First Aid & CPR 10 hours
 - ~~(7)~~(B) Medical Care in the Jail 6 hours
 - ~~(13)~~(C) Stress 2 hours
 - ~~(15)~~(D) Subject Control Techniques 24 hours
 - ~~(19)~~(E) Physical Fitness for Detention Officers 20 hours
 - ~~(20)~~(F) Communication Skills 5 hours
 - ~~(21)~~(G) Ethics 3 hours
- ~~(22)~~(5) REVIEW/TESTING ~~Review/Testing~~ 7 hours
- ~~(23)~~(6) STATE EXAMINATION ~~State Comprehensive Examination~~ 3 hours
- TOTAL HOURS 162 hours

(c) Consistent with the curriculum development policy of the Commission as published in the "Detention Officer Certification Course Management Guide", the Commission shall designate the developer of the Detention Officer Certification Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Detention Officer Certification Courses. Individuals who complete such a pilot Detention Officer Certification Course offering shall be deemed to have complied with and satisfied the minimum training requirement.

(d) The "Detention Officer Certification Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for the Detention Officer Certification Course. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099. The cost of this manual is forty dollars (\$40.00) at the time of adoption of this Rule.

(e) The "Detention Officer Certification Course Management Guide" as published by the North Carolina Justice Academy is hereby incorporated by reference and shall automatically include any later amendments, editions of the incorporated matter to be used by school directors in planning, implementing and delivering basic detention officer training. The standards and requirements established by the "Detention Officer Certification Course Management Guide" must be adhered to by the school director. Each certified school director shall be issued a copy of the guide at the time of certification at no cost to the certified school.

Authority G.S. 17E-4(a).

12 NCAC 10B .0605 COMPLETION OF DETENTION OFFICER CERTIFICATION COURSE

(a) Each delivery of an accredited "Detention Officer Certification Course" is considered to be a unit as set forth in 12 NCAC 10B .0601. Each trainee shall attend and satisfactorily complete a full course during a scheduled delivery. The school director may develop supplemental rules as set forth in 12 NCAC 10B .0704(a)(7), but may not add substantive courses, or change or expand the substance of the courses set forth in 12 NCAC 10B .0601. This Rule does not prevent the instruction on local agency rules or standards but such instruction shall not be considered or endorsed by the Commission for purposes of certification. The Director may issue prior written authorization for a specified trainee's limited enrollment in a subsequent delivery of the same course where the school director provides evidence that:

- (1) The trainee attended and satisfactorily completed specified class hours and topics of the "Detention Officer Certification Course" but through extended absence occasioned by illness, accident, or emergency was absent for more than 10 percent of the total class hours of the course offering; or
- (2) The trainee was granted excused absences by the school director that did not exceed ten percent of the total class hours for the course offering and the school director could not schedule appropriate make-up work during the current course offering as specified in 12 NCAC 10B .0604(c) due to valid reasons; or
- (3) The trainee participated in an offering of the "Detention Officer Certification Course" but had an identified deficiency in essential knowledge or skill in either one, two or three, but no more than three, of the specified topic areas incorporated in the course content as prescribed under 12 NCAC 10B .0601(b).

(b) An authorization of limited enrollment in a subsequent course delivery may not be used by the Director unless in addition to the evidence required by Paragraph (a) of this Rule:

- (1) The trainee submits a written request to the Director, justifying the limited enrollment and certifying that the trainee's participation shall be accomplished pursuant to Paragraph (c) of this Rule; and
- (2) The school director of the previous school offering submits to the director a certification of the particular topics and class hours attended and satisfactorily completed by the trainee during the original enrollment.

(c) An authorization of limited enrollment in a subsequent course delivery permits the trainee to attend an offering of the "Detention Officer Certification Course" commencing within 120 calendar days from the last date of trainee participation in prior course delivery, but only if the trainee's enrollment with active course participation can be accomplished within the period of the trainee's probationary certification:

- (1) The trainee need only attend and satisfactorily complete those portions of the course which

were missed or identified by the school director as areas of trainee deficiency in the proper course participation.

- (2) Following proper enrollment in the subsequent course offering, scheduled class attendance and active participation with satisfactory achievement in the course, the trainee would be eligible for administration of the State ~~Comprehensive~~ Examination by the Commission and possible certification of successful course completion.
- (3) A trainee shall be enrolled as a limited enrollee in only one subsequent course offering within the 120 calendar days from the last date of trainee participation in prior course delivery. A trainee who fails to complete those limited portions of the course after one retest shall enroll in an entire delivery of the Detention Officer Certification Course.

(d) A trainee who is deficient in four or more subject-matter or topical areas at the conclusion of the course delivery shall complete a subsequent program in its entirety.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0606 COMP WRITTEN EXAM – DETENTION OFFICER CERTIFICATION COURSE

(a) At the conclusion of a school's offering of the "Detention Officer Certification Course", an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the course work. A trainee shall not be administered the comprehensive written examination until such time as all course work is successfully completed.

(b) The examination shall be an objective test covering the topic areas as described in 12 NCAC 10B .0601(b).

(c) The Commission's representative shall submit to the school director within 10 days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination if he/she achieves a minimum of 70 percent correct answers on each unit of the examination. ~~answers.~~

(e) A trainee who has fully participated in a scheduled delivery of an accredited training course and has demonstrated satisfactory competence in each motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on any unit of the Commission's comprehensive written examination may request the Director to authorize a re-examination of the trainee.

- (1) A trainee's Request for Re-examination shall be made in writing on the Commission's form within 30 days after the original examination and shall be received by the Division before the expiration of the trainee's probationary certification as a detention officer.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the trainee's "Detention Officer Certification Course".

- (3) A trainee shall have only one opportunity for re-examination and shall satisfactorily complete the subsequent examination in its entirety within 90 days after the original examination.
- (4) A trainee shall be assigned in writing by the Division a place, time, and date for re-examination.
- (5) Should the trainee on re-examination not achieve the prescribed minimum score of 70 on the unit examination, the trainee may not be recommended for certification and must enroll and complete a subsequent course in its entirety before further examination may be permitted.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0607 SATISFACTION OF MINIMUM TRAINING REQUIREMENTS

In order to satisfy the minimum training requirements for certification as a detention officer, a trainee shall:

- (1) achieve a score of 70 percent correct answers on each unit of the state~~the Commission administered~~ comprehensive written examination;
- (2) demonstrate successful completion of an accredited offering of the "Detention Officer Certification Course" as shown by the certification of the school director; and
- (3) obtain the recommendation of the trainee's school director that the trainee possesses at least the minimum degree of general attributes, knowledge, and skill to function as an inexperienced detention officer.

Authority G.S. 17E-4; 17E-7.

SECTION .0700 - MINIMUM STANDARDS FOR JUSTICE OFFICER SCHOOLS AND TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 10B .0713 ADMISSION OF TRAINEES

(a) The school director shall not admit any individual as a trainee in any commission-certified basic training course who is not a citizen of the United States.

~~(a)(b)~~ (b) The school may not admit any individual younger than 21 years of age as a trainee in any ~~non-academic~~ commission-certified basic training course without the prior written approval of the Director of the Standards Division. The Director shall approve those individuals who will turn 21 years of age during the course, but prior to the ending date.

~~(b)(c)~~ (c) The school shall give priority admission in commission-certified basic training courses to individuals holding full-time employment with criminal justice agencies.

~~(c)(d)~~ (d) The school shall administer the reading component of a standardized test which reports a grade level for each trainee participating in either the Telecommunicator or Detention

Officer Certification Course. The specific type of test instrument shall be determined by the school director and shall be administered ~~no later than by the end of the first two weeks of a presentation within the first week of the Detention Officer Certification Course~~. The grade level results on each trainee shall be submitted to the Commission on each trainee's Report of Student Course Completion. ~~Completion (Form F-7d)~~.

~~(e)(f)~~ (f) The school shall not admit any individual as a trainee in a presentation of the Detention Officer Certification Course or the Telecommunicator Certification Course unless as a prerequisite the individual has provided to the certified school director a Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) in compliance with 12 NCAC 10B .0304. The Medical Examination Report Form (F-2) and the Medical History Statement Form (F-1) required by the North Carolina Criminal Justice Education and Training Standards Commission shall be recognized by the Commission for the purpose of complying with this Rule.

(g) The school shall not admit any individual trainee in commission-certified basic training courses unless as a prerequisite the individual has provided the certified School Director a certified criminal record check for local and state records for the time period where the trainee has resided within the past 10 years and where the trainee attended high school. An Administrative Office of the Courts criminal record check or a comparable out-of-state criminal record check will satisfy this requirement.

(h) The school shall not admit any individual as a trainee in commission-certified basic training courses who has been convicted of the following:

- (1) a felony; or
- (2) a crime for which the punishment could have been imprisonment for more than two years; or
- (3) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the date of appointment; or
- (4) four or more crimes or unlawful acts as defined as "Class B Misdemeanors" regardless of the date of conviction; or
- (5) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the trainee may be enrolled if the last conviction occurred more than two years prior to the date of enrollment; or
- (6) a combination of four or more "Class A Misdemeanors" or "Class B Misdemeanors" regardless of the date of conviction.

(i) Individuals charged with crimes as specified in this Paragraph, and such offenses were dismissed or the person was found not guilty, may be admitted into the commission-certified basic training courses but completion will not ensure that certification as a justice officer through the Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course commission-certified basic training courses shall notify the School Director of all criminal offenses which the trainee is arrested for or charged with, pleads no contest to, pleads guilty to or is found guilty of, and notify the School Director of all Domestic Violence Orders (G.S. 50B) and Civil No Contact

Orders (G.S. 50C) which are issued by a judicial official that provide an opportunity for both parties to be present. This shall include all criminal offenses except minor traffic offenses. A minor traffic offense is defined for purposes of this SubParagraph as any offense under G.S. 20 or similar laws of other jurisdictions; except those Chapter 20 offenses published in the Class B Misdemeanor Manual. Other traffic offenses under laws of other jurisdictions which shall be reported to the School Director expressly include either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years, and driving while license permanently revoked or permanently suspended. The notifications required under this Paragraph must be in writing, must specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Order (G.S. 50B), Civil No Contact Order (G.S. 50C) the final disposition, and the date thereof. The notifications required under this Paragraph must be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph shall be applicable at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

Authority G.S. 17E-7.

SECTION .1700 - DOMESTIC VIOLENCE IN-SERVICE TRAINING PROGRAM FOR DEPUTY SHERIFFS

12 NCAC 10B .1701 SHERIFF RESPONSIBILITIES

The sheriff shall ensure that the Domestic Violence In-Service Training Program for Deputy Sheriffs is conducted using the lesson plan developed by the North Carolina Justice Academy. In addition, the Sheriff shall:

- (1) report to the Division those deputy sheriffs who are considered "special deputy sheriffs" in accordance with G.S. 17E-2(3)(a);
- (2) maintain a roster of each deputy sheriff who successfully completes the Domestic Violence In-Service Training Program; and
- (3) report to the Division by January 15th of, 2006, those deputy sheriffs who fail to complete the Domestic Violence In-Service Training Program in accordance with 12 NCAC 10B .1704. Such reporting shall be on a Commission form.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1702 INSTRUCTORS

The following requirements and responsibilities are hereby established for instructors who conduct the In-Service Domestic Violence Training Program:

- (1) The instructor shall hold General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission.

- (2) The instructor shall deliver the training consistent with the lesson plan developed by the North Carolina Justice Academy and shall be present at all times during which said training is being conducted.
- (3) The instructor shall document the successful or unsuccessful completion of training for each deputy sheriff attending a training program and forward a record of their completion to each deputy's Sheriff.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1703 MINIMUM TRAINING REQUIREMENTS

The North Carolina Justice Academy shall develop a four hour In-Service Domestic Violence Training Program.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1704 DOMESTIC VIOLENCE IN-SERVICE TRAINING PROGRAM SPECIFICATIONS

Full time and reserve deputy sheriffs must complete the Domestic Violence In-Service Training Program by the end of 2005.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1705 FAILURE TO COMPLETE IN-SERVICE DOMESTIC VIOLENCE TRAINING PROGRAM

(a) Failure to complete the Domestic Violence In-Service Training Program in accordance with this Section shall result in the summary suspension of the deputy sheriff's certification by the Commission.

(b) Certification may be reinstated at the request of the deputy's Sheriff provided:

- (1) the deputy completes the In-Service Domestic Violence Training Program within six months of the end of the calendar year in which the deputy failed to comply; and
- (2) the appointing agency submits to the Division, along with a Report of Appointment, the documents required in 12 NCAC 10B .0305.

An In-Service Training Program completed under this provision shall be credited to the prior year of non-compliance; and shall not be credited toward the current year of completion.

Authority G.S. 17E-4; 17E-7.

SECTION .1800 - LAW ENFORCEMENT IN-SERVICE TRAINING PROGRAM FOR DEPUTY SHERIFFS

12 NCAC 10B .1801 SHERIFF RESPONSIBILITIES

Each sheriff shall ensure that the Law Enforcement In-Service Training Program for Deputy Sheriffs established by this Section is conducted. In addition, the Sheriff shall:

- (1) report to the Division those deputy sheriffs who are inactive;

- (2) — maintain a roster of each deputy sheriff who successfully completes the Law Enforcement In-Service Training Program; and
- (3) — report to the Division by January 15th, 2007, those active deputy sheriffs who fail to complete the Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .1804. Such reporting shall be on a Commission form.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1802 INSTRUCTORS

The following requirements and responsibilities are hereby established for instructors who conduct the Law Enforcement In-Service Training Program:

- (1) — The instructor shall hold General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0302, .0304, and .0306. In addition, each instructor certified by the Criminal Justice Commission to teach in a Commission-certified course shall remain competent in his/her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and successfully completing all instructor updates issued by the Commission.
- (2) — The instructor shall deliver the training consistent with the specifications as established in the rules in this Section.
- (3) — The instructor shall document the successful or unsuccessful completion of training for each deputy sheriff attending a training program and forward a record of their completion to each deputy's Sheriff.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1803 MINIMUM TRAINING REQUIREMENTS

- (a) — A Sheriff may choose to use lesson plan developed by the North Carolina Justice Academy, or may opt to use a lesson plan for any of the topical areas developed by another entity. The Sheriff may also opt to use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan, in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training in 12 NCAC 09B .0209.
- (b) — The Law Enforcement In-Service Training Program requires a minimum of 24 hours of training in the following topical areas:
 - (1) — Legal Update;
 - (2) — Ethics;
 - (3) — Juvenile Minority Sensitivity Training;
 - (4) — Methamphetamine Awareness — or Methamphetamine Investigative Issues;

- (5) — Firearms Training and Requalification for deputy sheriffs and detention officers as set out in Section .2100 of this Subchapter; and
 - (6) — Any topic areas of the Sheriff's choosing.
- (c) — Domestic Violence Training shall not be required in 2006, but shall be required in 2007.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1804 LAW ENFORCEMENT IN-SERVICE TRAINING PROGRAM SPECIFICATIONS

Active deputy sheriffs must complete the In-Service Training Program established by this Section by December 31, 2006. A deputy sheriff who is changed from an inactive to active status on or between January 1, 2006 and June 30, 2006, must complete the required 2006 In-Service Law Enforcement Training requirement. A deputy who is sworn on or between January 1, 2006 and June 30, 2006, must complete the required 2006 In-Service Law Enforcement Training requirement.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1805 FAILURE TO COMPLETE LAW ENFORCEMENT IN-SERVICE TRAINING PROGRAM

- (a) — Failure to complete the Law Enforcement In-Service Training Program, except as set forth in Paragraph (c) herein, in accordance with this Section shall result in the summary suspension of the active deputy sheriff's certification by the Commission.
- (b) — Certification may be reinstated at the request of the deputy's Sheriff provided:
 - (1) — the deputy completes the Law Enforcement In-Service Training Program within six months of the end of the calendar year in which the deputy failed to comply; and
 - (2) — the appointing agency submits to the Division, along with a Report of Appointment, the documents required in 12 NCAC 10B .0305.

