NORTH CAROLINA REGISTER

VOLUME 24 • ISSUE 01 • Pages 1 - 36

July 01, 2009

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Contact List for Rulemaking Questions or Concerns

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

Office of Administrative Hearings
Rules Division
1711 New Hope Church Road — (919) 431-3000
Raleigh, North Carolina 27609 — (919) 431-3104 FAX

contact:	Molly Masich, Codifier of Rules	molly.masich@oah.nc.gov	(919) 431-3071
	Dana Vojtko, Publications Coordinator	dana.vojtko@oah.nc.gov	(919) 431-3075
	Julie Edwards, Editorial Assistant	julie.edwards@oah.nc.gov	(919) 431-3073
	Tammara Chalmers, Editorial Assistant	tammara.chalmers@oah.nc.gov	(919) 431-3083

Rule Review and Legal Issues

Rules Review Commission
1711 New Hope Church Road — (919) 431-3000
Raleigh, North Carolina 27609 — (919) 431-3104 FAX

contact:	Joe DeLuca Jr., Commission Counsel	joe.deluca@oah.nc.gov	(919) 431-3081
	Bobby Bryan, Commission Counsel	bobby.bryan@oah.nc.gov	(919) 431-3079

Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street — (919) 807-4700
Raleigh, North Carolina 27603-8005 — (919) 733-0640 FAX

contact:	William Crumbley, Economic Analyst	william.crumbley@ncmail.net	(919) 807-4740

Governor's Review

Eddie Speas — eddie.speas@nc.gov
Legal Counsel to the Governor — (919) 733-5811
116 West Jones Street
Raleigh, North Carolina 27603

Legislative Process Concerning Rule-making

Joint Legislative Administrative Procedure Oversight Committee
545 Legislative Office Building
300 North Salisbury Street — (919) 733-2578
Raleigh, North Carolina 27611 — (919) 715-5460 FAX

contact:	Karen Cochrane-Brown, Staff Attorney	karenc@ncleg.net
	Jeff Hudson, Staff Attorney	jeffreyh@ncleg.net

County and Municipality Government Questions or Notification

NC Association of County Commissioners
215 North Dawson Street — (919) 715-2893
Raleigh, North Carolina 27603

contact:	Jim Blackburn	jim.blackburn@ncacc.org
	Rebecca Troutman	rebecca.troutman@ncacc.org

NC League of Municipalities — (919) 715-4000
215 North Dawson Street
Raleigh, North Carolina 27603

contact: Erin L. Wynia — ewynia@nclm.org

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NORTH CAROLINA REGISTER
Publication Schedule for January 2009 – December 2009

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 31st legislative day of the session beginning:	270th day from publication in the Register
23:13	01/02/09	12/08/08	01/17/09	03/03/09	03/20/09	05/01/09	05/2010	09/29/09
23:14	01/15/09	12/19/08	01/30/09	03/16/09	03/20/09	05/01/09	05/2010	10/12/09
23:15	02/02/09	01/09/09	02/17/09	04/03/09	04/20/09	06/01/09	05/2010	10/30/09
23:16	02/16/09	01/26/09	03/03/09	04/17/09	04/20/09	06/01/09	05/2010	11/13/09
23:17	03/02/09	02/09/09	03/17/09	05/01/09	05/20/09	07/01/09	05/2010	11/27/09
23:18	03/16/09	02/23/09	03/31/09	05/15/09	05/20/09	07/01/09	05/2010	12/11/09
23:19	04/01/09	03/11/09	04/16/09	06/01/09	06/22/09	08/01/09	05/2010	12/27/09
23:20	04/15/09	03/24/09	04/30/09	06/15/09	06/22/09	08/01/09	05/2010	01/10/10
23:21	05/01/09	04/09/09	05/16/09	06/30/09	07/20/09	09/01/09	05/2010	01/26/10
23:22	05/15/09	04/24/09	05/30/09	07/14/09	07/20/09	09/01/09	05/2010	02/09/10
23:23	06/01/09	05/08/09	06/16/09	07/31/09	08/20/09	10/01/09	05/2010	02/26/10
23:24	06/15/09	05/22/09	06/30/09	08/14/09	08/20/09	10/01/09	05/2010	03/12/10
24:01	07/01/09	06/10/09	07/16/09	08/31/09	09/21/09	11/01/09	05/2010	03/28/10
24:02	07/15/09	06/23/09	07/30/09	09/14/09	09/21/09	11/01/09	05/2010	04/11/10
24:03	08/03/09	07/13/09	08/18/09	10/02/09	10/20/09	12/01/09	05/2010	04/30/10
24:04	08/17/09	07/27/09	09/01/09	10/16/09	10/20/09	12/01/09	05/2010	05/14/10
24:05	09/01/09	08/11/09	09/16/09	11/02/09	11/20/09	01/01/10	05/2010	05/29/10
24:06	09/15/09	08/24/09	09/30/09	11/16/09	11/20/09	01/01/10	05/2010	06/12/10
24:07	10/01/09	09/10/09	10/16/09	11/30/09	12/21/09	02/01/10	05/2010	06/28/10
24:08	10/15/09	09/24/09	10/30/09	12/14/09	12/21/09	02/01/10	05/2010	07/12/10
24:09	11/02/09	10/12/09	11/17/09	01/02/10	01/20/10	03/01/10	05/2010	07/30/10
24:10	11/16/09	10/23/09	12/01/09	01/15/10	01/20/10	03/01/10	05/2010	08/13/10
24:11	12/01/09	11/05/09	12/16/09	02/01/10	02/22/10	04/01/10	05/2010	08/28/10
24:12	12/15/09	11/20/09	12/30/09	02/15/10	02/22/10	04/01/10	05/2010	09/11/10

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EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF 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.

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U.S. Department of Justice

Civil Rights Division

CC:MSR:TAL:par
DJ 166-012-3
2009-1189
2009-1584

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

May 20, 2009

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

Dear Mr. Holec:

This refers to eight annexations (Ordinance Nos. 08-87, 08-88, 08-125, 08-126 (2008), 09-05, 09-06, 09-12, and 09-13 (2009)) and their designation to districts of the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on March 27 and May 4, 2009.