An In-Service Training Program completed under this provision shall be credited to the prior year of non-compliance; and shall not be credited toward the current year of completion.

(c) — Failure to qualify a justice officer in accordance with Section .2100 of these Rules shall be governed by 12 NCAC 10B .2105.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .1806 IN-SERVICE TRAINING COORDINATOR

If a Sheriff's Office chooses to conduct its own in-service training, then the Sheriff can also appoint an "In-Service Training Coordinator" who meets the following criteria:

- (1) — Have four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system;
- (2) — Hold General Instructor certification; and
- (3) — Have successfully participated in the "Coordinating In-Service Training" course presented by the NC Justice Academy for the

~~purpose of familiarization with trainee and instructor evaluation.~~

~~The Sheriff shall submit an application for such appointment to the Division for approval of this designation.~~

Authority G.S. 17E-4; 17E-7.

SECTION .2000 - IN-SERVICE TRAINING FOR JUSTICE OFFICERS

12 NCAC 10B .2001 PURPOSE

In order to ensure a minimum level of proficiency in specific topical areas for justice officers ~~servicing the sheriffs' offices~~ within the state the Commission establishes the Justice Officers' In-Service Training ~~Program.~~ Programs.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .2002 CERTIFICATION-SPECIFIC PROGRAMS

The following ~~topical areas~~ Justice Officer In-Service Training Programs shall be required for justice officers who are active in ~~the certification specified~~ included in the Justice Officers' In-Service Training Program:

- (1) Firearms Training and Requalification for deputy sheriffs and detention officers as set out in Section .2100 of these Rules;
- (2) Domestic Violence Training for deputy sheriffs as set out in Section .1700 of these Rules.
- (3) Law Enforcement In-Service Training Program for deputy sheriffs as set out in Rule .2005 Section .1800 of this Rules. Section;
- (4) Detention Officer In-Service Training Program as set out in Rule .2005 of this Section; and
- (5) Telecommunicator In-Service Training Program as set out in Rule .2005 of this Section.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .2003 IN-SERVICE TRAINING COORDINATOR

If a Sheriff or Department Head chooses to conduct its own in-service training, then the Sheriff or Department Head can also appoint an "In-Service Training Coordinator" who meets the following criteria:

- (1) Have four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system;
- (2) Hold General Instructor certification; and
- (3) Have successfully participated in the "Coordinating In-Service Training" course presented by the NC Justice Academy for the purpose of familiarization with trainee and instructor evaluation.

The Sheriff or Department Head shall submit an application for such appointment to the Division for approval of this designation.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .2004 INSTRUCTORS

The following requirements and responsibilities are hereby established for instructors who conduct a Commission-mandated In-Service Training Program:

- (1) With the exception of firearms as set out in 12 NCAC 10B .2102, the instructors shall hold General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0302, .0304, and .0306. In addition, each instructor certified by the Criminal Justice Commission to teach in a Commission-certified course shall remain competent in his/her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and successfully completing all instructor updates issued by the Commission.
- (2) The instructor shall deliver the training consistent with the specifications as established in the rules in this Section.
- (3) The instructor shall document the successful or unsuccessful completion of training for each person attending a training program and forward a record of their completion to each person's Sheriff or Department Head.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS

(a) A Sheriff or Department Head may choose to use lesson plan developed by the North Carolina Justice Academy, or may opt to use a lesson plan for any of the topical areas developed by another entity. The Sheriff may also opt to use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan, in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training in 12 NCAC 09B .0209.

(b) The 2006 Law Enforcement In-Service Training Program requires a minimum of 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Ethics;
- (3) Juvenile Minority Sensitivity Training;
- (4) Methamphetamine Awareness or Methamphetamine Investigative Issues;
- (5) Firearms Training and Requalification for deputy sheriffs and detention officers as set out in Section .2100 of this Subchapter; and
- (6) Any topic areas of the Sheriff's choosing.

(c) The 2007 Law Enforcement In-Service Training Program requires a minimum of 24 hours of training in the following topical areas:

- (1) Legal Update;
- (2) Ethics (on-duty or off-duty);
- (3) Juvenile Minority Sensitivity Training;
- (4) Domestic Violence;
- (5) Interacting with Special Populations (which shall include autism);
- (6) Firearms Training and Requalification for deputy sheriffs and detention officers as set out in Section .2100 of this Subchapter; and
- (7) Any topic areas of the Sheriff's choosing.

(d) The Detention Officer In-Service Training Program requires a minimum of 16 hours of training in the following topical areas:

- (1) Detention Legal Update;
- (2) Ethics for Detention Officers;
- (3) Special Inmate Population Management; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(e) The Telecommunicator In-Service Training Program requires a minimum of 16 hours of training in the following topical areas:

- (1) Handling Suicidal Callers;
- (2) Emergency Call Taking Procedures;
- (3) Terrorism Training an Awareness Level For Telecommunicators;
- (4) Officer Safety Training for Telecommunicators; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .2006 IN-SERVICE TRAINING PROGRAM SPECIFICATIONS

Justice officers who have been active as a deputy sheriff, detention officer, or telecommunicator between January and June of each calendar year must complete the respective In-Service Training Program(s) established by 12 NCAC 10B .2002 by December of each calendar year.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .2007 SHERIFF/AGENCY HEAD RESPONSIBILITIES

Each Sheriff or Department Head shall ensure that the respectively required In-Service Training Program established by this Section is conducted. In addition, the Sheriff or Department Head shall:

- (1) report to the Division those deputy sheriffs, detention officers and telecommunicators who are inactive;
- (2) maintain a roster of each deputy sheriff, detention officer and telecommunicator who successfully completes the respectively required In-Service Training Program;
- (3) report to the Division by January 15th, 2007, those active deputy sheriffs who fail to

complete the 2006 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005. Such reporting shall be on a Commission form;

- (4) report to the Division by January 15th, 2008, those active deputy sheriffs who fail to complete the 2007 Law Enforcement In-Service Training Program in accordance with 12 NCAC 10B .2005. Such reporting shall be on a Commission form;
- (5) report to the Division by January 15th, 2008, those active detention officers who fail to complete the Detention Officer In-Service Training Program in accordance with 12 NCAC 10B .2005. Such reporting shall be on a Commission form; and
- (6) report to the Division by January 15th, 2008, those active telecommunicators who fail to complete the Telecommunicator Officer In-Service Training Program in accordance with 12 NCAC 10B .2005. Such reporting shall be on a Commission form;

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .2008 FAILURE TO COMPLETE IN-SERVICE TRAINING PROGRAMS

(a) Failure to complete the respectively required In-Service Training Program(s), except as set forth in Paragraph (c) of this Rule, in accordance with this Section shall result in the summary suspension of certification by the Commission.

(b) Certification may be reinstated at the request of the justice officer's Sheriff/Agency Head provided:

- (1) the justice officer completes the respectively required In-Service Training Program within six months of the end of the calendar year in which the justice officer failed to comply; and
- (2) the appointing agency submits to the Division, along with a Report of Appointment, the documents required in 12 NCAC 10B .0305.

An In-Service Training Program completed under this provision shall be credited to the prior year of non-compliance; and shall not be credited toward the current year of completion.

(c) Failure to qualify a justice officer in accordance with Section .2100 of these Rules shall be governed by 12 NCAC 10B .2105.

Authority G.S. 17E-4; 17E-7.

Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Alarm Systems Licensing Board intends to amend the rule cited as 12 NCAC 11 .0105.

Proposed Effective Date: *February 1, 2007*

Public Hearing:
Date: *September 1, 2006*
Time: *1:00 p.m.*

Location: Conference Room, 1631 Midtown Place, Suite 104, Raleigh, NC 27609

Reason for Proposed Action: *The Board has determined that the use of "police" or other similar law enforcement designation in an alarm company's name is misleading to the public and should be prevented.*

Procedure by which a person can object to the agency on a proposed rule: *Comments may be submitted to the Alarm Systems Licensing Board, Interim Director Terry Wright, 1631 Midtown Place, Suite 104, Raleigh, NC 27609 on or before the end of the comment period, that date being October 16, 2006.*

Comments may be submitted to: *Terry Wright, Interim Director, 1631 Midtown Place, Suite 104, Raleigh, NC 27609, phone (919) 875-3611*

Comment period ends: *October 16, 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 11 - NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

12 NCAC 11 .0105 PROHIBITED ACTS

In addition to the prohibited acts set forth elsewhere in these Regulations and in Chapter 74D of the General Statutes, any licensee or registrant who does any of the following may have his license or registration revoked or suspended:

- (1) Displays or causes or permits to be displayed, or has in his possession any cancelled, revoked, suspended, fictitious, fraudulently altered license or registration identification card, or any document simulating a license or registration identification card or purporting to

- be or to have been issued as a license or registration identification card;
- (2) Lends his license or registration identification card to any person or allows the use thereof by another;
- (3) Displays or represents any license or registration identification card not issued to him as being his license or registration identification card;
- (4) Includes in any advertisement a statement which implies official state authorized certification or approval other than this statement: "Licensed by the Alarm Systems Licensing Board of the State of North Carolina." Licensees may include their license number.
- (5) Includes in the company name the word "police" or other law enforcement designation that implies that the alarm company is affiliated with a local, state, or federal law enforcement agency.

Authority G.S. 74D-5; 74D-10.

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Department of Labor/Elevator and Amusement Device Bureau intends to adopt the rule cited as 13 NCAC 15 .0440.

Proposed Effective Date: *December 1, 2006*

Public Hearing:

Date: *August 30, 2006*

Time: *10:00 am*

Location: *4 West Edenton Street, Raleigh, NC 27699 (Room 249)*

Reason for Proposed Action: *Pursuant to NCGS 95-111.4, the Commissioner of Labor has the authority to adopt rules and regulations governing the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration and relocation of amusement devices. While inspections are currently performed on waterslides, there is no rule setting forth standards for inspectors to follow nor by which the owner/operators are required to comply. Clarification to private industry of the specific standards followed by the N.C. Department of Labor/Elevator and Amusement Device Bureau for regulation of waterslides is needed and adoption of an administrative rule setting forth these standards will accomplish the same.*

Procedure by which a person can object to the agency on a proposed rule: *Objections to the proposed rules may be submitted, in writing, to Erin T. Gould, Assistant Rulemaking Coordinator, via United States mail at the following address: 1101 Mail Service Center, Raleigh, North Carolina 27699-*

1101; or via facsimile at (919) 733-4235. Objections may also be submitted during the public hearing conducted on this rule, which is noticed above. Objections shall include the specific rule citation(s) for the objectionable rule(s), the nature of the objection(s), and the complete name(s) and the contact information for the individual(s) submitting the objection. Objections must be received by 5:00 pm on October 16, 2006.

Comments may be submitted to: Erin T. Gould, Assistant Rulemaking Coordinator, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101, phone (919) 733-0368, fax (919) 733-4235, email erin.gould@nclabor.com

Comment period ends: October 16, 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 15 - ELEVATOR AND AMUSEMENT DEVICE DIVISION

SECTION .0400 - AMUSEMENT DEVICES

13 NCAC 15 .0440 REGULATION OF WATERSLIDES

(a) The classification, design, manufacture, construction, and operation of waterslides shall conform to these Rules and the ASTM F 2376 – Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems, which is incorporated by reference. This incorporation includes subsequent amendments and editions of the Code.

(b) Copies of the ASTM F 2376 – Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems may be obtained from the American Society of Testing and Materials (ASTM), via U.S. Mail at 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, via telephone at (610) 832-9585, or via the internet at www.astm.org. The cost is thirty-four dollars (\$34.00) per copy.

Authority G.S. 95-111.4(3).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 12 - LICENSING BOARD FOR GENERAL CONTRACTORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Licensing Board for General Contractors intends to amend the rules cited as 21 NCAC 12 .0901, .0904, .0906.

Proposed Effective Date: December 1, 2006

Public Hearing:

Date: October 11, 2006

Time: 9:00 a.m.

Location: Board of Contractors, 3739 National Drive, Suite 200, Cumberland Building, Glenwood Place, Raleigh, NC 27612

Reason for Proposed Action:

21 NCAC 12 .0901 – To exclude an officer of general contractor from the definition of "owner or former owner" to ensure that a contractor or anyone associated with the contractor whose conduct caused a reimbursable loss does not benefit from the Homeowners Recovery Fund.

21 NCAC 12 .0904 – To set a deadline for claims based upon the death of the general contractor.

21 NCAC 12 .0906 – To ensure that claims to the Homeowners Recovery Fund are not left open ended by requiring that the failure of an applicant to respond to an inquiry from the Committee within six months will subject the claim to dismissal.

Procedure by which a person can object to the agency on a proposed rule:

Persons may submit objections regarding the proposed rule changes to Mark D. Selph, North Carolina Licensing Board for General Contractors, P.O. Box 17187, Raleigh, NC 27619.

Comments may be submitted to: Mark D. Selph, North Carolina Licensing Board for General Contractors, P.O. Box 17187 Raleigh, NC 27619

Comment period ends: October 16, 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

SECTION .0900 – HOMEOWNERS RECOVERY FUND

21 NCAC 12 .0901 DEFINITIONS

The following definitions shall apply to the Board's administration of the Homeowners Recovery Fund established pursuant to Article 1A, Chapter 87 of the General Statutes:

- (1) "Constructing or altering" includes contracting for the construction or alteration of a single-family residential dwelling unit.
- (2) "Dishonest conduct" shall not include a mere breach of a contract.
- (3) "Incompetent conduct" is conduct which demonstrates a lack of ability or fitness to discharge a duty associated with undertaking to construct or alter a single-family residential dwelling or the supervision of such construction or alteration.
- (4) "Owner or former owner" includes a person who contracted with a general contractor for the construction or purchase of a single-family residential dwelling unit. "Owner or former owner" shall not include a person who is a spouse, child, parent, grandparent, sibling, partner, associate, officer, or employee of a general contractor whose conduct caused a reimbursable loss. In addition, the term shall not include general contractors or any financial or lending institution, or any owner or former owner of a single-family residential dwelling unit which has been the subject of an award from the Homeowners Recovery Fund resulting from the same dishonest or incompetent conduct. "Owner or former owner" shall not include the owner of real property who constructed or contracted for construction of a single-family residential dwelling unit without intending to occupy the single-family residential dwelling unit.
- (5) "Substantial completion" means that degree of completion of a project, improvement or specified area or portion thereof whereupon the owner can use the same for its intended use.
- (6) "Separately owned residence" means a building whose construction is governed by Volume VII of the North Carolina State Building Code.

Authority G.S. 87-15.6.

21 NCAC 12 .0904 FILING DEADLINE AND SERVICE

(a) Applicants seeking recovery from the fund shall be forever barred unless application is made within one year after termination of all proceedings, including appeals, in connection with an unsatisfied judgment obtained against a general contractor. Claims based upon the ~~bankruptcy~~bankruptcy, death, or dissolution of the general contractor shall be forever barred unless application is made within three years from the date of discovery by the applicant of the facts constituting the dishonest or incompetent conduct or within six years of substantial completion of the construction or alteration of the residence in question, whichever comes first.

(b) Applications shall be filed at the address shown in Rule .0101 of this Chapter. The Board shall serve a copy of the application upon the general contractor who allegedly caused the loss. Service shall be accomplished by certified mail, return receipt requested, or other methods authorized by G.S. 150B-38(c).

Authority G.S. 87-15.6; 87-15.7; 87-15.8.

21 NCAC 12 .0906 PROCESSING OF APPLICATION

Preliminary or Threshold Determination.

- (1) An application, properly filed, is initially referred to the Recovery Fund Review Committee.
- (2) The Recovery Fund Review Committee is a committee made up of the following individuals:
 - (a) one member of the Board,
 - (b) the legal counsel of the Board, and
 - (c) the Secretary-Treasurer.
- (3) The Committee is specifically delegated the responsibility of determining, prior to a hearing, whether or not an application is meritless. The decision of the Committee is final. Within 30 days after service of a copy of the application upon the general contractor, the general contractor may file a response to the application setting forth answers and defenses. Responses shall be filed with the Board and copies shall be served on the applicant.
- (4) If the general contractor denies the charges contained in the application, then, in the sole discretion of the Committee, a field investigation may be performed by an investigator retained by the Board.
- (5) Failure of an applicant to respond to an inquiry from the Committee or its representative within six months of receipt of the inquiry will subject the claim to dismissal by the Committee.

- (5)(6) After all preliminary evidence has been received by the Committee, it makes a threshold determination regarding the disposition of the application. From the evidence, it recommends to the Board that:
 - (a) The application be dismissed as meritless; or
 - (b) The application and charges contained therein be presented to the Board for a hearing and determination by the Board on the merits of the application.
- (6)(7) Notice of the threshold determination of the Committee shall be given to the applicant and the general contractor within 10 days of the Committee's decision. Though it is not forbidden to do so, the Committee is not required to notify the parties of the reasons for its threshold determination.

present during such hours; and requiring the person in charge to notify the Board of a change in address within 30 days;
 21 NCAC 46 .1801 –to clarify that the exemptions listed in (b)(1)-(6) are in the alternative;
 21 NCAC 46 .2607 – To specify availability of records requirements for device and medical equipment permit holders to aid the Board in its inspections and investigations;
 21 NCAC 46 .2612 – To allow device and medical equipment permit holders to store business and patient records at a storage site which does not hold a permit;
 21 NCAC 46 .2613 – To require all devices and medical equipment in possession of permit holders to bear a current patient specific label and to prohibit device and medical equipment permit holders from receiving drugs from a patient or caregiver in order to ensure accountability and to prohibit unauthorized transfers.

Procedure by which a person can object to the agency on a proposed rule: Persons may submit objections regarding the proposed rule changes to Jay Campbell, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517.

Comments may be submitted to: Jay Campbell, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Comment period ends: October 23, 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

SECTION .1300 - GENERAL DEFINITIONS

21 NCAC 46 .1317 DEFINITIONS
 The definitions of various terms used in this Chapter are found in G.S. 90, Article 4A, and as follows:
 (1) Ambulation Assistance Equipment. Devices that aid in walking, excluding canes, crutches, and walkers.

Authority G.S. 87-15.6; 87-15.7; 87-15.8.

CHAPTER 46 - BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Pharmacy intends to adopt the rule cited as 21 NCAC 46 .2613 and amend the rules cited as 21 NCAC 46 .1317, .1601, .1608, .1801, .2607, .2612.

Proposed Effective Date: January 1, 2007

Public Hearings:

Date: September 18, 2006

Time: 5:00 p.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Date: October 23, 2006

Time: 5:00 p.m.

Location: Sheraton Imperial, 4700 Emperor Boulevard, Durham, NC (I-40, Exit 282, Page Road)

Reason for Proposed Action:

21 NCAC 46 .1317 – To clarify that glucose meters are not considered diagnostic equipment, to define the term "internet pharmacy," and to rename the term "medication therapy management services" to make it consistent with federal law under Medicare/Medicaid;

21 NCAC 46 .1601 – To set out additional permitting requirements for internet pharmacies in order to protect the public;

21 NCAC 46 .1608 – To better protect and service the public by requiring that a DME permit holder have sufficient backup of oxygen to maintain continuation of therapy for 24 hours, if oxygen is dispensed; requiring hours of operation to be conspicuously posted and the person in charge or designee to be

- (2) Approved School or College of Pharmacy. A school or college of pharmacy accredited by the American Council on Pharmaceutical Education, or a foreign school with a professional pharmacy degree program of at least five years approved by the Board.
- (3) Auxiliary Drug Inventory. A secure, segregated, supplementary source for drugs to be used solely for the purpose of providing adequate drug availability when the pharmacy is closed or the pharmacist is unavailable.
- (4) Board. As defined in G.S. 90-85.3(b).
- (5) Certified technician. A technician who has passed a pharmacy technician certification board exam, or its equivalent, that has been approved by the Board according to these Rules.
- (6) Consultant Pharmacist. A licensed pharmacist who, in collaboration with the supervising physician and nurse practitioner or assistant to the physician, develops a retrospective drug utilization review program which:
- (a) reviews the appropriateness of the choice of medication(s) for the patient and the patient's therapeutic regimen, including choice of medication, dose, frequency, and route of administration;
 - (b) identifies and resolves therapeutic duplication in the patient's medication regimen; and
 - (c) considers patient-specific medication contraindications.
- The consultant pharmacist holds himself available for consultation in person, by telephone, or by other means of direct communication at all times when drugs are dispensed.
- (7) Diagnostic equipment. Equipment used to record physiological information while a person goes about normal daily living or while asleep in order to document a disease process. EPTs, thermometers, glucose meters, and cholesterol equipment are not included as diagnostic equipment.
- (8) Drug review or Pharmaceutical care assessment. An onsite review of a patient's or resident's record by a licensed pharmacist that involves interpretation and evaluation of the drug therapy and other pharmaceutical care services to achieve intended medication outcomes and minimize negative effects of drug therapy.
- (9) Duplicate as used in G.S. 90-85.24. Any license, permit, or registration issued or reissued by the Board which is identical to a previously issued license, permit, or registration, including a permit reissued due to a change in pharmacist-manager.
- (10) Emergency Drugs. Those drugs whose prompt use and immediate availability are generally regarded by physicians as essential in the proper treatment of unforeseen adverse changes in a patient's health or well-being.
- (11) Employee. A person who is or would be considered an employee under the North Carolina Workers' Compensation Act. This definition applies to locations both within and outside of this State holding pharmacy or device and medical equipment permits and without regard to the number of persons employed by the permit holder.
- (12) Executive Director. The Secretary-Treasurer and Executive Director of the Board.
- (13) Graduate of an Approved School or College of Pharmacy. A person who has received an undergraduate professional degree in pharmacy from an approved school or college of pharmacy, or a person who has graduated from a foreign professional school of pharmacy and has successfully completed the Foreign Pharmacy Graduate Equivalency Examination offered by the National Association of Boards of Pharmacy and the Test of English as a Foreign Language.
- (14) HMES. Home medical equipment supplier.
- (15) Health Care Facility Pharmacy. A pharmacy maintained in a hospital, clinic, nursing home, rest home, sanitarium, non-federal governmental institution, industrial health facility, or other like health service under the supervision of a pharmacist; or the central area in a hospital, clinic, or other health care facility where drugs are procured, stored, processed, or issued, or where pharmaceutical services are performed.
- (16) Indulgence in the Use of Drugs. The use of narcotic drugs or other drugs affecting the central nervous system or the use of intoxicating beverages to an extent as to deprive the user of reasonable self-control or the ability to exercise such judgment as might reasonably be expected of an average prudent person.
- (17) Internet Pharmacy. A pharmacy that:
- (a) maintains an Internet web site for the purpose of selling or distributing prescription drugs; or
 - (b) uses the internet, either itself, or through agreement with a third party, to communicate with or obtain information from patients; uses such communication or information, in whole or in part, to solicit, fill or refill prescriptions; or uses such communication or information, in whole or in part, to otherwise engage in the practice of pharmacy.

- ~~(17)~~(18) Limited Service Pharmacy Permit. A pharmacy permit issued by the Board to an applicant that wishes to render in an institutional setting pharmaceutical services not limited to scope and kind but to time and conditions under which such services are rendered.
- ~~(18)~~(19) Medication Therapy Management ~~Therapy~~ Services and Related Functions. Included in the practice of pharmacy as part of monitoring, recording and reporting drug therapy and device usage are medication management therapy services and related functions.
- ~~(19)~~(20) Medication Administration Record. A record of drugs administered to a patient.
- ~~(20)~~(21) Medication Order. An order for a prescription drug or other medication or a device for a patient from a person authorized by law to prescribe medications.
- ~~(21)~~(22) Mobility equipment. Devices that aid a person in self-movement, other than walking, including manual or power wheelchairs and scooters.
- ~~(22)~~(23) Oxygen and respiratory care equipment. Equipment or devices used to administer oxygen or other legend drugs, maintain viable airways or monitor cardio-respiratory conditions or events, including, but not limited to, compressed medical gases; oxygen concentrators; liquid oxygen; nebulizers; compressors; aerosol therapy devices; portable suction machines; nasal continuous positive airway pressure (CPAP) machines; Bi-phasic positive pressure devices (BiPAP); infant monitors, such as apnea monitors and cardio- respiratory monitors; positive and negative pressure mechanical ventilators; and pulse oximeters.
- ~~(23)~~(24) Patient Medication Profile. A list of all prescribed medications for a patient.
- ~~(24)~~(25) Pharmacist. Any person within the definition set forth in G.S. 90-85.3(p), including any druggist.
- ~~(25)~~(26) Pharmacist-Manager. The person who accepts responsibility for the operation of a pharmacy in conformance with all statutes and regulations pertinent to the practice of pharmacy and distribution of drugs by signing the permit application, its renewal or addenda thereto.
- ~~(26)~~(27) Pharmacy. Any place within the definition set forth in G.S. 90-85.3(q), including any apothecary or drugstore.
- ~~(27)~~(28) Pharmacy Intern. Any person who is duly registered with the Board under the internship program of the Board to acquire pharmacy experience or enrolled in approved academic internship programs. A pharmacy intern working under a pharmacist preceptor or

- supervising pharmacist may, while under supervision, perform all acts constituting the practice of pharmacy.
- ~~(28)~~(29) Place of residence. Any place used as an individual's temporary or permanent home.
- ~~(29)~~(30) President. The President of the Board.
- ~~(30)~~(31) Rehabilitation environmental control equipment. Equipment or devices which permit a person with disabilities to control his or her immediate surroundings.
- ~~(31)~~(32) Rehabilitation Services. Services and equipment required to maintain or improve functional status and general health as prescribed by the physician which are uniquely specified for each individual's lifestyle. The people involved in this process include the patient, caregiver, physician, therapist, rehabilitation equipment supplier and others who impact on the individual's life style and endeavors.
- ~~(32)~~(33) Signature. A written or electronic signature or computerized identification code.
- ~~(33)~~(34) Two Years College Work. Attendance at an accredited college for two academic years of not less than eight and one-half months each and the completion of work for credit leading to a baccalaureate degree or its equivalent and that would permit the student to advance to the next class.
- ~~(34)~~(35) Undergraduate Professional Degree in Pharmacy. A B.S. or Pharm. D. degree.
- ~~(35)~~(36) Vice-President. The Vice-President of the Board.

Authority G.S. 90-85.3; 90-85.6; 90-85.8; 90-85.13; 90-85.14; 90-85.15; 90-85.21; 90-85.38; 90-85.40.

SECTION .1600 - LICENSES AND PERMITS

21 NCAC 46 .1601 PHARMACY PERMITS

- (a) Applications for pharmacy permits, whether original or renewal, shall be made upon forms provided by the Board. The Board shall not issue any original or annual renewal pharmacy permit until the Board is satisfied that:
 - (1) The pharmacist-manager is sure that at all times adequate qualified personnel have been secured by the management of the store to properly render pharmaceutical service in the manner prescribed by law.
 - (2) The pharmacy posts in a location conspicuous to the public the specific hours that a pharmacist is on duty in the pharmacy. This requirement does not apply to hospitals, nursing homes, and similar institutions subject to the provisions of Section .1400 of this Chapter.
 - (3) The pharmacist-manager shall be responsible for obtaining and maintaining equipment in the pharmacy adequate to meet the pharmaceutical

care needs of the pharmacy's patients. The pharmacy's reference library shall include a medical dictionary and current editions of generally accepted reference books on drug interactions, clinical pharmacology, USP Dispensing Information or its equivalent, and if IV admixture services are provided, a reference on Parenteral Incompatibilities.

- (4) The pharmacy is equipped with sanitary appliances including lavatory facilities with hot and cold running water; is adequately lighted; and is kept in a clean, orderly, and sanitary condition.
- (5) All prescription medications are labeled in accordance with G.S. 106-134 and 106-134.1.

(b) In addition to the requirements for issuance and renewal of a pharmacy permit imposed by statute and rules of the Board, a permit shall not be issued or renewed to any person to operate a pharmacy wherein the prescriptions of medical practitioners are compounded or dispensed and distributed when such distribution is effected by mail and the practitioner- pharmacist-patient relationship does not exist, until the Board is satisfied that:

- (1) The pharmacy maintains records of prescriptions compounded or dispensed and distributed in manner that is readily retrievable;
- (2) During the pharmacy's regular hours of operation but not less than six days per week, for a minimum of forty hours per week, a toll-free telephone service is provided to facilitate communication between patients and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number must be disclosed on the label affixed to each container of dispensed drugs;
- (3) The pharmacy complies with all lawful orders, directions, and requests for information from the Boards of pharmacy of all states in which it is licensed and all states into which it distributes prescription drugs;
- (4) The pharmacy complies with all USP and FDA requirements regarding the storage, packaging, and shipping of prescription medications. The pharmacist- manager and all other pharmacists employed in the pharmacies permitted pursuant to this Paragraph shall be subject to all Federal and State statutes and regulations concerning the dispensing of prescription medications including, but not limited to, 21 NCAC 46 .1801 and .1805 and 21 CFR 1306.01, 1306.05, and 1306.21.