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

Sincerely,

Christopher Coates
Chief, Voting Section

SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
HVL CHR, LLC

Pursuant to N.C.G.S. § 130A-310.34, HVL CHR, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Notice of Intent") in Hendersonville, Henderson County, North Carolina. The Brownfields Property ("Property") consists of 0.35 acres and is located at 626 Greenville Highway. Environmental contamination exists at the Property in soil and groundwater. HVL CHR, LLC has committed itself to make no use of the Property other than a parking lot and access way for an adjacent development. The Notice of Intent includes: (1) a proposed Brownfields Agreement between DENR and HVL CHR, LLC, which in turn includes (a) a map showing the location of the Property (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, (d) proposed investigation and remediation and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Henderson Public Library, 301 N. Washington Street, Hendersonville, North Carolina 28739, by contacting Bill Snyder at that address, at (828) 697-4725 or at WSnyder@Henderson.Lib.NC.US; 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 shirley.liggins@ncmail.net or at (919) 508-8411.

Written public comments may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the Property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if HVL CHR, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the 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 July 2, 2009. 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 Application for Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Environment and Natural Resources (DENR) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a wastewater system, component, or device for on-site subsurface use. The following applications have been submitted to DENR:

Application by: Dave Lentz
Infiltrator Systems, Inc
PO Box 768
Old Saybrook, CT 06475

For: Modification to Innovative Approval with Addition of Low Profile Chamber

And

Application by: Eric Valentine
American Manufacturing Company
PO Box 97
Elkwood, VA 22718-0097

For: Revised Innovative Approval for "American Perc-Rite®" Subsurface anaerobic drip wastewater dispersal system

And

Application by: Eric Valentine
American Manufacturing Company
PO Box 97
Elkwood, VA 22718-0097

For: Innovative Approval for Pressure Dosed Recirculating Sand Filter

DENR Contact: Ted Lyon
1-919-715-3274
Fax: 919-715-3227
ted.lyon@ncmail.net

These applications may be reviewed by contacting the applicant or at 2728 Capital Blvd., Raleigh, NC, On-Site Water Protection Section, Division of Environmental Health. Draft proposed innovative approvals and proposed final action on the application by DENR can be viewed on the On-Site Water Protection Section web site: http://www.deh.enr.state.nc.us/osww_new/new1//index.htm.

Written public comments may be submitted to DENR within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Ted Lyon, Chief, On-site Water Protection Section, 1642 Mail Service Center, Raleigh, NC 27699-1642, or ted.lyon@ncmail.net, or fax 919.715.3227. Written comments received by DENR in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

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 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice *is hereby given in accordance with G.S. 150B-21.2 that the Medical Care Commission intends to adopt the rules cited as 10A NCAC 13J .1501-.1504.*

Proposed Effective Date: *January 1, 2010*

Public Hearing:
Date: *August 31, 2009*
Time: *2:00 p.m.*
Location: *Room 201 Council Building, Division of Health Service Regulation, Dorothea Dix Campus, 701 Barbour Drive, Raleigh, NC 27603*

Reason for Proposed Action: *As a result of House Bill 964 From SL 2008-127, rules are being adopted pursuant to changes in G.S. 131E-136 which expanded the definition of Home Care services to include In-home companion, sitter, and respite care services provided to an individual. These changes in the law become effective January 1, 2010.*

Procedure by which a person can object to the agency on a proposed rule: *An individual may object to the agency on the proposed rule by submitting written comments on the proposed rule. They may also object by attending the public hearing and personally voice their objections during that time.*

Comments may be submitted to: *Nadine Pfeiffer, Division of Health Service Regulation, 2701 Mail Service Center, Raleigh, NC 27699-2701, fax (919)733-2757, dhsr.rulescoordinator@ncmail.net.*

Comment period ends: *August 31, 2009*

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 919-431-3000.

Fiscal Impact:
☒ **State**
☐ **Local**
☐ **Substantive (**≥$3,000,000**)**
☐ **None**

CHAPTER 13 – NC MEDICAL CARE COMMISSION

SUBCHAPTER 13J – THE LICENSING OF HOME CARE AGENCIES

SECTION .1500 – COMPANION, SITTER, AND RESPITE SERVICES

10A NCAC 13J .1501 DEFINITIONS
The following definitions shall apply throughout this Section:

(1) "Companion, sitter, or respite services personnel" means an individual as used in G.S. 131E-136, who spends time with or provides non hands on care services for clients.

(2) "Non Hands on Care Services" means basic home management tasks, shopping, meal preparation, transportation, companion services, socialization, medication reminders, and other services that do not require the service provider to use "hands on care" as defined in Rule. 0901 of this Subchapter and which do not require training or verification of skills by a Registered Nurse.

(3) "Respite Care" means planned or emergency care provided to an individual in order to provide temporary relief to the family caregiver.

Authority G.S. 131E-140.

10A NCAC 13J .1502 SCOPE OF SERVICES
(a) If an agency provides In-home companion, sitter, or respite services, the services shall be provided in accordance with the client's plan of care. Agencies participating in the Home and Community Care Block Grant or Social Services Block Grant through the Division of Aging and Adult Services shall comply, for those clients, with the companion or sitter service level rules contained in 10A NCAC 06A and 10A NCAC 06X which are hereby incorporated by reference with all subsequent amendments. All other agencies providing companion and sitter

services shall comply with the provisions of the rules in this Section unless exempt from these Rules.

(b) Companion, sitter, or respite services personnel shall follow the service plan written by personnel required by agency policy for the services provided.

Authority G.S. 131E-140.

10A NCAC 13J .1503 AGENCY MANAGEMENT AND SUPERVISION

Notwithstanding the requirements in Rule .1001 of this Subchapter, the agency shall meet the following requirements:

(1) The agency shall designate an individual to serve as agency director. The agency director shall have the authority and responsibility for administrative direction of the agency. The agency director shall be a high school graduate, or be certified under the G.E.D. Program, and shall meet one or more of the following qualifications:
   (a) shall be a health care practitioner as defined in G.S. 90-640(a); or
   (b) shall have one year experience in home care, companion, sitter, or respite services, or any other provider licensed pursuant to G.S. 131E or G.S. 122C.

(2) The agency shall designate a person responsible for supervising non hands on care services that is provided by the agency either directly or by contract. This individual may be the supervisor for the companion, sitter, or respite services and may also serve as the agency director.

Authority G.S. 131E-140.