(c) The Board shall not issue an original or renewal permit to any person to operate a drugstore or pharmacy as a department in or a part of any other business serving the general public (except hospitals, nursing homes, and similar institutions subject to the provisions of Section .1400 of this Chapter) unless such pharmacy facility:

- (1) is physically separated from such other business;

- (2) is separately identified to the public both as to name and any advertising;
- (3) completes all transactions relative to such pharmacy within the registered facility; and
- (4) meets the same requirements for registration as all other pharmacies.

(d) In addition to all of the other requirements for issuance and renewal of a pharmacy permit imposed by statute and Rules of the Board, the Board shall not issue any original or annual renewal pharmacy permit to any Internet pharmacy until the Board is satisfied that:

- (1) The Internet pharmacy is certified by the National Association of Boards of Pharmacy as a Verified Internet Pharmacy Practice Site (VIPPS);
- (2) The Internet pharmacy has certified the percentage of its annual business conducted via the Internet and submits such supporting documentation as requested by the Board, and in a form or application required by the Board, when it applies for permit or renewal;
- (3) The Internet pharmacy has provided the Board with the names, addresses, social security numbers, phone numbers, facsimile numbers, email addresses, and titles of all principal corporate officers of the Internet pharmacy; the names, addresses, social security numbers, phone numbers, facsimile numbers, email addresses, and titles of all principal officers of any company, partnership, association, or other business entity holding any ownership interest in the Internet pharmacy; the names, addresses, social security numbers, phone numbers, facsimile numbers, email addresses, and titles of any individual holding any ownership interest in the Internet pharmacy; and
- (4) This provision does not relieve an out-of-state pharmacy from compliance with all provisions of 21 NCAC 46. 1607 governing out-of-state pharmacies.

~~(d)~~(e) Permits to operate pharmacies, whether original or renewal, shall be issued to the pharmacist-manager of such pharmacy pursuant to a joint application of the owner and pharmacist-manager for the conduct and management of said pharmacy. The issuance of said permit shall not be complete and the permit shall not be valid until it has been countersigned by the pharmacist- manager as represented in the application. The permit so issued is valid only so long as the pharmacist-manager to whom it was issued assumes the duties and responsibilities of pharmacist-manager. Permits may be reissued at any time to a successor pharmacist-manager pursuant to the proper amendment of the application for the permit.

~~(e)~~(f) Upon application, the Board may issue and renew separate permits for pharmacies operating at one location. Records for each permitted pharmacy must be maintained separately. Prior to issuance of an original permit, each pharmacy shall submit a plan to the Board that shall assure accountability for the actions of each pharmacy at the location.

Authority G.S. 90-85.6; 90-85.21.

21 NCAC 46 .1608 DEVICE AND MEDICAL EQUIPMENT PERMITS

(a) Applications for device and medical equipment permits, whether original or renewal, shall be made upon forms provided by the Board. The Board shall not issue any original or annual renewal device and medical equipment permit until the Board is satisfied that:

- (1) Adequate qualified personnel have been secured by the management of the facility to properly render device and medical equipment services in the manner prescribed by law.
- (2) Such personnel shall be maintained during the period for which the permit is issued.
- (3) If medical oxygen is dispensed, the following medical equipment is maintained:
 - (A) Sufficient backup of oxygen and supplies for equipment serviced to maintain continuation of ~~therapy;~~ therapy for 24 hours; and
 - (B) An oxygen analyzer, if concentrators are dispensed.
- (4) Suitable facilities shall be maintained to house inventory, to allow for fabrication work space, and to record and file prescription orders as required by law.
- (5) A copy of the pharmacy laws of North Carolina, including the North Carolina Pharmacy Practice Act and the rules of the Board shall be present in the facility at all times.
- (6) The facility is equipped with a functioning lavatory where hot and cold running water or hand washing appliances or waterless hand cleaner are available.
- (7) The facility is kept in a clean, orderly, and sanitary condition.
- (8) The applicants' services are accessible to its customer base.
- (9) All prescription medications are labeled in accordance with G.S. 106-134 and 106-134.1.
- (10) The applicant complies with all USP and FDA requirements regarding the storage, packaging, and shipping of prescription medications, including medical oxygen.
- (11) The applicant's services are available 24 hours, seven days per week when essential to the maintenance of life or when the lack of such services might reasonably cause harm.
- (12) The applicant implements and maintains a written procedure at each location for handling complaints and problems, which includes a complaint file documenting complaints and problems and resolution of the complaints or problems.
- (13) The applicant complies with local/state fire and building laws.

- (14) The applicant complies with current Occupational Safety and Health Administration (OSHA) laws and requirements as enforced by the NC Department of Labor/Division of OSHA, including the approach to infection control known as "Universal Precautions."

(b) Device and medical equipment permits, whether original or renewal, shall be issued to the person in charge of the facility pursuant to a joint application of the owner and person in charge. The issuance of said permit shall not be complete and the permit shall not be valid until it has been countersigned by the person in charge as represented in the application. The permit so issued is valid only so long as the person in charge to whom it was issued assumes his duties and responsibilities. Permits may be reissued at any time to a successor person in charge pursuant to the proper amendment of the application for the permit. The hours of operation shall be posted conspicuously at the facility for public viewing. The person in charge or the designee of the person in charge shall be present at the facility during the hours of operation of the facility. The person in charge shall notify the Board in writing of a change in the facility address within 30 days from the date of the change.

(c) When a device and medical equipment dispensing facility is to be closed permanently, it is the responsibility of the person in charge to inform the Board of the closing and arrange for the proper disposition of devices and medical equipment and return the permit to the Board's offices within 10 days of the closing date. It is the responsibility of the person in charge, jointly held with the owner (if the owner is someone other than the person in charge), to provide for the orderly transfer of records to another permit holder for maintenance of patient therapy and to inform the public of such transfer by posted notice or otherwise.

(d) Charitable organizations providing devices and medical equipment at no charge must register with the Board. The Board shall waive the fee for a permit upon a showing that the organization meets the Internal Revenue Service charitable purpose requirements for exemption from taxation and that at least 75 percent of the organization's funds are used for a charitable purpose. Loaner closets providing device and medical equipment at no charge, excluding oxygen or other life support devices, must register with the Board but are exempt from the fee for device and medical equipment permits.

Authority G.S. 90-85.6; 90-85.22.

21 NCAC 46 .1801 RIGHT TO REFUSE A PRESCRIPTION

(a) A pharmacist or device and medical equipment dispenser may refuse to fill or refill a prescription order, if, in his professional judgment, it would be harmful to the recipient, is not in the recipient's best interest or if there is a question as to its validity.

(b) A pharmacist shall not fill or refill a prescription order if the pharmacist actually knows or reasonably should know that the order was issued without a physical examination of the patient and in the absence of a prior prescriber-patient relationship, unless:

- (1) the prescription order was issued for the patient by a psychiatrist;
- (2) the prescription order was issued for the patient after discussion of the patient status with a treating psychologist, therapist, or physician;
- (3) the prescription order was ordered by a physician for flu vaccinations for groups of patients or members of the public;
- (4) the prescription order was for prophylactic purposes, such as the ordering of antibiotics by a pediatrician for members of a child's family when the child has a positive strep test;
- (5) the prescription order was an emergency order for medication related to pregnancy prevention; ~~and or~~
- (6) the prescription order was an order for medications to be taken by groups traveling to foreign countries.

Authority G.S. 90-85.6; 90-85.32.

21 NCAC 46 .2607 AVAILABILITY OF RECORDS

All records required to be kept by statute or regulation shall be available to Board inspectors or agents as provided in Rule .1803 of this Chapter. All records, including prescription orders, equipment information, and patient counseling documentation, shall be archived in a readily retrievable manner and open for review, copying or seizure by the Board or its designated employees within 48 hours of a request for inspection for a period of three years.

Authority G.S. 90-85.3(e),(r); 90-85.6; 90-85.22.

21 NCAC 46 .2612 STORAGE OF DEVICES AND MEDICAL EQUIPMENT

(a) Devices and medical equipment shall be stored at the location holding the pharmacy or device and medical equipment permit or a location that is within 50 miles of the permitted location. Devices and medical equipment shall not be stored on residential property.

(b) A device and medical equipment storage site not holding a pharmacy or device and medical equipment permit shall not provide any devices, medical equipment, or services directly to ~~patients and shall not store any business or patient records.~~ patients.

(c) Device and medical equipment storage sites shall be subject to inspection by the Board.

Authority G.S. 90-85.6; 90-85.22; 90-85.32.

21 NCAC 46 .2613 DEVICES AND MEDICAL EQUIPMENT IN POSSESSION OF PERMIT HOLDERS

Devices and medical equipment in possession of permit holders shall bear a current prescription patient specific label. Permit holders shall not receive prescription drugs from a patient or caregiver, once the prescription drug has been dispensed.

Authority G.S. 90-85.6; 90-85.22; 90-85.32.

CHAPTER 61 - NORTH CAROLINA RESPIRATORY CARE BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Respiratory Care Board intends to amend the rule cited as 21 NCAC 61 .0103.

Proposed Effective Date: December 1, 2006

Public Hearing:

Date: August 30, 2006

Time: 1:00 p.m.

Location: NC Respiratory Care Board, 1100 Navaho Drive, Suite 242, Raleigh, NC 27609

Reason for Proposed Action: To further define the practice of respiratory care.

Procedure by which a person can object to the agency on a proposed rule: A person may object to the Board on a proposed rule by sending a written objection addressed to Floyd Boyer, RCP Executive Director, North Carolina Respiratory Care Board, 1100 Navaho Drive, Suite 242, Raleigh, NC 27609, (919) 878-5595 phone, (919) 878-5565 fax, fboyer@ncrcb.org email.

Comments may be submitted to: Floyd Boyer, RCP, 1100 Navaho Drive, Suite 242, Raleigh, NC 27609, phone (919) 878-5595, fax (919) 878-5565, email fboyer@ncrcb.org

Comment period ends: October 16, 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

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

21 NCAC 61 .0103 DEFINITIONS

The definitions of terms contained in G.S. 90-648 apply to this Chapter. In addition, the following definitions apply with regard to these Rules:

- (1) Assessment shall mean a clinical evaluation of the individual patient and the suitability, and efficacy of a respiratory care procedure or treatment, including an assessment of the suitability and efficacy of equipment for the individual patient if equipment is to be used in the procedure or treatment. Assessment can be performed by physician, RCP or other licensed health care provider within their scope of practice.
(2) Respiratory care includes any acts, tests, procedures, treatments or modalities that are routinely taught in educational programs or in continuing education programs for respiratory care practitioners and are routinely performed in respiratory care practice settings.
(3) The practice of respiratory care includes the application of a broad range of evaluation and treatment procedures related to the observing and monitoring of signs and symptoms, general behavior, and general physical response to respiratory care treatment and diagnostic testing, including the determination of whether such signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics. In addition to the general activities identified in G.S. 90-648(10), each of the following specific activities constitutes the practice of Respiratory care:
(a) the performance of pulmonary diagnostic and sleep related testing.
(b) the administration of pharmacologic agents related to respiratory care procedures.
(c) establishment and maintenance of arterial lines for hemodynamic monitoring.
(d) therapeutic evaluation and assessment relating to mechanical or physiological ventilatory support, including positive pressure support apparatus.
(e) airway clearance techniques, postural drainage and chest percussion.
(f) assistance with bronchoscopy.
(g) asthma and respiratory disease management.
(h) smoking cessation programs that include respiratory function testing.
(i) cardiopulmonary rehabilitation.
(j) alleviating respiratory impairment and functional limitation by designing, implementing, and modifying therapeutic care plans.

(k) patient instruction in respiratory care, functional training in self-care and home respiratory care management, and the promotion and maintenance of respiratory care fitness, health, and quality of life.

(l) those advanced practice procedures that are recognized by the Board in Declaratory Rulings as being within the scope of respiratory care, when performed by an RCP with appropriate training.

Authority G.S. 90-652.

CHAPTER 65 – NORTH CAROLINA RECREATIONAL THERAPY BOARD OF LICENSURE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Recreational Therapy Licensure intends to adopt the rules cited as 21 NCAC 65 .0203 - .0205, .0302, .0401, .0501, .0601, .0701, .0801, .0901, .1001 and repeal the rules cited as 21 NCAC 65 .0101 - .0108.

Proposed Effective Date: December 1, 2006

Public Hearing:

Date: September 28, 2006

Time: 6:00 p.m.

Location: Dorothea Dix Hospital, Brown Building, 801 Biggs Drive, Raleigh, NC 27603

Reason for Proposed Action: New Legislation HB 613 /S.L. 2005-378

Procedure by which a person can object to the agency on a proposed rule: Send written comments to Becky Garrett, NCBRTI, Executive Director, P.O. Box 67, Saxapahaw, NC 27340

Comments may be submitted to: Becky Garrett, P.O. Box 67, Saxapahaw, NC 27340, phone (336) 212-1133, email beckyncbrtl@triad.rr.com

Comment period ends: October 16, 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

SECTION .0100 - GENERAL

21 NCAC 65 .0101 NAME SHORT TITLE

~~The North Carolina State Board of Therapeutic Recreation Certification shall be recognized as the Therapeutic Recreation Certification Board (TRCB).~~

Authority G.S. 90-6; 90C-4(a).

21 NCAC 65 .0102 MEETINGS

~~The Board shall conduct two annual reviews of applicants for certification within one month of application deadline.~~

Authority G.S. 90-5(i).

21 NCAC 65 .0103 RECIPROCITY

~~(a) TRCB will certify without examination any person currently certified as a Certified Therapeutic Recreation Specialist (CTRS) or a Certified Therapeutic Recreation Assistant (CTRA) by the National Council for Therapeutic Recreation Certification (NCTRC) when written evidence, with current expiration date, is provided to support a TRCB application presented.~~

~~(b) Anyone who is currently registered, certified or licensed by another state may apply for certification by TRCB by the reciprocity procedure with evidence that they meet current standards of G.S. 90C.~~

Authority G.S. 90C-15.

21 NCAC 65 .0104 ACADEMIC-TRS EXAMINATION

~~(a) TRCB shall provide to all applicants for certification as a Therapeutic Recreation Specialist, (TRS), a written examination administered by The National Council for Therapeutic Recreation Certification (NCTRC) to evaluate the qualifications of applicants for certification. The examination shall be given in a central geographic area within the state at least once a year.~~

~~(b) A national examination for Therapeutic Recreation Specialists administered by National Council for Therapeutic Recreation Certification (NCTRC) will be used to evaluate the qualifications of applicants for certification. (The examination shall be given in a central geographic area within the state.)~~

~~(1) Qualifications: In order to qualify to take the examination candidates must meet the following requirements:~~

~~(A) Candidates must present evidence (Official Transcripts) of a baccalaureate degree or higher from~~

~~an accredited college or university with a major in therapeutic recreation or a major in recreation and an option/emphasis in therapeutic recreation.~~

~~(B) Coursework for an Option/Emphasis in Therapeutic Recreation must reflect a minimum of three courses (9 semester/13.5 quarterhours) that the title, course description and course outline reflect recreation content.~~

~~(C) Coursework for an Option/Emphasis in Therapeutic Recreation must reflect a minimum of three courses (9 semester/13.5 quarterhours) that the title, course description and course outline reflect therapeutic recreation content.~~

~~(D) To improve consistency of the TRCB certification plan, the equation from semester to quarter hours will be by the ratio of one semester to 1.5 quarter hours.~~

~~(2) Eligibility and passing requirements, reporting of scores, retaking the exam, cancellations and review of the exam by unsuccessful applicants will be conducted according to the policies established by National Council for Therapeutic Recreation Certification (NCTRC) which are hereby incorporated by reference including substitutions, amendments and additions. Copies can be obtained at no cost from National Council for Therapeutic Recreation Certification (NCTRC), P.O. Box 479, Thiels, NY 10984 0479, Phone: (914) 947-4346.~~

Authority G.S. 90-6; 150B-21.6.

21 NCAC 65 .0105 PROVISIONAL TRS

~~Upon receipt of an application demonstrating compliance with the academic requirements each candidate will receive a letter allowing the use of the Title, Provisional Therapeutic Recreation Specialist (P TRS date of next review) until the results of the exam are known. If the candidate does not pass the examination the use of Provisional TRS is no longer permitted.~~

Authority G.S. 90-6; 90C-9d.

21 NCAC 65 .0106 CERTIFICATION FEES

~~(a) An additional fee shall be charged by the National Council for Therapeutic Recreation Certification (NCTRC) based on the cost of administration of the examination; the fee will be payable to National Council for Therapeutic Recreation Certification (NCTRC).~~

~~(b) A biannual TRCB Communications fee of fifteen dollars (\$15.00) shall be charged by TRCB to cover expenses for an annual report, newsletters, and directory to be sent to all those~~

certified. The fee will be collected in the year that certification renewal is due.

(c) A fee of thirty five dollars (\$35.00) for a directory and fifty dollars (\$50.00) for mailing labels of those certified will be charged for those requesting them for educational purposes upon approval of TRCB.

Authority G.S. 90-10.

21 NCAC 65 .0107 CERTIFICATE RENEWALS

(a) Continuing Professional Education/Experience Requirements: During the two year certification period,

TRS Component	TRA Description	Point Value	Point Value
Professional Experience (hours per year)	a minimum of 144 hours (72 hours per year)	20 points (10 per year)	20 points (10 per year)
Continuing Education (annually)	2 CEU's (1 CEU's, 10 contact hours)	20 points (10 per year)	20 points (10 per year)
Examination (TRS Only) exam	passing score on TRS certification	40 points	Not Applicable

(b) Professional Experience Component: If this component is selected to complete for renewal requirements, a minimum of 144 hours of therapeutic recreation experience must be earned within the two year certification period. The hours can be accumulated through the performance of the following professional roles:

- (1) Direct service deliverer delivers service directly to clients or groups of clients as a therapeutic recreation specialist or a therapeutic recreation assistant by performing assessments, developing individual programs and treatment plans, documenting the assessments and interventions, working on an interdisciplinary team or performing outreach activities.
- (2) Supervisor supervises therapeutic recreation personnel in the direct delivery of service to clients.
- (3) Administrator administers a department or a division which includes therapeutic recreation.
- (4) Educator teaches courses in therapeutic recreation.
- (5) Consultant performs consulting services in therapeutic recreation for organizations, educational institutions, agencies or corporations.
- (6) Volunteer volunteers services performed in any of the various roles described in Subparagraphs (b)(1) through (b)(5) of this Rule.

Continuing Education and Continuing Professional Experience will be required for certification renewal. Candidates for Certification Renewal as a TRS have a choice from two of three options to earn a minimum of 40 points to renew their certification. Candidates for Certification as a TRA must accrue their points from Professional Experience and Continuing Education options. The options, their definitions and their point values are listed in this Paragraph.

- Option #1: Professional Experience (20 points)
- Option #2: Continuing Education (20 points)
- Option #3: Examination (TRS Only) (40 points)

(7) Professional Service/Paid or Volunteer includes service on professional boards, councils, legislative work, standards development, or curriculum development, as this service relates to therapeutic recreation.

(8) Student participates in internships or supervised in-service education and training.

(c) Continuing Education Component: The continuing education component includes a wide range of continuing education activities that are typically available to Therapeutic Recreation Specialists and Therapeutic Recreation Assistants. Continuing Education Points (CEP's) are measured according to the equivalency of an educational contact hour (50 minutes of actual classroom/instructional time, excluding registration time and breaks).

(1) Continuing Education Units (CEU's) shall also be recognized and shall be translated into CEP's as follows:

- (A) 1 CEP = 1 contact hour = 0.1 CEU
- (B) 10 CEP's = 10 contact hours = 1.0 CEU

(2) CEP's shall be accumulated in one or several of three categories:

- (A) continuing education courses and experiences, or
- (B) academic courses, or
- (C) professional publications and presentations.

Each of these three is explained in this Rule.

- (3) Continuing Education Courses and Experiences such as symposia, seminars, are accepted if they are approved by a professional therapeutic recreation organization at the local, state, or national level, that uses the National or International Council on Continuing Education Standards or through a therapeutic recreation related group (such as a hospital or other agency) or through a college/university that uses national continuing education standards. The content of the continuing education experiences must be linked directly to the knowledge areas of therapeutic recreation specialist from the National Job Analysis Study conducted by National Council For Therapeutic Recreation Certification (NCTRC). The major categories of therapeutic recreation knowledge areas are:
- (A) Background Information,
 - (B) Diagnostic Groupings and Populations served,
 - (C) Assessment,
 - (D) Planning the Program,
 - (E) Implementing the Program/Treatment,
 - (F) Documentation and Evaluation,
 - (G) Organizing and Managing Services,
 - (H) Advancement of the Profession.

Only study via self study courses that are credited by an acceptable continuing education granting agency as described in this Paragraph shall be accepted.

- (4) Academic Courses.
- (A) Credit equivalents for completing academic coursework are:
 - (i) 1 semester = 15 Contact hours = 15 CEP's,
 - (ii) 1 trimester = 14 Contact hours = 14 CEP's,
 - (iii) 1 quarter = 10 Contact hours = 10 CEP's.
 - (B) Credit equivalents for audited academic coursework are:
 - (i) 1 semester = 8 Contact hours = 8 CEP's,
 - (ii) 1 trimester = 7 Contact hours = 7 CEP's,
 - (iii) 1 quarter = 5 Contact hours = 5 CEP's.

The content of academic courses shall also be linked to the knowledge areas of the National Job Analysis Study conducted by NCTRC.

- (5) Professional Publications and Presentations. No more than 10 CEP's in the area of professional publications and presentations will be accepted for each renewal period (2 years) according to the following point value:
- Editorials 2 CEP's
 - Articles on original research 6 CEP's
 - Newsletter article .8 CEP's

- Editing a textbook 6 CEP's
- Authoring a textbook chapter 6 CEP's
- Journal Articles 4 CEP's
- Journal reviews or book review 2 CEP's
- Research abstract .8 CEP's
- Textbook 8 CEP's
- Unpublished masters or doctoral thesis 4 CEP's
- Presentations at professional meetings: 8 CEP's per 50 minutes of lecture.

Credit will not be given for repeat or multiple presentations of the same seminar, in service, conference, original papers or poster presentation.

(d) Examination: If the examination component is chosen for recertification, Therapeutic Recreation Specialists will be required to take the current examination for professional level certification. The examination must be taken and passed within the two years of current certification. For example, a TRS certified in November of 1994 can take the exam as early as November of 1995 but no later than November of 1996 to count this component toward renewal requirements.

Authority G.S. 90C-6; 90C-9c(4); 90C-11.

21 NCAC 65 .0108 REVOCATION AND OTHER SANCTIONS

(a) When it is reported to TRCB in writing that a certified person has been convicted of a crime that indicates the person is unfit or incompetent to practice Therapeutic Recreation; an investigation shall be conducted by TRCB or by the Professional Conduct Committee appointed by TRCB. TRCB shall then revoke, suspend or deny that person's certification in response to the findings of the committee.

(b) Revocation, suspension and/or nonrenewal of certification will also occur for any of the following reasons:

- (1) Obtaining or attempting to obtain certification by fraud or deception.
- (2) Knowingly assisting another to obtain or attempt to obtain credentialing by fraud or deception.
- (3) Unauthorized use of certification or falsification of credentials.
- (4) Unauthorized possession or distribution of certifying agency testing or exam materials, including copying and reproducing exam questions and problems.
- (5) Misstatement of material fact or failure to make statement of material fact in application or statement or representation to any certifying board.
- (6) Falsifying information required for admission required for admission to exam, impersonating another examinee, or falsifying education or credentials on application.
- (7) Copying answers, permitting another to copy answers or providing or receiving

- ~~unauthorized advice about the exam content during the examination.~~
- (8) ~~Failure to pay certification fees.~~

Authority G.S. 90C-14(2)(3).

SECTION .0200 – REQUIREMENTS FOR PRACTICE

21 NCAC 65 .0203 LICENSED RECREATIONAL THERAPIST SCOPE OF PRACTICE

A Licensed Recreational Therapist shall practice recreational therapy, also known as therapeutic recreation, in accordance with the most recent version of the ATRA Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide published by the American Therapeutic Recreation Association (ATRA) and any subsequent amendments or changes. A copy can be purchased from ATRA at: <http://www.atra-tr.org>.

Authority G.S. 90C-22.

21 NCAC 65 .0204 LICENSED RECREATIONAL THERAPY ASSISTANT SCOPE OF PRACTICE

Under the supervision of a Licensed Recreational Therapist, a Licensed Recreational Therapy Assistant shall practice recreational therapy in accordance with the most recent version of the ATRA Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide published by the American Therapeutic Recreation Association (ATRA) and any subsequent amendments or changes. A copy can be purchased from ATRA at: <http://www.atra-tr.org>.

Authority G.S. 90C-22.

21 NCAC 65 .0205 SUPERVISION OF A LICENSED RECREATIONAL THERAPY ASSISTANT

The Licensed Recreational Therapy Assistant (LRTA) must perform duties and functions under the clinical supervision of the Licensed Recreational Therapist (LRT). Once the LRT determines the LRTA has demonstrated competence to provide specific interventions, documentation, and to make recommendations for program modification, the LRTA shall practice as defined and described in the most recent version of ATRA Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide. Clinical supervision, as defined in the glossary of the ATRA Standards of Practice, must be performed in accordance with a written agency policy that includes, at minimum, the following elements:

- (1) The Licensed Recreational Therapist shall:
 - (a) Determine the recreational therapy treatment plan and the elements of that plan appropriate for delegation to a licensed recreational therapy assistant (LRTA);
 - (b) Determine whether licensed recreational therapy assistants acting under his or her supervision possess the competence to perform the delegated duties;

- (c) Delegate responsibilities to the LRTA that are consistent with assessed competencies and within the overall LRTA scope of practice as defined and described in the most recent version of the ATRA Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide;
 - (d) Review chart documentation, reexamine and reassess the patient or client and revise the recreational therapy treatment plan as warranted;
 - (e) Establish the recreational therapy discharge plan;
 - (f) The LRT will determine, and the policy will describe, whether co-signature of chart documentation done by the LRTA is necessary for safe and effective care and treatment.;
 - (g) Be immediately available directly or by telecommunication to the LRTA;
 - (h) The LRT shall be limited to clinically supervising only the number of LRTAs as is appropriate for providing safe and effective patient or client intervention at all times.
- (2) A Licensed Recreational Therapy Assistant shall:
- (a) Assist in the practice of recreational therapy only to the extent allowed by the supervising LRT;
 - (b) Assist in the assessment of patient or client needs to the extent defined by the most recent version of the ATRA Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide and described in written agency policy;
 - (c) Make modifications of the recreational therapy treatment programs that are consistent with the recreational therapy treatment plan and under the supervision of the LRT;
 - (d) Engage in off-site patient or client related functions that are appropriate for the LRTA's qualifications and assessed competency in consideration of the functional status of the patient or client;
 - (e) Document care provided in accordance with written agency policy.
- (3) Prohibited Practice:
- (a) A LRTA shall not engage in practices of a LRT as defined and described in the most recent version of the ATRA Standards for the Practice of Therapeutic Recreation and Self-

Assessment Guide and any subsequent changes and amendments. A copy can be purchased from ATRA at: <http://www.atra-tr.org>;

- (b) A LRTA shall not engage in acts beyond the scope of practice delegated by the supervising LRT.

Authority G.S. 90C-22(3).

SECTION .0300 - REQUIREMENTS FOR LICENSURE

21 NCAC 65 .0302 MINIMUM LEVEL OF EDUCATION AND COMPETENCY FOR LICENSED RECREATIONAL THERAPY ASSISTANTS

For the purposes of G.S. 90C-27(b) an academic major is defined as an Associate of Applied Science Degree in therapeutic recreation or recreational therapy from a community college accredited by the Southern Association of Colleges and Schools. Course work for an Associate degree must reflect the following

- (1) A minimum of nine semester hours in therapeutic recreation or recreational therapy content courses;
- (2) Ten semester hours in therapeutic recreation or recreational therapy interventions;
- (3) A minimum of 15 semester hours of supportive coursework including at least one course from three of the following areas: psychology, sociology, physical and biological science, human services and physical education courses;
- (4) A minimum 380 hour field placement experience in a clinical, residential, or community-based agency under the supervision of a Licensed Recreational Therapist or Licensed Recreational Therapy Assistant. The field placement must be a minimum of 10 consecutive weeks with each week including a minimum of 20 hours.

Authority G.S. 90C-27(b).

SECTION .0400 - APPLICATION

21 NCAC 65 .0401 APPLICATION PROCEDURES FOR LICENSED RECREATIONAL THERAPIST AND LICENSED RECREATIONAL THERAPY ASSISTANT

(a) An applicant for licensure may request, in writing or by website access, a current application package from the North Carolina Board of Recreational Therapy Licensure.

(b) All materials shall be postmarked by the application deadline that is established by the Board and posted on the Board website.

(c) All items must be provided to constitute a full application package, including:

- (1) A current head and shoulders color photograph of the applicant;

(2) The initial application for licensure fee as stated in Rule .0501 of this Chapter;

(3) Official transcripts from each college or university attended;

(d) The Board shall review each application to determine an applicant's eligibility for licensure as a Recreational Therapist or a Recreational Therapy Assistant. The Board shall notify the applicant in writing if the applicant is ineligible for licensure. The Board shall require such supplemental information to the application as it deems necessary to determine the facts governing qualifications and competency of an applicant. The procedure for gathering such information may include an interview of the applicant by the Board.

(e) The individual who is issued a license shall be issued a license number. Should that number be retired for any reason (such as death or failure to renew the license) that number shall not be re-issued.

(f) A licensure card and certificate bearing the current name of the licensee, licensee number and the expiration date shall be issued to each person having an active license.

(g) The Board shall mail any notices to a licensee at the last known address.