10A NCAC 13J .1504 SUPERVISION AND COMPETENCY OF COMPANION, SITTER, AND RESPITE SERVICES

In addition to the requirements in Rule .1110 of this Subchapter, an agency providing In-home companion, sitter, or respite care services shall meet the following requirements:

(1) Each agency shall have documentation that its companion and sitters are competent to perform client care tasks or activities to which they are assigned. Such individuals shall perform delegated activities under the supervision of a supervisor designated by agency policy for the services assigned.

(2) The agency designated supervisor shall supervise the companion and sitter staff by contacting the client receiving care every three months and by making a supervisory visit to each client's place of residence at least every six months, with or without the companion and sitter's presence, and at least annually, while the companion or sitter is in the home providing services to the client.

(3) The supervisory visit shall include a review of the client's general condition, monitoring progress and response to the services provided by the companion or sitter, and updates to the plan of care as needed.

(4) Documentation of supervisory visits shall be maintained in the agency's records and shall contain the following:
   (a) date of visit;
   (b) findings of visit; and
   (c) signature of person performing the visit.

(5) The agency designated supervisor conducting a supervisory contact for a companion, sitter, or respite provider may simultaneously conduct the quarterly case review as required in Rule .1202 of this Subchapter.

(6) The agency directed supervisor shall be available for supervision, on-site where services are provided when necessary, during the hours that companion, sitter, or respite services are provided.

Authority G.S. 131E-140.

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

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Division of Health Service Regulation intends to amend the rules cited as 10A NCAC 14C .1403, .1902-.1905, .2002, .2103, .2701.*

Proposed Effective Date: *November 1, 2009*

Public Hearing:
Date: *August 19, 2009*
Time: *2:00 p.m.*
Location: *Room 201 Council Building, Division of Health Service Regulation, Dorothea Dix Campus, 701 Barbour Drive, Raleigh, NC 27603.*

Reason for Proposed Action: *These rules are currently temporary rules which became effective February 1, 2009 and are now proposed for permanent rule amendment. Several subject matters are addressed in the State Medical Facilities Plan (SMFP). Each year, changes to existing Certificate of Need rules are required to compliment or to ensure consistency with the SMFP which is effective January 1, 2009. The specific subject areas being addressed by these proposed permanent rule changes are Neonatal Services, Surgical Services and Operating Rooms, Radiation Therapy Equipment, Home Health Services and Magnetic Resonance Imaging Scanners.*

Procedure by which a person can object to the agency on a proposed rule: *An individual may object to the agency on the proposed rule by submitting written comments on the proposed rule. They may also object by attending the public hearing and personally voice their objection during that time.*

Comments may be submitted to: *Nadine Pfeiffer, Division of Health Service Regulation, 2701 Mail Service Center, Raleigh, NC 27699-2701, fax (919)733-2757, email dhsr.rulescoordinator@ncmail.net.*

Comment period ends: *August 31, 2009*

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 919-431-3000.

Fiscal Impact:
☐ **State**
☐ **Local**
☐ **Substantive (**≥$3,000,000**)**
☒ **None**

CHAPTER 14 – DIRECTOR, DIVISION OF HEALTH SERVICE REGULATION

SUBCHAPTER 14C – CERTIFICATE OF NEED REGULATIONS

SECTION .1400 – CRITERIA AND STANDARDS FOR NEONATAL SERVICES

10A NCAC 14C .1403 PERFORMANCE STANDARDS

(a) An applicant shall demonstrate that the proposed project is capable of meeting the following standards:

~~(1) an applicant proposing a new Level I or Level II services, or additional Level II beds shall demonstrate that the occupancy of the applicant's total number of neonatal beds is projected to be at least 50% during the first year of operation and at least 65% during the third year of operation following completion of the proposed project;~~

~~(2)~~(1) if an applicant proposes an increase in the number of the facility's existing Level II, Level III or Level IV beds, the overall average annual occupancy of the total number of existing Level II, Level III and Level IV beds in the facility is at least ~~75%,~~ 75 percent, over the 12 months immediately preceding the submittal of the proposal; and

~~(3)~~(2) if an applicant is proposing to develop new or additional Level II, Level III or Level IV beds, the projected occupancy of the total number of Level II, Level III and Level IV beds proposed to be operated during the third year of operation of the proposed project shall be at least ~~75%.~~ 75 percent.

~~(4)~~(3) The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this rule.

(b) If an applicant proposes to develop a new Level III or Level IV service, the applicant shall document that an unmet need exists in the applicant's defined neonatal service ~~area.~~ area, unless the State Medical Facilities Plan includes a need determination for neonatal beds in the service area. The need for Level III and Level IV beds shall be computed for the applicant's neonatal service area by:

(1) identifying the annual number of live births occurring at all hospitals within the proposed neonatal service area, using the latest available data compiled by the State Center for Health Statistics;

(2) identifying the low birth weight rate (percent of live births below 2,500 grams) for the births identified in (1) of this Paragraph, using the latest available data compiled by the State Center for Health Statistics;

(3) dividing the low birth weight rate identified in (2) of this Paragraph by .08 and subsequently multiplying the resulting quotient by four; and

(4) determining the need for Level III and Level IV beds in the proposed neonatal service area as the product of:

(A) the product derived in (3) of this Paragraph, and

(B) the quotient resulting from the division of the number of live births in the initial year of the determination identified in (1) of this Paragraph by the number 1000.

Authority G.S. 131E-177(1); 131E-183(b).

SECTION .1900 – CRITERIA AND STANDARDS FOR RADIATION THERAPY EQUIPMENT

10A NCAC 14C .1902 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to acquire radiation therapy equipment shall use the Acute Care Facility/Medical Equipment application form.

(b) An applicant proposing to acquire radiation therapy equipment shall also provide the following additional information:

(1) a list of all the radiation therapy equipment to be acquired and documentation of the capabilities and capacities of each item of equipment;

(2) documentation of the purchase price and fair market value of each piece of radiation therapy

equipment, each simulator, and any other related equipment proposed to be acquired;

(3) the projected number of patient treatments by county and by simple, intermediate and complex treatments to be performed on each piece of radiation therapy equipment for each of the first three years of operation following the completion of the proposed project and documentation of all assumptions by which utilization is projected;

(4) documentation that the proposed radiation therapy equipment shall be operational at least seven hours per day, five days a week;

(5) documentation that no more than one simulator is available for every two linear accelerators in the applicant's facility, except that an applicant that has only one linear accelerator may have one simulator;

(6) documentation that the services shall be offered in a physical environment that conforms to the requirements of federal, state, and local regulatory bodies; and

(7) the projected number of patients that will be treated by county in each of the first three years of operation following completion of the proposed project.