(h) A license issued by the Board is the property of the Board and shall be surrendered by the licensee to the Board upon demand.

Authority G.S. 90C-27(a)(2), (b)(2).

SECTION .0500 - FEES

21 NCAC 65 .0501 LICENSURE FEES

(a) A cashier's check, certified check or an employer's check is acceptable for the initial application licensure fees.

(b) Fees shall be nonrefundable and payable to the North Carolina Board of Recreational Therapy Licensure. Personal checks shall be accepted for payment of renewal fee and record maintenance fee. Processing fee for returned checks shall be the maximum allowed by law.

(c) The Board shall collect the following fees:

- (1) Initial Application for Licensure Fee
 - (A) Licensed Recreational Therapist (\$100.00)
 - (B) Licensed Recreational Therapy Assistant (\$ 50.00)
- (2) Licensure renewal fees (due every two years)
 - (A) Licensed Recreational Therapist (\$ 50.00)
 - (B) Licensed Recreational Therapy Assistant (\$ 25.00)
- (3) Inactive status (\$ 35.00)
- (4) License revision or replacement (\$ 10.00)
- (5) Record Maintenance fee (due non-renewal yr)
 - (A) Licensed Recreational Therapist (\$ 50.00)
 - (B) Licensed Recreational Therapy Assistant (\$ 25.00)
- (6) Purchase of mailing labels to promote continuing education (\$ 50.00)

Authority G.S. 90C-28.

SECTION 0600 - CONTINUING EDUCATION REQUIREMENTS

21 NCAC 65 .0601 CONTINUING EDUCATION REQUIREMENTS FOR LICENSED RECREATIONAL THERAPIST AND LICENSED RECREATIONAL THERAPY ASSISTANT

- (a) Renewal notices shall be mailed to the licensee 60 days prior to the expiration date at their last known address.
(b) Licenses issued under the G.S. 90C shall be subject to renewal every two years upon completion of continuing education requirements as defined in this rule.
(c) Each Licensee shall complete and submit a renewal application package. All materials shall be postmarked by the application deadline that is established by the Board and posted on the Board website. The renewal application package shall be submitted to the Board and shall be accompanied by the proper fees.
(d) During the two-year licensing period, a recreational therapist or recreational therapy assistant who is licensed by the North Carolina Board of Recreation Therapy Licensure shall complete continuing education as outlined below. Candidates for license renewal must complete a minimum of 20 points of continuing education to renew the license. Content of continuing education must be directly related to the practice of recreational therapy or therapeutic recreation and must be consistent with the current Job Analysis conducted by the National Council for Therapeutic Recreation Certification. A licensee shall acquire credit through continuing education courses, academic courses; and professional publications and presentations:

Point Values will be awarded as the following:

- One CEP (Continuing Education Point) = one contact hour
0.1 CEU (Continuing Education Unit) = one contact hour
10 CEPs = 10 contact hours = 1.0 CEU

- (1) Continuing education is accepted if provided by an organization that adheres to the National or International Council on Continuing Education Standards or by other approved providers of continuing education as defined by Board. The content of the continuing education experiences must be linked directly to the knowledge areas from the most recent National Job Analysis Study conducted by the National Council for Therapeutic Recreation Certification and any subsequent amendments or changes.
(2) Academic Courses: Credit equivalents for completing academic coursework are: three semester hours equals 45 CEPs or 4.5 CEUs.
(3) Professional Publications and Presentations: No more than 10 CEPs in the area of professional publications and presentations shall be accepted for each renewal period according to the following point value:
Editorials one CEP

Table with 2 columns: Activity and CEPs. Rows include: Articles on original research (six CEPs), Professional newsletter article (one CEP), Editing a textbook (three CEPs), Authoring a textbook chapter (four CEPs), Journal article (four CEPs), Journal reviews or book review (one CEP), Poster presentation (one CEP), Research abstract (one CEP), Textbook (eight CEPs), Unpublished masters or doctoral thesis (four CEPs).

Presentations at professional meetings two CEPs

Field placement supervision three CEPs

(4) Credit shall not be given for repeat or multiple presentations of same seminar, publication, in-service, original paper or poster presentation during the renewal cycle.

(5) Field placement supervisors shall be granted credit for supervision of no more than two field placement students during the renewal cycle.

(e) Unless a person has advised the Board that he or she does not intend to renew the license, a renewal notification shall be sent to the person's last known home address.

(f) Each licensee must notify the Board within 30 days of a change of name, work or home address. The licensee requesting a name change shall provide to the Board a copy of a current government issued identification and a copy of a marriage certificate, marriage license, divorce decree or evidence of legal change of name.

Authority G.S. 90C-2.

SECTION .0700 - REINSTATEMENT

21 NCAC 65 .0701 REINSTATEMENT OF LAPSED LICENSE

(a) A recreational therapist or a recreational therapy assistant whose license has lapsed and who desires reinstatement of that license shall:

- (1) Complete a reinstatement licensure form provided by the Board;
(2) Submit evidence of satisfaction of all court conditions resulting from any misdemeanor or felony conviction(s) if applicable;
(3) Submit evidence of meeting education and competency requirements pursuant to Rule .0301 or Rule .0302 of this Chapter as applicable at the time of reinstatement;
(4) Submit evidence of meeting continuing education requirements in accordance with Rule .0601 of this Chapter;
(5) Submit payment of licensure fees

(b) Persons whose license is suspended for failure to renew, pursuant to G.S. 90C, are prohibited from engaging in the practice of recreational therapy and from holding themselves out as licensed by the Board until they apply for and receive reinstatement of their license by the Board.

(c) The applicant will be informed in writing of the Board's reinstatement decision.

Authority G.S. 90C-30.

SECTION .0800 - INACTIVE STATUS

21 NCAC 65 .0801 INACTIVE STATUS

(a) While on the inactive list, an individual shall not practice recreational therapy in North Carolina.

(b) A Licensed Recreational Therapist or Licensed Recreational Therapy Assistant, who has been on the inactive status list for a period of one year or less, may convert to active status by:

- (1) Submission of a reinstatement application to the Board;
- (2) Completion of a minimum of 10 continuing education points, or the amount of points pro-rated to the amount of time inactive, as defined in Rule .0601 of this Chapter for license renewal for a Licensed Recreational Therapist or Licensed Recreational Therapy Assistant;
- (3) Payment of the current license renewal fee.

(c) A Licensed Recreational Therapist or Licensed Recreational Therapy Assistant who has been on the inactive list for a period greater than one year may convert to active status by:

- (1) Submission of a reinstatement application to the Board;
- (2) Completion of a minimum of 10 continuing education points per year of inactive status, or the amount of points pro-rated to the amount of time inactive, as defined in Rule .0601 of this Chapter for license renewal;
- (3) Payment of the current license renewal fee.
- (4) Successful completion of the examination of the National Council for Therapeutic Recreation Certification for the Licensed Recreational Therapist.

(d) Persons certified by the State of North Carolina as a Therapeutic Recreation Specialist or Therapeutic Recreation Assistant presently on the inactive status list when this Rule takes effect will be notified of the rule change at their last known address.

(e) Persons listed as Inactive Status by the State of North Carolina Therapeutic Recreation Certification Board have until January 15, 2008 to apply for licensure through the exemption clause.

Authority G.S. 90C-31.

SECTION .0900 - RECIPROCITY

21 NCAC 65 .0901 ENDORSEMENT

(a) The applicant shall make application to and be evaluated by the Board in accordance to the procedures outlined in the requirements for licensure.

(b) The application package shall be accompanied by:

- (1) One current head and shoulders color photograph of the applicant identification;
- (2) Official college transcripts;

- (3) Verification of current state licensure;
- (4) Verification of successful passage of the National Council for Therapeutic Recreation Certification Therapeutic Recreation Exam.
- (5) Licensure Fees stated in Rule .0501 of this Chapter.

(c) The Board shall issue a license to practice as a licensed recreational therapist or a licensed recreational therapy assistant to any applicant who:

- (1) Meets all licensure requirements, and
- (2) Is currently licensed as a recreational therapist by a state with requirements substantially equivalent to the North Carolina Board of Recreational Therapy Licensure requirements at the time of application.

Authority G.S. 90C-33.

SECTION .1000 - REVOCATION, SUSPENSION OR DENIAL OF LICENSURE

21 NCAC 65 .1001 INVESTIGATIONS OF SUSPECTED VIOLATIONS AND COMPLAINTS

Chapter 90C of the General Statutes was enacted to protect the health, safety and welfare of the public, therefore, it is the policy of the Board to investigate reports of suspected malpractice, violations of Chapter 90C, complaints, reports of discipline by an employer and sanctions imposed by a credentialing organization or a professional association.

- (1) The Board may require information from the licensee regarding any disciplinary action taken by an employer or any sanctions issued to the licensee by a credentialing board or by a professional association. If this information indicates suspected malpractice or ethical violations the Board will investigate the matter in the same manner as a complaint and may, if the facts indicate that malpractice or ethical violation has occurred, issue sanctions or discipline the licensee..
- (2) A complaint regarding a violation of the G.S. 90C or Rules and Regulations shall be submitted in writing and shall document:
 - (a) The name of the licensee or other person involved;
 - (b) A description of the alleged behavior or incident; and
 - (c) The name, mailing address, email address and phone number of the person filing the complaint.
- (3) An incomplete complaint may be corrected and resubmitted
- (4) Action on a complaint, a report of a suspected violation of any provision of Chapter 90C, or a report of discipline by an employer or sanction by a credentialing organization or a professional association consists of the following:

- (a) The Board shall receive and acknowledge complaints, open a file and initiate complaint tracking.
 - (b) Complaints will be screened to determine jurisdiction and the type of response appropriate for the complaint.
 - (c) Investigation:
 - (i) If the facts do not clearly indicate a Chapter 90C violation, and the complaint can be handled without an investigation, the Board shall request that the licensee cease conduct that could result in a violation.
 - (ii) If the facts clearly indicate a Chapter 90C violation, the Board shall initiate an investigation. The Board may utilize additional personnel such as licensees, law enforcement officials, or other technical personnel that may be required in a particular case. If a Board member is utilized in the investigation, care must be taken to observe due process by separating (1) investigation, (2) prosecution, and (3) hearings and final decision-making. No Board member shall participate in more than one of these three steps in the enforcement process.
 - (iii) A confidential report of each investigation shall be prepared for the Board's review.
 - (d) Formal and Informal Hearings:
 - (i) The Board, after review of an investigative file, may schedule an informal meeting.
 - (ii) If the matter cannot be resolved informally, then a formal hearing shall be held.
 - (iii) Members of the Board shall not have communication with parties outside of the hearing about the case.
 - (e) Final Orders: As soon as possible, but at least within 60 days, the Board will issue its final decision in writing specifying the date on which it will take effect. The Board will serve one copy of the decision to each party to the hearing.
 - (i) Compliance: The Board Chair will initiate a follow-up inquiry to determine that the orders of the Board are being obeyed.
 - (f) Formal hearings shall be conducted in accordance with G.S. 150B-38 et seq.
- (5) The following types of disciplinary sanctions regarding recreational therapists and recreational therapy assistants may, among others, be utilized by the Board:
- (a) Denial of Application: Refusal to license the applicant;
 - (b) Letter of Reprimand: An expression of displeasure. The mildest form of administrative action;
 - (c) Required remedial education;
 - (d) Probation: A period of time where certain restrictions or conditions are imposed on a license. Continued licensure is subject to fulfillment of specified conditions;
 - (e) Suspension of license: A condition of loss of license for a certain duration of time after which the individual may be required to reapply for licensure; A condition of probation. Loss of license for a certain duration

- of time after which the individual may be required to reapply for licensure or remain on probation;
- (f) Loss of license for a certain duration of time after which the individual may be required to reapply for licensure or remain on probation;
- (g) Refusal of License Renewal: A refusal to reinstate or renew a license;
- (h) Revocation of license: An involuntary termination of a license;
- (i) Injunction: A court action prohibiting or compelling conduct by a licensee.

- (6) The Board may request information from professional associations, professional review organizations, hospitals, clinics or other institutions in which a licensee performs professional services, on possible chemical abuse, or incompetent or unethical behavior.
- (7) The Board will provide notice of sanction taken by it to other public entities as necessary to ensure that other state boards, enforcement authorities, and accrediting agencies receive the names of licensees disciplined.

Authority G.S. 90-24(8); 90C-32.

RULES REVIEW COMMISSION

This Section contains information for the meetings of the Rules Review Commission on Thursday August 17, 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
John B. Lewis
Mary Beach Shuping
Judson A. Welborn
John Tart

RULES REVIEW COMMISSION MEETING DATES

August 17, 2006 September 21, 2006
October 19, 2006 November 16, 2006

AGENDA
RULES REVIEW COMMISSION
August 17, 2006, 10:00 A.M.

- I. Reminder of Governor's Executive Order #1
- II. Review of minutes of last meeting
- III. Follow-Up Matters
 - A. Alarm Systems Licensing Board - 12 NCAC 11 .0201 (DeLuca)
 - B. Environmental Management Commission – 15A NCAC 2T .0305; .0504; .0604; .0704; .0904; .0905; .1004; .1104; .1204; .1504; .1604 (Bryan)
 - C. Commission for Health Services – 15A NCAC 18A .2831 (DeLuca)
 - D. Cosmetic Art Examiners – 21 NCAC 14J .0502 (DeLuca)
 - E. Cosmetic Art Examiners – 21 NCAC 14P .0105 (Bryan)
 - F. Medical Board – 21 NCAC 32M .0106 (DeLuca)
 - G. Board of Nursing – 21 NCAC 36 .0403; .0406 (DeLuca)
 - H. Board of Licensed Professional Counselors – 21 NCAC 53 .0402 (Bryan)
 - I. Board of Community Colleges – 23 NCAC 3A .0113 (DeLuca)
 - J. State Personnel Commission – 25 NCAC 1D .0115 (Bryan)

- IV. Review of Rules (Log Report)
- V. Review of Temporary Rules (If any)
- VI. Commission Business
- VII. Next meeting: September 21, 2006

Commission Review/Permanent Rules
Log of Filings
June 21, 2006 through July 20, 2006

* Approval Recommended, ** Objection Recommended, *** Other

AGRICULTURE, COMMISSIONER OF

The rules in Chapter 52 are from the Commissioner of Agriculture and cover the Veterinary Division of the department.

The rules in subchapter 52K concern the permitting and operation of animal exhibitions where the animals are displayed for the purpose of physical contact with humans. They include the rules purpose and scope (.0100); definitions (.0200); signage (.0300); fencing and other operational requirements (.0400); food, drink, and hand-washing requirements (.0500); animal keeping and exhibition requirements (.0600); and permitting and record-keeping (.0700).