(c) An applicant proposing to acquire a linear accelerator for development of a multidisciplinary prostate health center pursuant to a need determination for a demonstration project in the State Medical Facilities Plan shall provide the following additional information:

(1) description of all services to be provided by the proposed multidisciplinary prostate health center, including a description of each of the following services:
- (A) urology services,
- (B) medical oncology services,
- (C) biofeedback therapy,
- (D) chemotherapy,
- (E) brachytherapy, and
- (F) living skills counseling and therapy;

(2) documentation that urology services, medical and radiation oncology services, biofeedback therapy, brachytherapy and post-treatment living skills counseling and therapy will be provided in the same building;

(3) description of any services that will be provided by other facilities or in different buildings;

(4) demographics of the population in the county in which the proposed multidisciplinary prostate health center will be located, including:
- (A) percentage of the population in the county that is African American,
- (B) the percentage of the population in the county that is male,
- (C) the percentage of the population in the county that is African American male,
- (D) the incidence of prostate cancer for the African American male population in the county, and
- (E) the mortality rate from prostate cancer for the African American male population in the county;

(5) documentation that the proposed center is located within walking distance of an established bus route and within five miles of a minority community;

(6) documentation that the multiple medical disciplines in the center will collaborate to create and maintain a single or common medical record for each patient and conduct multidisciplinary conferences regarding each patient's treatment and follow-up care;

(7) documentation that the center will establish its own prostate/urological cancer tumor board for review of cases;

(8) copy of the center's written policies that prohibit the exclusion of services to any patient on the basis of age, race, religion, disability or the patient's ability to pay;

(9) copy of written strategies and activities the center will follow to assure its services will be accessible by patients without regard to their ability to pay;

(10) description of the center's outreach activities and the manner in which they complement existing outreach initiatives;

(11) documentation of number and type of clinics to be conducted to screen patients at risk for prostate cancer;

(12) written description of patient selection criteria, including referral arrangements for high-risk patients;

(13) commitment to prepare an annual report at the end of each of the first three operating years, to be submitted to the Medical Facilities Planning Section and the Certificate of Need Section, that shall include:
- (A) the total number of patients treated;
- (B) the number of African American persons treated;
- (C) the number of persons in other minority populations treated; and
- (D) the number of insured, underinsured and uninsured patients served by type of payment category;

(14) documentation of arrangements made with a third party researcher to evaluate, during the fourth operating year of the center, the efficacy of the clinical and outreach initiatives on prostate and urological cancer treatment, and develop recommendations regarding the advantages and disadvantages of replicating

the project in other areas of the State. The results of the evaluation and recommendations shall be submitted in a report to the Medical Facilities Planning Section and Certificate of Need Section in the first quarter of the fifth operating year of the demonstration project; and

(15) if the third party researcher is not a historically black university, document the reasons for using a different researcher for the project.

Authority G.S. 131E-177(1); 131E-183.

10A NCAC 14C .1903 PERFORMANCE STANDARDS

(a) An applicant proposing to acquire a linear accelerator shall demonstrate that each of the following standards will be met:

(1) an applicant's existing linear accelerators located in the proposed radiation therapy service area performed at least 6,750 ESTV treatments per machine or served at least 250 patients per machine in the twelve months prior to the date the application was submitted;

(2) each proposed new linear accelerator will be utilized at an annual rate of 250 patients or 6,750 ESTV treatments during the third year of operation of the new equipment; and

(3) an applicant's existing linear accelerators located in the proposed radiation therapy service area are projected to be utilized at an annual rate of 6,750 ESTV treatments or 250 patients per machine during the third year of operation of the new equipment.

(b) A linear accelerator shall not be held to the standards in Paragraph (a) of this Rule if the applicant provides documentation that the linear accelerator has been or will be used exclusively for clinical research and teaching.

(c) An applicant proposing to acquire radiation therapy equipment other than a linear accelerator shall provide the following information:

(1) the number of patients that are projected to receive treatment from the proposed radiation therapy equipment, classified by type of equipment, diagnosis, treatment procedure, and county of residence; and

(2) the maximum number and type of procedures that the proposed equipment is capable of performing.

(d) The applicant shall document all assumptions and provide data supporting the methodology used to determine projected utilization as required in this Rule.

Authority G.S. 131E-177(1); 131E-183(b).

10A NCAC 14C .1904 SUPPORT SERVICES

(a) An applicant proposing to acquire radiation therapy equipment shall document that the following items shall be available; and if any item shall not be available, the applicant shall provide substantive information obviating the need for that item:

(1) an organized program of radiation therapy continuing education for radiation therapists, technologists and medical staff;

(2) a program for the collection of utilization data relative to the applicant's provision of radiation therapy services;

(3) medical laboratory services;

(4) pathology services; and

(5) pharmaceutical support services.

(b) An applicant proposing to acquire a linear accelerator for development of a multidisciplinary prostate health center pursuant to a need determination for a demonstration project in the State Medical Facilities Plan shall provide a written description of the center's plans and strategies to establish:

(1) an African American Prostate Cancer Education/Outreach Program that will partner with and complement existing support groups, such as the N.C. Minority Prostate Cancer Awareness Action Team; and

(2) an Advisory Board composed of representatives of prostate cancer advocacy groups, prostate cancer patients and survivors that will meet regularly to provide feedback to the center regarding outreach practices which are effective or which need to be changed.

Authority G.S. 131E-177(1); 131E-183(b).

10A NCAC 14C .1905 STAFFING AND STAFF TRAINING

(a) An applicant proposing to acquire radiation therapy equipment shall document the number and availability of staff or provide evidence that obviates the need for staff in the following areas:

(1) Radiation Oncologist;

(2) Radiation Physicist;

(3) Dosimetrist or Physics Assistant;

(4) Radiation Therapist;

(5) Radiation-Oncology Administrator;

(6) Registered Nurse or LPN;

(7) Physical Therapist;

(8) Dietician;

(9) Pharmacist;

(10) Social Worker; and

(11) Maintenance Engineer.