<u>Purpose</u>	02	NCAC	52K	.0101
Adopt/*				
<u>Scope</u>	02	NCAC	52K	.0102
Adopt/*				
<u>Definitions</u>	02	NCAC	52K	.0201
Adopt/*				
<u>Signage</u>	02	NCAC	52K	.0301
Adopt/*				
<u>Minimum Size of Lettering on Signage</u>	02	NCAC	52K	.0302
Adopt/*				
<u>Fencing</u>	02	NCAC	52K	.0401
Adopt/*				
<u>Prohibited Items</u>	02	NCAC	52K	.0402
Adopt/*				
<u>Age Requirements</u>	02	NCAC	52K	.0403
Adopt/*				
<u>Feeding of Animals</u>	02	NCAC	52K	.0404
Adopt/				
<u>Staffing</u>	02	NCAC	52K	.0405
Adopt/*				
<u>Surfaces</u>	02	NCAC	52K	.0406
Adopt/*				
<u>Waste Disposal</u>	02	NCAC	52K	.0407
Adopt/*				
<u>Hand Washing Stations</u>	02	NCAC	52K	.0501
Adopt/*				
<u>Food and Drink</u>	02	NCAC	52K	.0502
Adopt/*				
<u>Health Certificate Vaccinations</u>	02	NCAC	52K	.0601

Adopt/*				
<u>Daily Monitoring</u>	02	NCAC	52K	.0602
Adopt/*				
<u>High Risk Animals</u>	02	NCAC	52K	.0603
Adopt/*				
<u>Birthing Animals</u>	02	NCAC	52K	.0604
Adopt/*				
<u>Permitting</u>	02	NCAC	52K	.0701
Adopt/*				
<u>Exhibit Areas</u>	02	NCAC	52K	.0702
Adopt/*				
<u>Records</u>	02	NCAC	52K	.0703
Adopt/*				

BANKS, OFFICE OF THE COMMISSIONER

The rules in Chapter 3 are from the Banking Commission.

The rules in Subchapter 3A concern organization including general information (.0100); structure of banking commission (.0200); and structure of the office of the Commissioner of Banks.

<u>Location and Address</u>	04	NCAC	03A	.0101
Amend/*				

The rules in Subchapter 3C concern banks including organization and chartering (.0100); branches and limited service facilities (.0200); change of location (.0300); consolidation of banks (.0400); work week (.0500); examination of banks (.0600); reports required by commissioners of banks (.0700); miscellaneous reports and approvals (.0800); operations (.0900); loan administration and leasing (.1000); capital (.1100); deposits (.1200); bank personnel (.1300); legal reserve (.1400); automation and data processing (.1500); fees (.1600); nonresident banks (.1700); and courier service (.1800).

<u>Application</u>	04	NCAC	03C	.0101
Amend/*				
<u>National Bank Conversion</u>	04	NCAC	03C	.0111
Amend/*				
<u>Establishment of Branches and Limited Service Facilities</u>	04	NCAC	03C	.0201
Amend/*				
<u>Discontinuance</u>	04	NCAC	03C	.0202
Amend/*				
<u>Conversion of Branch to Limited Service Facility</u>	04	NCAC	03C	.0204
Amend/*				
<u>Change of Location of Main Office, Branch or LTD SVC Faci...</u>	04	NCAC	03C	.0301
Amend/*				
<u>Application</u>	04	NCAC	03C	.0401
Amend/*				
<u>Examining Committee Report</u>	04	NCAC	03C	.0701
Amend/*				
<u>Reports of Condition and Income</u>	04	NCAC	03C	.0702
Adopt/*				
<u>Publisher's Copy Report of Condition</u>	04	NCAC	03C	.0703
Adopt/*				
<u>Oath of Directors</u>	04	NCAC	03C	.0801
Amend/*				
<u>Depository Banks</u>	04	NCAC	03C	.0802

Amend/*				
<u>Other Real Estate</u>	04	NCAC	03C	.0803
Amend/*				
<u>Suspension of Investment and Loan Limitation</u>	04	NCAC	03C	.0804
Amend/*				

The rules in Subchapter 3D concern banks acting in a fiduciary capacity including licensing (.0100); reports required by commissioner of banks (.0200); and trust department (.0300).

<u>Application</u>	04	NCAC	03D	.0101
Amend/*				
<u>Examining Committee Report of Trust</u>	04	NCAC	03D	.0201
Amend/*				
<u>Report of Trust Department</u>	04	NCAC	03D	.0202
Amend/*				

The rules in Subchapter 3E concern licensees under North Carolina Consumer Finance Act including licensing (.0100); actions requiring approval of commissioner of banks (.0200); reports required by commissioner of banks (.0300); examination (.0400); enforcement (.0500); and consumer finance offices (.0600).

<u>Application</u>	04	NCAC	03E	.0101
Amend/*				
<u>Operation of Other Business in Same Office</u>	04	NCAC	03E	.0201
Amend/*				
<u>Annual Report</u>	04	NCAC	03E	.0302
Amend/*				

The rules in Subchapter 3F concern licensees under money transmitters act including administrative (.0200); licensing (.0300); operations (.0400); reporting and notifications (.0500); examination books and records (.0600); and license revocation (.0700).

<u>Definitions</u>	04	NCAC	03F	.0201
Amend/*				

The rules in Subchapter 3H concern applications by regional bank holding companies including applications (.0100).

<u>Regional Bank Holding Company Acquisitions</u>	04	NCAC	03H	.0102
Amend/*				
<u>Bank Holding Company Registration</u>	04	NCAC	03H	.0103
Amend/*				

The rules in Subchapter 3J concern refund anticipation loan including administrative (.0100); application and renewal (.0200); operations, reporting requirements, notifications (.0300); and enforcement (.0400).

<u>Definitions Filings</u>	04	NCAC	03J	.0101
Amend/*				

The rules in Subchapter 3K concern reverse mortgages including administrative (.0100); authorization of reverse mortgage lenders (.0200); requirements for authorization (.0300); operations, notifications, and reporting (.0400); disclosure requirements (.0500); counseling (.0600); and prohibited acts and practices; enforcement actions (.0700).

<u>Definitions Filings</u>	04	NCAC	03K	.0101
Amend/*				

The rules in Subchapter 3L concern check-cashing businesses including administrative (.0100); application (.0200); licensing (.0300); operations (.0400); books and records examinations (.0500); and reporting and notification requirements (.0600).

Filings 04 NCAC 03L .0102
Amend/*

MEDICAL CARE COMMISSION

The rules in chapter 13 are from the NC Medical Care Commission.

The rules in Subchapter 13D are rules from the licensing of nursing homes including general information (.2000); licensure (.2100); general standards of administration (.2200); patient and resident care and services (.2300); medical records (.2400); physician's services (.2500); pharmaceutical services (.2600); dietary services (.2700); activities, recreation and social services (.2800); special requirements (.2900); specially designated units (.3000); design and construction (.3100); functional requirements (.3200); fire and safety requirements (.3300); and mechanical electrical plumbing (.3400).

Requirements for Licensure Renewal or Changes 10A NCAC 13D .2104
Amend/*

BUILDING CODE COUNCIL

These rules are from the Building Code Council.

Plumbing Code Section 412.6 Trap Primers (050913 Item B-2) 11 NCAC 08
Amend/*

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

The rules in Chapter 1 are from the Department of Environment and Natural Resources.

The rules in Subchapter 1J concern state clean water revolving loan and grant program including general provisions (.0100); eligibility requirements (.0200); applications (.0300); criteria for evaluation of eligible applications (.0400); priority criteria for wastewater treatment works projects (.0500); priority criteria for wastewater collection system projects (.0600); priority criteria for water supply systems projects (.0700); priority review periods assignment of priorities (.0800); loan and grant award and commitment disbursement of loans and grants (.0900); loan repayments (.1000); inspection and audit of projects (.1100); severability (.1200); and failed low-pressure pipe systems (.1300).

Purpose 15A NCAC 01J .0101
Repeal/*

Definitions 15A NCAC 01J .0102
Repeal/*

Eligible Project Costs 15A NCAC 01J .0201
Repeal/*

Grants from the High-Unit Cost Accounts 15A NCAC 01J .0202
Repeal/*

Grants from the General Revolving Loan and Grant Accounts 15A NCAC 01J .0203
Repeal/*

Loans from the Emergency Revolving Loan Accounts 15A NCAC 01J .0204
Repeal/*

Determination of Eligibility 15A NCAC 01J .0205
Repeal/*

Application Filing Deadlines 15A NCAC 01J .0301
Repeal/*

<u>General Provisions</u>	15A NCAC 01J .0302
Repeal/*	
<u>Filing of Required Supplemental Information</u>	15A NCAC 01J .0303
Repeal/*	
<u>Applications for Emergency Loans</u>	15A NCAC 01J .0304
Repeal/*	
<u>General Criteria</u>	15A NCAC 01J .0401
Repeal/*	
<u>Criteria for Planning and Water Conservation</u>	15A NCAC 01J .0402
Repeal/*	
<u>Criteria for Grant Increases</u>	15A NCAC 01J .0403
Repeal/*	
<u>Applicable Conditions</u>	15A NCAC 01J .0502
Repeal/*	
<u>Financial Need of Applicant</u>	15A NCAC 01J .0503
Repeal/*	
<u>Fiscal Responsibility of the Applicant</u>	15A NCAC 01J .0504
Repeal/*	
<u>Property Acquisition</u>	15A NCAC 01J .0505
Repeal/*	
<u>Public Need</u>	15A NCAC 01J .0601
Repeal/*	
<u>Public Health Need</u>	15A NCAC 01J .0602
Repeal/*	
<u>Financial Need of the Applicant</u>	15A NCAC 01J .0603
Repeal/*	
<u>Fiscal Responsibility of the Applicant</u>	15A NCAC 01J .0604
Repeal/*	
<u>Property Acquisition</u>	15A NCAC 01J .0606
Repeal/*	
<u>Public Necessity Health Safety and Welfare</u>	15A NCAC 01J .0701
Repeal/*	
<u>Project Planning</u>	15A NCAC 01J .0702
Repeal/*	
<u>Financial Considerations</u>	15A NCAC 01J .0703
Repeal/*	
<u>Environmental Assessment</u>	15A NCAC 01J .0704
Repeal/*	
<u>Priority Review Periods</u>	15A NCAC 01J .0801
Repeal/*	
<u>Assignment of Priorities</u>	15A NCAC 01J .0802
Repeal/*	
<u>Assignment of Category to Wastewater Applications</u>	15A NCAC 01J .0803
Repeal/*	
<u>Determination of Loan and Grant Awards</u>	15A NCAC 01J .0901
Repeal/*	
<u>Certification of Eligibility</u>	15A NCAC 01J .0902
Repeal/*	
<u>Criteria for Loan Adjustments</u>	15A NCAC 01J .0903
Repeal/*	
<u>Disbursement of Loans and Grants</u>	15A NCAC 01J .0904
Repeal/*	

RULES REVIEW COMMISSION

<u>Interest Rates</u>	15A NCAC 01J .1001
Repeal/*	
<u>Repayment of Principal and Interest on Loans</u>	15A NCAC 01J .1002
Repeal/*	
<u>Inspection</u>	15A NCAC 01J .1101
Repeal/*	
<u>Audit of Projects</u>	15A NCAC 01J .1102
Repeal/*	
<u>Purpose</u>	15A NCAC 01J .1401
Adopt/*	
<u>Definitions</u>	15A NCAC 01J .1402
Adopt/**	
<u>Eligible Project Costs</u>	15A NCAC 01J .1501
Adopt/*	
<u>Application Filing Deadlines</u>	15A NCAC 01J .1601
Adopt/*	
<u>General Provisions</u>	15A NCAC 01J .1602
Adopt/*	
<u>Common Criteria</u>	15A NCAC 01J .1701
Adopt/*	
<u>Assignment of Category to Wastewater System Applications</u>	15A NCAC 01J .1801
Adopt/*	
<u>Existing Conditions</u>	15A NCAC 01J .1901
Adopt/*	
<u>Water Quality Improvement</u>	15A NCAC 01J .1902
Adopt/*	
<u>Public Necessity health Safety and Welfare</u>	15A NCAC 01J .2001
Adopt/*	
<u>Project Planning</u>	15A NCAC 01J .2002
Adopt/*	
<u>Source Water Protection</u>	15A NCAC 01J .2003
Adopt/*	
<u>Criteria for Loan Adjustments</u>	15A NCAC 01J .2101
Adopt/*	
<u>Disbursement and Inspection</u>	15A NCAC 01J .2102
Adopt/*	
<u>Repayment of Principal and Interest on Loans</u>	15A NCAC 01J .2201
Adopt/*	

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Chapter 2 concern environmental management and are promulgated by the Environmental Management Commission and the Department of Environment and Natural Resources.

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards and classifications themselves (.0200); stream classifications (.0300); effluent limitations (.0400); and monitoring and reporting requirements (.0500).

<u>Yadkin-Pee Dee River Basin</u>	15A NCAC 02B .0309
Amend/*	

The rules in Subchapter 2D are air pollution control requirements including definitions and references (.0100); air pollution sources

(.0200); air pollution emergencies (.0300); ambient air quality standards (.0400); emission control standards (.0500); air pollutants monitoring and reporting (.0600); complex sources (.0800); volatile organic compounds (.0900); motor vehicle emission control standards (.1000); control of toxic air pollutants (.1100); control of emissions from incinerators (.1200); oxygenated gasoline standard (.1300); nitrogen oxide standards (.1400); transportation conformity (.1500); general conformity for federal actions (.1600); emissions at existing municipal solid waste landfills (.1700); control of odors (.1800); open burning (.1900); transportation conformity (.2000); risk management program (.2100); special orders (.2200); emission reduction credits (.2300); and clean air interstate rules.

Best Available Retrofit Technology 15A NCAC 02D .0543
Adopt/*

The rules in Subchapter 2E concern water use registration and allocation including general provisions (.0100); capacity use area No. 1 (.0200); registration of water withdrawals and transfers (.0300); regulation of surface water transfers (.0400); central coastal plain capacity use area (.0500); and water use during drought and water supply emergencies (.0600).

Scope 15A NCAC 02E .0601
Adopt/*

Definitions 15A NCAC 02E .0602
Adopt/*

General Information 15A NCAC 02E .0603
Adopt/*

Annual Reporting of Water Use 15A NCAC 02E .0604
Adopt/*

Water Use Reduction Reporting New Water Withdrawal Reporting 15A NCAC 02E .0605
Adopt/*

Water Shortage Response Planning Requirements 15A NCAC 02E .0606
Adopt/*

Publicly and Privately Owned Water System Water Shortage ... 15A NCAC 02E .0607
Adopt/*

State Agency Water Shortage Response Planning 15A NCAC 02E .0608
Adopt/*

Local Government Water Shortage Response Planning Require... 15A NCAC 02E .0609
Adopt/*

Business and Industrial Water Shortage Response Planning ... 15A NCAC 02E .0610
Adopt/*

Agricultural and Horticultural Water Shortage Response Pla... 15A NCAC 02E .0611
Adopt/**

Default Water Shortage Response Planning Measures 15A NCAC 02E .0612
Adopt/*

Default Water Use Reduction Measures During NCDMAC Extrem... 15A NCAC 02E .0613
Adopt/*

Default Water Use Reduction Measures During NCDMAC Except... 15A NCAC 02E .0614
Adopt/*

Water Reuse During Droughts and Water Emergencies 15A NCAC 02E .0615
Adopt/*

COASTAL RESOURCES COMMISSION

The rules in Chapter 7 are coastal management rules.