(b) An applicant proposing to acquire a linear accelerator for development of a multidisciplinary prostate health center pursuant to a need determination for a demonstration project in the State Medical Facilities Plan shall document that the center will have:

(1) a medical director who is either a urologist certified by the American Board of Urology, a medical oncologist certified by the American Board of Internal Medicine, or a radiation oncologist certified by the American Board of Radiology; and

(2) a multidisciplinary team consisting of medical oncologists, radiation oncologists, urologists,

urologic pharmacologists, pathologists and therapy specialists.

Authority G.S. 131E-177(1); 131E-183.

SECTION .2000 – CRITERIA AND STANDARDS FOR HOME HEALTH SERVICES

10A NCAC 14C .2002 INFORMATION REQUIRED OF APPLICANT

(a) An applicant shall identify:

(1) the counties that are proposed to be served by the new office;

(2) the proposed types of services to be provided, including a description of each discipline;

(3) the projected total unduplicated patient count of the new office for each of the first two years of operation;

(4) the projected number of patients to be served per service discipline for each of the first two years of operation;

(5) the projected number of visits by service discipline for each of the first two years of operation;

(6) within each service discipline, the average number of patient visits per day that are anticipated to be performed by each staff person;

(7) the projected average annual cost per visit for each service discipline;

(8) the projected charge by payor source for each service discipline;

(9) the names of the anticipated sources of referrals; and

(10) documentation of attempts made to establish working relationships with the sources of referrals.

All assumptions, including the specific methodology by which patient utilization and costs are projected, shall be clearly stated.

(b) An applicant shall specify the proposed site on which the office is proposed to be located. If the proposed site is not owned by or under the control of the applicant, the applicant shall specify an alternate site. The applicant shall provide documentation from the owner of the sites or a realtor that the proposed and alternate site(s) are available for acquisition.

(c) An applicant proposing to establish a new home health agency pursuant to a need determination in the Sate Medical Facilities Plan to meet the special needs of the non-English speaking, non-Hispanic population shall provide the following additional information:

(1) for each staff person in the proposed home health agency, identify the foreign language in which the person is fluent to document the home health agency will have employees fluent in multiple foreign languages other than Spanish, including Russian;

(2) description of the manner in which the proposed home health agency will actively market and provide its services to non-English speaking, non-Hispanic persons; and

(3) documentation that the proposed home health agency will accept referrals of non-English speaking, non-Hispanic persons from other home health agencies and entities, within Medicare Conditions of Participation and North Carolina licensure rules.

Authority G.S. 131E-177(1); 131E-183.

SECTION .2100 – CRITERIA AND STANDARDS FOR SURGICAL SERVICES AND OPERATING ROOMS

10A NCAC 14C .2103 PERFORMANCE STANDARDS

(a) In projecting utilization, the operating rooms shall be considered to be available for use five days per week and 52 weeks a year.

(b) A proposal to establish a new ambulatory surgical facility, to increase the number of operating rooms (excluding dedicated C-section operating rooms), to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall not be approved unless:

(1) the applicant reasonably demonstrates the need for the number of proposed operating rooms in the facility, which is the subject of this review, in the third operating year of the project based on the following formula: {[(Number of facility's projected inpatient cases, excluding trauma cases reported by Level ~~I, II, or III~~ I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours) plus (Number of facility's projected outpatient cases times 1.5 hours)] divided by 1872 hours} minus the facility's total number of ~~existing,~~ existing and approved ~~and proposed~~ operating ~~rooms,~~ rooms and operating rooms proposed in another pending application, excluding one operating room for Level ~~I, II or III~~ I or II trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-section operating rooms. The number of rooms needed is ~~the positive difference rounded to the next highest number for fractions of 0.50 or greater; or~~ determined as follows:

(A) in a service area which has more than 10 operating rooms and the positive difference is 0.5 or greater, the need is the next highest whole number for fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5; except if the difference is a negative number or a positive number less than 0.5, the need is zero;

(B) in a service area which has six to 10 operating rooms and the positive difference is 0.3 or greater, the need is the next highest whole number for fractions of 0.3 or greater and the next lowest whole number for fractions less than 0.3, except if the difference is a negative number or a positive number less than 0.3, the need is zero;

(C) in a service area which has five or fewer operating rooms and the positive difference is 0.2 or greater, the need is the next highest whole number for fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2; except if the difference is a negative number or a positive number less than 0.2, the need is zero;

or

(2) the applicant demonstrates conformance of the proposed project to Policy AC-3 in the State Medical Facilities Plan titled "Exemption From Plan Provisions for Certain Academic Medical Center Teaching Hospital Projects."

(c) A proposal to establish a new ambulatory surgical facility, to increase the number of operating rooms (excluding dedicated C-section operating rooms) except relocations of existing operating rooms ~~between existing licensed facilities~~ within the same service area, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall not be approved unless the applicant reasonably demonstrates the need for the number of proposed operating rooms in addition to the rooms in ~~its~~ all of the licensed facilities identified in response to 10A NCAC 14C .2102(b)(2) in the third operating year of the proposed project based on the following formula: {[(Number of projected inpatient cases for all ~~its~~ the applicant's or related entities' facilities, excluding trauma cases reported by Level ~~I, II, or III~~ I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours) plus (Number of projected outpatient cases for all ~~its~~ the applicant's or related entities' facilities times 1.5 hours)] divided by 1872 hours} minus the total number of ~~existing,~~ existing and approved ~~and proposed~~ operating ~~rooms,~~ rooms and operating rooms proposed in another pending application, excluding one operating room for Level ~~I, II or III~~ I or II trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-Section operating rooms in all of ~~it's~~ the applicant's or related entities' licensed facilities in the service area. ~~A need is demonstrated if the difference is a positive number greater than or equal to 0.50.~~ The number of rooms needed is determined as follows:

(1) in a service area which has more than 10 operating rooms and the positive difference is 0.5 or greater, the need is the next highest whole number for fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5; except if the difference is a negative number or a positive number less than 0.5, the need is zero;

(2) in a service area which has six to 10 operating rooms and the positive difference is 0.3 or greater, the need is the next highest whole number for fractions of 0.3 or greater and the next lowest whole number for fractions less than 0.3, except if the difference is a negative number or a positive number less than 0.3, the need is zero;

(3) in a service area which has five or fewer operating rooms and the positive difference is 0.2 or greater, the need is the next highest whole number for fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2; except if the difference is a negative number or a positive number less than 0.2, the need is zero;

(d) An applicant that has one or more existing or approved dedicated C-section operating rooms and is proposing to develop an additional dedicated C-section operating room in the same facility shall demonstrate that an average of at least 365 C-sections per room were performed in the facility's existing dedicated C-section operating rooms in the previous 12 months and are projected to be performed in the facility's existing, approved and proposed dedicated C-section rooms during the third year of operation following completion of the project.

(e) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall provide documentation to show that each existing ambulatory surgery program in the service area that performs ambulatory surgery in the same specialty area as proposed in the application is currently utilized an average of at least 1,872 hours per operating room per year, excluding dedicated open heart and C-Section operating rooms. The hours utilized per operating room shall be calculated as follows: [(Number of projected inpatient cases, excluding open heart and C-sections performed in dedicated rooms, times 3.0 hours) plus (Number of projected outpatient cases times 1.5 hours)] divided by the number of operating rooms, excluding dedicated open heart and C-Section operating rooms.

(f) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall reasonably demonstrate the need for the conversion in the third operating year of the project based on the following formula: [(Total number of projected outpatient cases for all ambulatory surgery programs in the service area times 1.5 hours) divided by 1872 hours] minus the total number of existing, approved and proposed outpatient or ambulatory surgical operating rooms and shared operating rooms in the service area. The need for the conversion is demonstrated if the difference is a positive number greater than or equal to one, after the number is rounded to the next highest number for fractions of 0.50 or greater.

(g) The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this Rule.

Authority G.S. 131E-177; 131E-183(b).

SECTION .2700 - CRITERIA AND STANDARDS FOR MAGNETIC RESONANCE IMAGING SCANNER

10A NCAC 14C .2701 DEFINITIONS

The following definitions apply to all rules in this Section:

(1) "Approved MRI scanner" means an MRI scanner which was not operational prior to the beginning of the review period but which had been issued a certificate of need.

(2) "Capacity of fixed MRI scanner" means 100 percent of the procedure volume that the MRI scanner is capable of completing in a year, given perfect scheduling, no machine or room downtime, no cancellations, no patient transportation problems, no staffing or physician delays and no MRI procedures outside the norm. Annual capacity of a fixed MRI scanner is 6,864 weighted MRI procedures, which assumes two weighted MRI procedures are performed per hour and the scanner is operated 66 hours per week, 52 weeks per year.

(3) "Capacity of mobile MRI scanner" means 100 percent of the procedure volume that the MRI scanner is capable of completing in a year, given perfect scheduling, no machine or room downtime, no cancellations, no patient transportation problems, no staffing or physician delays and no MRI procedures outside the norm. Annual capacity of a mobile MRI scanner is 4,160 weighted MRI procedures, which assumes two weighted MRI procedures are performed per hour and the scanner is operated 40 hours per week, 52 weeks per year.

(4) "Dedicated breast MRI scanner" means an MRI scanner that is configured to perform only breast MRI procedures and is not capable of performing other types of non-breast MRI procedures.

(5) "Existing MRI scanner" means an MRI scanner in operation prior to the beginning of the review period.

(6) "Extremity MRI scanner" means an MRI scanner that is utilized for the imaging of extremities and is of open design with a field of view no greater than 25 centimeters.

(7) "Fixed MRI scanner" means an MRI scanner that is not a mobile MRI scanner.

(8) "Magnetic Resonance Imaging" (MRI) means a non-invasive diagnostic modality in which electronic equipment is used to create tomographic images of body structure. The MRI scanner exposes the target area to nonionizing magnetic energy and radio frequency fields, focusing on the nuclei of atoms such as hydrogen in the body tissue. Response of selected nuclei to this stimulus is translated into images for evaluation by the physician.

(9) "Magnetic resonance imaging scanner" (MRI Scanner) is defined in G.S. 131E-176(14e).

(10) "Mobile MRI region" means either the eastern part of the State which includes the counties in Health Service Areas IV, V and VI (Eastern Mobile MRI Region), or the western part of the State which includes the counties in Health Service Areas I, II, and III (Western Mobile MRI Region). The counties in each Health Service Area are identified in Appendix A of the State Medical Facilities Plan.

(11) "Mobile MRI scanner" means an MRI scanner and transporting equipment which is moved at least weekly to provide services at two or more ~~host facilities.~~ campuses or locations.

(12) "MRI procedure" means a single discrete MRI study of one patient.

(13) "MRI service area" means the Magnetic Resonance Imaging Planning Areas, as defined in the applicable State Medical Facilities Plan, except for proposed new mobile MRI scanners for which the service area is a mobile MRI region.

(14) "MRI study" means one or more scans relative to a single diagnosis or symptom.

(15) "Multi-position MRI scanner" means an MRI scanner as defined in the State Medical Facilities Plan, pursuant to a special need determination for a demonstration project.

(16) "Related entity" means the parent company of the applicant, a subsidiary company of the applicant (i.e., the applicant owns 50 percent or more of another company), a joint venture in which the applicant is a member, or a company that shares common ownership with the applicant (i.e., the applicant and another company are owned by some of the same persons).

(17) "Temporary MRI scanner" means an MRI scanner that the Certificate of Need Section has approved to be temporarily located in North Carolina at a facility that holds a certificate of need for a new fixed MRI scanner, but which is not operational because the project is not yet complete.

(18) "Weighted MRI procedures" means MRI procedures which are adjusted to account for the length of time to complete the procedure, based on the following weights: one outpatient MRI procedure without contrast or sedation is valued at 1.0 weighted MRI procedure, one outpatient MRI procedure with contrast or

sedation is valued at 1.4 weighted MRI procedures, one inpatient MRI procedure without contrast or sedation is valued at 1.4 weighted MRI procedures; and one inpatient MRI procedure with contrast or sedation is valued at 1.8 weighted MRI procedures.

(19) "Weighted breast MRI procedures" means MRI procedures which are performed on a dedicated breast MRI scanner and are adjusted to account for the length of time to complete the procedure, based on the following weights: one diagnostic breast MRI procedure is valued at 1.0 weighted MRI procedure (based on an average of 60 minutes per procedure), one MRI-guided breast needle localization MRI procedure is valued at 1.1 weighted MRI procedure (based on an average of 66 minutes per procedure), and one MRI-guided breast biopsy procedure is valued at 1.6 weighted MRI procedures (based on an average of 96 minutes per procedure).