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).

Presentation to Coastal Resources Commission for Certific...
Amend/*

15A NCAC 07B .0802

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); general permit for authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); 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); general permit for placement of riprap for wetland protection in estuarine and public trust waters (.2400); emergency general permit, to be initiated at the discretion of the secretary of the Department of Environment and Natural Resources for replacement of structures, the reconstruction of primary or frontal dune systems, and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms, provided all replacement, reconstruction and maintenance excavation activities conform to all current standards (.2500); general permit for construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and general permit for the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

Approval Procedures
Amend/*

15A NCAC 07H .1102

Permit Fee
Amend/*

15A NCAC 07H .1103

Permit Fee
Amend/*

15A NCAC 07H .1203

Approval Procedures
Amend/*

15A NCAC 07H .1302

Permit Fee
Amend/*

15A NCAC 07H .1303

Permit Fee
Amend/*

15A NCAC 07H .1403

Application Fee
Amend/*

15A NCAC 07H .1503

Permit Fee
Amend/*

15A NCAC 07H .1603

Permit Fee
Amend/*

15A NCAC 07H .1703

Permit Fee
Amend/*

15A NCAC 07H .1803

Permit Fee
Amend/*

15A NCAC 07H .1903

Permit Fee
Amend/*

15A NCAC 07H .2003

Approval Procedures
Amend/*

15A NCAC 07H .2102

Permit Fee

15A NCAC 07H .2103

Amend/*	
<u>Permit Fee</u>	15A NCAC 07H .2203
Amend/*	
<u>Permit Fee</u>	15A NCAC 07H .2303
Amend/*	
<u>Permit Fee</u>	15A NCAC 07H .2403
Amend/*	
<u>Permit Fee</u>	15A NCAC 07H .2503
Amend/*	
<u>Permit Fees</u>	15A NCAC 07H .2603
Amend/*	
<u>Permit Fee</u>	15A NCAC 07H .2703
Amend/*	

REVENUE, DEPARTMENT OF

The rules in Chapter 7 are sales and use tax.

The rules in Chapter 7B concern state sales and use tax including (general provisions (.0100); general application of law to manufacturing and industrial processing (.0200); specific tangible personalty classified for use by industrial users (.0300); specific industries (.0400); exempt sales to manufacturers (.0500); sales of mill machinery and accessories (.0600); specific industry purchases (.0700); adjustments: replacements: alterations and installation sales (.0800); advertising and advertising agencies: public relations firms (.0900); barbers: beauty shop operators: shoe repairmen: watch repairmen (.1000); sales of bulk tobacco barns: farm machines and machinery (.1100); hotels: motels: tourist camps and tourist cabins (.1200); sales in interstate commerce (.1300); sales of medicines: drugs and medical supplies (.1400); finance companies: finance charges and carrying charges (.1500); sales to or by hospitals: educational: charitable or religious institutions: etc.: and refunds thereto (.1600); sales to or by the state: counties: cities: and other political subdivisions (.1700); hospitals and sanitariums (.1800); tire recappers and retreaders: tire and tube repairs (.1900); sales and gifts by employers to employees or other users (.2000); electricity: piped natural gas: bottled gas: coal: coke: fuel oil: oxygen: acetylene: hydrogen: liquefied petroleum gas and other combustibles (.2100); food and food products for human consumption (.2200); sales to out-of-state merchants for resale (.2300); sales of medical supplies and equipment to veterinarians (.2400); furniture and storage warehousemen (.2500); liability of contractors: use tax on equipment brought into state: building materials (.2600); dentists: dental laboratories and dental supply houses (.2700); florists: nurserymen: greenhouse operators and farmers (.2800); vending machines (.2900); articles taken in trade: trade-ins: repossessions: returned merchandise: used or secondhand merchandise (.3000); radio and television stations: motion picture theatres (.3100); telecommunications and telegraph companies (.3200); orthopedic appliances (.3300); memorial stone and monument dealers and monument manufactures (.3400); machinists: foundrymen: pattern makers (.3500); funeral expenses (.3600); lubricants: oils and greases (.3700); premiums: gifts and trading stamps (.3800); containers: wrapping: packing and shipping materials (.3900); fertilizer: seeds: feed and insecticides (.04000); artists: art dealers: photographers: etc. (.4100); sales to the united states government or agencies thereof (.4200); refunds to interstate carriers (.4300); lease or rental (.4400); laundries: dry cleaning plants: launderettes: linen rentals: and solicitors for such businesses (.4500); motor vehicles and boats (.4600); printers and newspaper or magazine publishers (.4700); basis or reporting (.4800); transportation charges (.4900); eyeglasses and other ophthalmic aids and supplies oculists: optometrists and opticians (.5000); leased departments and transient sellers (.5100); baby chicks and poults (.5200); certificate of authority: bond requirements (.5300); and forms used for sales and use tax purposes (.5400).

<u>Hogsheads Cardboard Containers Etc.</u>	17 NCAC 07B .3902
Amend/	
<u>Packaging Materials Warehousemen and Movers</u>	17 NCAC 07B .3903
Amend/	
<u>Marking Machines</u>	17 NCAC 07B .3904
Amend/	
<u>Ice Handling Supplies</u>	17 NCAC 07B .3905
Amend/	
<u>Objects of Art</u>	17 NCAC 07B .4101
Amend/	
<u>Sales of Photographs</u>	17 NCAC 07B .4102

Amend/ <u>Photo Tinting</u>	17	NCAC	07B	.4103
Amend/ <u>Blueprints</u>	17	NCAC	07B	.4104
Amend/ <u>Photo Supplies and Materials</u>	17	NCAC	07B	.4105
Amend/ <u>Photoengravings Electrotypes Etc.</u>	17	NCAC	07B	.4106
Amend/ <u>Sales of Movie Film</u>	17	NCAC	07B	.4107
Amend/ <u>Blueprints Sold to Architects</u>	17	NCAC	07B	.4109
Amend/ <u>Exempt Sales to the United States Government</u>	17	NCAC	07B	.4202
Amend/ <u>Contractors for the Federal Government</u>	17	NCAC	07B	.4203
Amend/ <u>Federal Credit Unions and the Farm Credit System</u>	17	NCAC	07B	.4205
Amend/ <u>Fed Savings/Loan Assoc National Banks/State Banks</u>	17	NCAC	07B	.4206
Amend/ <u>Reserve Officers' Uniforms</u>	17	NCAC	07B	.4207
Amend/ <u>Refunds to Interstate Carriers</u>	17	NCAC	07B	.4301
Amend/ <u>Application</u>	17	NCAC	07B	.4303
Amend/ <u>Motor Vehicle Service Businesses</u>	17	NCAC	07B	.4603
Amend/ <u>Special Equipment Accessories Motor Vehicles</u>	17	NCAC	07B	.4604
Amend/ <u>Fire Trucks and Equipment</u>	17	NCAC	07B	.4609
Amend/ <u>Pickup Campers Trailers</u>	17	NCAC	07B	.4614
Amend/ <u>Manufacturer Homes</u>	17	NCAC	07B	.4615

ATHLETIC TRAINER EXAMINERS

The rules in Chapter 3 are Athletic Trainer Examiner rules including rules about licensure (.0100); fees (.0200); renewal of license (.0300); disciplinary procedures (.0400); and athletic trainer protocol (.0500).

<u>Continuing Education</u>	21	NCAC	03	.0302
Amend/				

COMMUNITY COLLEGES, BOARD OF

The rules in Chapter 2 concern Community Colleges.

The rules in Subchapter 2C deal with the organization and operation of the colleges including trustees and colleges (.0100); personnel (.0200); students (.0300); libraries and learning resource centers (.0400); equipment (.0500); college evaluation (.0600);

Evaluation of Presidents
Amend/*

23 NCAC 02C .0209

The rules in Subchapter 2E cover educational programs including program classification (.0100); curriculum programs (.0200); adult, extension, and community service programs (.0300); industrial services (.0400); articulation (.0500); and vocational curriculum (.0600).

Courses and Standards for Curriculum Programs
Amend/*

23 NCAC 02E .0204

CONTESTED CASE DECISIONS

v. DHHS, DFS, Certificate of Need Section				
LaBrenda Perry Bennett v. Health Care Personnel Registry	05 DHR 1579	Morrison	07/13/06	
Lisa D. Smith-Perri on behalf of Gibson Price Smith, Brother	05 DHR 1982	Gray	06/26/06	
All Braxton, The Braxton Home II v, DHHS, DFS	05 DHR 1986	Mann	07/20/06	
Bertha Graham v. DHHS, DFS, Health Care Personnel Registry	05 DHR 2040	McCotter	06/08/06	
Jeanette Clark v. State Board of Nursing, Raleigh, NC	05 DHR 2076	Gray	07/10/06	
Yavonka Renee Vann v. DHHS, DFS	05 DHR 2108	Gray	07/12/06	
Zion Hill Ame Zion Church, Child Development Center v. DHHS, Div. of Child Development	05 DHR 2184	Gray	07/12/06	
Steven Thomas Safrit v. DHHS	05 DHR 2191	Mann	06/20/06	
Ruben Perez v. DHHS, Div. of Public Health Women and Children's Health Section	05 DHR 2225	Lassiter	05/10/06	
Richard Wayne Baird v. DHHS, DMA	06 DHR 0177	Gray	06/15/06	
Rosemary Nwanko v. DHHS, DFS, Mental Health Licensure and Certification Section	06 DHR 0186	Gray	07/12/06	
JoAnn Baldwin v. DHHS, DFS, Child and Adult Care Food Program	06 DHR 0208	Wade	06/27/06	
Jansala Walker v. Healthcare Personnel Registry	06 DHR 0213	Wade	06/07/06	
Bobby Locklear v. DHHS, DFS, Adult Licensure Section	06 DHR 0215	Mann	06/20/06	
Linwood B. Cameron d/b/a New Millennium Management Services v. DFS	06 DHR 0218	Elkins	06/08/06	
Deloris Johnson v. DHHS, Div. of Public Health, Child and Adult Care Food Program	06 DHR 0271	Gray	05/17/06	
Shawqi Abdalla Ibtisam Omar v. OAH	06 DHR 0332	Gray	07/10/06	
Daniel Marshall v. DHHS	06 DHR 0340	Wade	06/27/06	
Michael Glenn Shell v. Board of Health Care Workers Registry, DHHS	06 DHR 0358	Elkins	07/31/06	
Myrna Diane Bunnis v. DHHS, Division of Child Development	06 DHR 0399	Gray	06/19/06	
Annette Alexander v. DHHS	06 DHR 0471	Elkins	06/23/06	
Bernice Norman v. Wash Co. Dept. of Social Services	06 DHR 0472	Elkins	06/23/06	
Delisa Jean Scott v. DHHS, DFS	06 DHR 0475	Elkins	06/23/06	
Deloris Johnson v. DHHS, Div. of Public Health, Child and Adult Care Food Program	06 DHR 0488	Gray	05/17/06	
Eric Becton v. DHHS	06 DHR 0594	Elkins	06/23/06	
Regina A McLean v. DHHS, Citizen Affairs/Administration	06 DHR 0691	Gray	06/27/06	
DeJuana Byrd Heavenly Angels Child Center v. Child Abuse/ Neglect	06 DHR 0720	Lassiter	06/14/06	
Denise Little v. Catawba County LME, John Hardy, Director Consultant Deanna Hoxworth	06 DHR 0860	Lassiter	06/23/06	
Edna Cray - Kid's Academy v. DHHS, Div. of Public Health Child and Adult Care Food Program	06 DHR 0887	Gray	06/13/06	
<u>DEPARTMENT OF ADMINISTRATION</u>				
Corporate Express Office Products, Inc. v. NC Division of Purchase and Contract, & Office Depot, Inc.	06 DOA 0112	Gray	05/17/06	21:01 NCR 163
<u>DEPARTMENT OF CORRECTIONS</u>				
Michael Eugene Hunt v. DOC	06 DOC 0498	Gray	06/20/06	
<u>DEPARTMENT OF JUSTICE</u>				
Steven Forrest Brubaker v. NC Criminal Justice Education and Training Standards Commission	05 DOJ 1405	Elkins	05/31/06	21:01 NCR 158
Michael Edward Sutton v. NC Criminal Justice Education & Training Standards Commission	06 DOJ 0012	Morrison	05/09/06	
<u>DEPT. OF ENVIRONMENT AND NATURAL RESOURCES</u>				
Howard L. Hardy v. Co. of Craven Department of Health	00 EHR 0803	Gray	06/26/06	
Anton Tomassetti v. DENR, Div. of Air Quality	05 EHR 0321	Gray	06/12/06	
John Graham v. DENR, Div. of Air Quality	05 EHR 2029	Gray	05/08/06	
Heyward Ledford, Wolfpen Associates, Inc. v. DENR	06 EHR 0679	Gray	06/12/06	
<u>OFFICE OF STATE PERSONNEL</u>				
Sgt. Gerry R. Mouzon v. Crime Control & Public Safety, NC State Highway Patrol, and Brian Beatty, Secretary CC & PS	02 OSP 0392	Gray	06/15/06	
Sgt. Gerry R. Mouzon v. Crime Control & Public Safety, NC State Highway Patrol, and Brian Beatty, Secretary CC & PS	02 OSP 1036	Gray	06/15/06	
Hank L. Silverthorne v. DOT, Bridge Maintenance (Division One)	05 OSP 0291	Gray	05/11/06	
Deena Ward v. Columbus Co. Dept. of Social Services	05 OSP 1017	Lassiter	06/23/06	
Thomas H. Jones v. NC State Highway Patrol, Dept. of Crime Control & Public Safety	05 OSP 1495	Chess	05/17/06	
Michael D. Bognanowicz v. NC Wildlife Resources Commission	05 OSP 2024	Bryan	05/18/06	
Kamaria Smith v. DHHS	06 OSP 0130	Mann	06/06/06	
Lisa A. Forbes v. Dorothea Dix Hospital	06 OSP 0134	Gray	03/29/06	
Lisa A. Forbes v. Dorothea Dix Hospital	06 OSP 0135	Gray	03/29/06	
Reginald Powe v. Public Schools of NC State Board of Education, Dept of Public Instruction	06 OSP 0238	Lassiter	05/09/06	
Lisa Green v. DOC	06 OSP 0379	Lassiter	06/02/06	

CONTESTED CASE DECISIONS

James Walter Gibson v. DOT	06 OSP 0543	Gray	05/19/06
<u>SECRETARY OF STATE</u>			
Tisha L. Jones v. Dept. of Secretary of State	05 SOS 1987	Gray	05/19/06
Temeka A. Brooks v. Dept of Secretary of State	06 SOS 0276	Mann	05/26/06
<u>UNC HOSPITALS</u>			
Linda Sisco v. UNC Hospitals	05 UNC 0781	Gray	05/09/06
Karen H. Moore v. UNC Hospitals	06 UNC 0351	Elkins	06/08/06