Authority G.S. 131E-177(1); 131E-183(b).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 32 – MEDICAL BOARD

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to amend the rules cited as 21 NCAC 32M .0101, .0104-.0108, .0110, .0116.*

Proposed Effective Date: *December 1, 2009*

Public Hearing:
Date: *August 31, 2009*
Time: *10:00 a.m.*
Location: *Medical Board, 1203 Front Street, Raleigh, NC 27609*

Reason for Proposed Action: *The Medical Board and the Board of Nursing recently reviewed all nurse practitioner rules to improve clarity. Revision of the rules is necessary to clarify language within each rule for consistency and to better reflect new processes. Deletion of language that is no longer appropriate, allow additional continuing education options and correct placement of rule language within the Section.*

Procedure by which a person can object to the agency on a proposed rule: *A person may submit objections to the proposed amendment, in writing by 08/31/2009, Rules Coordinator, N.C. Medical Board, 1203 Front Street, Raleigh, NC 27609 or email at rules@ncmedboard.org.*

Comments may be submitted to: *Rules Coordinator, NC Medical Board, 1203 Front Street, Raleigh, NC 27609, phone (919)326-1100, fax (919)326-0036, email rules@ncmedboard.org*

Comment period ends: *August 31, 2009*

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 919-431-3000.

Fiscal Impact:
☐ **State**
☐ **Local**
☐ **Substantive (**≥$3,000,000**)**
☒ **None**

SUBCHAPTER 32M - APPROVAL OF NURSE PRACTITIONERS

21 NCAC 32M .0101 DEFINITIONS
The following definitions apply to this Subchapter:

(1) "Medical Board" means the North Carolina Medical Board.

(2) "Board of Nursing" means the Board of Nursing of the State of North Carolina.

(3) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and Members of the Medical Board to whom responsibility is given by G.S. 90-6 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.

(4) "Nurse Practitioner or NP" means a currently licensed registered nurse approved to perform medical acts consistent with the nurse's area of nurse practitioner academic educational preparation and national certification under an agreement with a licensed physician for ongoing supervision, consultation, collaboration and evaluation of medical acts performed. Such medical acts are in addition to those nursing acts performed by virtue of registered nurse (RN) licensure. The NP is held accountable under the RN license for those nursing acts that he or she may perform.

(5) "Registration" means authorization by the Medical Board and the Board of Nursing for a registered nurse to use the title nurse

practitioner in accordance with this Subchapter.

(6) "Approval to Practice" means authorization by the Medical Board and the Board of Nursing for a nurse practitioner to perform medical acts within her/his area of educational preparation and certification under a collaborative practice agreement (CPA) with a licensed physician in accordance with this Subchapter.

~~(7) "Nurse Practitioner Applicant" means a registered nurse who may function prior to full approval as a Nurse Practitioner in accordance with Rule .0104(g) of this Subchapter.~~

(7)~~(8)~~ "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.

(8)~~(9)~~ "Collaborative practice agreement" means the arrangement for nurse practitioner-physician continuous availability to each other for ongoing supervision, consultation, collaboration, referral and evaluation of care provided by the nurse practitioner.

(9)~~(10)~~ "Primary Supervising Physician" means the licensed physician who, by signing the nurse practitioner application, shall provide on-going supervision, collaboration, consultation and evaluation of the medical acts performed by the nurse practitioner as defined in the collaborative practice agreement. Supervision shall be in compliance with the following:

(a) The primary supervising physician shall assure both Boards that the nurse practitioner is qualified to perform those medical acts described in the collaborative practice agreement.

(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.

(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation.

(10)~~(11)~~ "Back-up Supervising Physician" means the licensed physician who, by signing an agreement with the nurse practitioner and the primary supervising physician(s), shall provide supervision, collaboration, consultation and evaluation of medical acts by the nurse practitioner in accordance with the collaborative practice agreement when the Primary Supervising Physician is not available. Back-up supervision shall be in compliance with the following:

(a) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.

(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.

(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation and has a signed collaborative practice agreement with the nurse practitioner and the primary supervising physician may be a back-up supervising physician for a nurse practitioner in the non-training situation.

(11)~~(12)~~ "Volunteer Approval" means approval to practice consistent with this Subchapter except without expectation of direct or indirect compensation or payment (monetary, in kind or otherwise) to the nurse practitioner.

(12)~~(13)~~ "Disaster" means a state of disaster as defined in G.S. 166A-4(3) and proclaimed by the Governor, or by the General Assembly pursuant to G.S. 166A-6.

~~(14) "Interim Status" means limited privileges granted by the Board of Nursing to a graduate of an approved nurse practitioner educational program meeting the requirements in Rule .0105 of this Subchapter or a registered nurse seeking initial approval in North Carolina, as defined in Rule .0104(g) of this Subchapter, while awaiting final approval to practice as a nurse practitioner.~~

(13)~~(15)~~ "National Credentialing Body" means one of the following credentialing bodies that offers certification and re-certification in the nurse practitioner's specialty area of practice: American Nurses Credentialing Center (ANCC); American Academy of Nurse Practitioners (AANP); National Certification Corporation of the Obstetric, Gynecologic and Neonatal Nursing Specialties (NCC); and the Pediatric Nursing Certification Board (PNCB).

Authority G.S. 90-6; 90-18(c)(14); 90-18.2.

21 NCAC 32M .0104 PROCESS FOR APPROVAL TO PRACTICE

(a) Prior to the performance of any medical acts, a nurse practitioner shall:

(1) meet registration requirements as specified in 21 NCAC 32M .0103 of this Section;

(2) submit an application for approval to practice;

(3) submit any additional information necessary to evaluate the application as requested; and

(4) have a collaborative practice agreement with a primary supervising physician.

(b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

(c) The nurse practitioner shall not practice until notification of approval to practice is received from the Board of Nursing after both Boards have approved the application. ~~Boards.~~

(d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement and the nurse practitioner shall notify the ~~Boards~~ Board of Nursing in writing. The Boards may extend the nurse practitioner's approval to practice in cases of emergency such as sudden injury, illness or death of the primary supervising physician.

(e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:

(1) the Board of Nursing shall verify compliance with Rule .0103 of this Subchapter and Paragraph (a) of this Rule; and

(2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Subparagraph (a) of this Rule.

(f) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:

(1) addition or change of primary supervising physician shall be submitted to the Board of Nursing and proceed pursuant to protocols developed by both Boards; and

(2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.

~~(g) Interim status for a nurse practitioner applicant shall be granted to a registered nurse who has met the registration requirements as set forth in Rule .0103 and .0105 of this Subchapter with the following limitations:~~

~~(1) no prescribing privileges;~~

~~(2) primary or back-up physicians shall be continuously available for ongoing supervision, collaboration, consultation and countersigning of notations of medical acts in all patient charts within two working days of nurse practitioner applicant patient contact;~~

~~(3) face to face consultation with the primary supervising physician shall be weekly with documentation of consultation consistent with Rule .0110(e)(3) of this Subchapter; and~~

~~(4) shall not exceed six months.~~

~~(g)~~(h) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:

(1) meet the nurse practitioner approval requirements as stipulated in Rule .0108(c) of this Subchapter; and

(2) complete the appropriate application.

~~(h)~~(i) Volunteer Approval to Practice. ~~Both Boards may grant approval~~ Approval to practice in a volunteer capacity may be granted to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.

~~(i)~~(j) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0115 of this Subchapter.

~~(j)~~(k) A Nurse Practitioner approved under this Subchapter shall keep proof of current licensure, registration and approval available for inspection at each practice site upon request by agents of either Board.

Authority G.S. 90-18(c)(14); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.42.

21 NCAC 32M .0105 EDUCATION AND CERTIFICATION REQUIREMENTS FOR REGISTRATION AS A NURSE PRACTITIONER

A nurse practitioner applicant who completed a nurse practitioner education program prior to December 31, 1999 shall provide evidence of successful completion of a course of education that contains a core curriculum including 400 contact hours of didactic education and 400 contact hours of preceptorship or supervised clinical experience.

(1) The core curriculum shall contain the following components:

(a) health assessment and diagnostic reasoning including:

(i) historical data;

(ii) physical examination data;

(iii) organization of data base;

(b) pharmacology;

(c) pathophysiology;

(d) clinical management of common health problems and diseases such as the following shall be evident in the nurse practitioner's academic program:

(i) respiratory system;

(ii) cardiovascular system;

(iii) gastrointestinal system;

(iv) genitourinary system;

(v) integumentary system;

(vi) hematologic and immune systems;

(vii) endocrine system;

(viii) musculoskeletal system;

(ix) infectious diseases;

(x) nervous system;

(xi) behavioral, mental health and substance abuse problems;

(e) clinical preventative services including health promotion and prevention of disease;

(f) client education related to Sub-items (1)(d) and (e) of this Rule; and

(g) role development including legal, ethical, economical, health policy and interdisciplinary collaboration issues.

(2) Nurse practitioner applicants exempt from components of the core curriculum requirements listed in Item (1) of this Rule are:

(a) Any nurse practitioner approved to practice in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.

(b) A nurse practitioner certified by a national credentialing body prior to January 1, 1998, who also provides evidence of satisfying Sub-items (1)(a)-(c) of this Rule shall be exempt from core curriculum requirements in Sub-items (1)(d)-(g) of this Rule. Evidence of satisfying Sub-items (1)(a)-(c)of this Rule shall include:

(i) a narrative of course content; and

(ii) contact hours.

(3) A nurse practitioner with first-time approval to practice after January 1, 2000, shall provide evidence of certification or recertification by a national credentialing body.

Authority G.S. 90-18(c)(14); 90-171.42.

21 NCAC 32M .0106 ANNUAL RENEWAL

(a) Each registered nurse who is approved to practice as a nurse practitioner in this state shall annually renew each approval to practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:

(1) Maintaining current RN licensure;

(2) Submitting the fee required in Rule .0115 of this Subchapter; and

(3) Completing the renewal application.

~~(b) A nurse practitioner with first-time approval to practice after January 1, 2000, shall provide evidence of certification or recertification by a national credentialing body.~~

(b)~~(c)~~ If the nurse practitioner has not renewed by the last day of her/his birth month, the approval to practice as a nurse practitioner shall lapse.

Authority G.S. 90-6; 90-18(14); 90-171.23(b).

21 NCAC 32M .0107 CONTINUING EDUCATION (CE)

In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of continuing education each year beginning with the first renewal after initial approval to practice has been granted. ~~Continuing Education hours are~~ At least 20 hours of the required 50 hours must be those hours for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), other national credentialing bodies or practice relevant courses in an institution of higher learning. Documentation shall be maintained by the nurse practitioner and made available upon request to either Board.

Authority G.S. 90-6; 90-18(14); 90-171.23(14).

21 NCAC 32M .0108 INACTIVE STATUS

(a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the Board of Nursing. ~~Boards by completing the form supplied by the Boards.~~

(b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.

(c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice as stipulated in Rules .0103(a)(1), .0104(a); .0106(b); .0107; and .0110 and (b)(1) of this Subchapter and receive notification from the Board of Nursing ~~both Boards~~ of approval prior to beginning practice after the application is approved by both Boards. ~~practice.~~

(d) A nurse practitioner with an inactive approval to practice status of greater than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

Authority G.S. 90-18(c)(14); 90-18.2; 90-171.36.

21 NCAC 32M .0110 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT

(a) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.

(b) Collaborative Practice Agreement:

(1) shall be agreed upon and signed by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;

(2) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice agreement and available for inspection by members or agents of either Board;

(3) shall include the drugs, devices, medical treatments, tests and procedures that may be prescribed, ordered and performed by the nurse practitioner consistent with Rule .0109 of this Subchapter; and

(4) shall include a pre-determined plan for emergency services.

(c) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.

(d) Quality Improvement Process:

(1) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.

(2) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time-frame.

(3) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:

(A) identify clinical problems discussed, including progress toward improving outcomes as stated in Subparagraph (d)(2) of this Rule, and recommendations, if any, for changes in treatment plan(s);

(B) be signed and dated by those who attended; and

(C) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

(e) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner/primary or back-up supervising physician(s):

(1) During the first six months of ~~the initial~~ a collaborative practice agreement between a nurse practitioner and the primary supervising physician, ~~agreement,~~ there shall be monthly meetings for the first six months to discuss practice relevant clinical issues and quality improvement measures. ~~Be:~~

~~(A) review and countersigning of notations of medical acts by a primary or back-up supervising physician within seven days of nurse practitioner patient contact.~~

~~(B) meetings with the primary supervising physician on a weekly basis for one month after approval to practice is received and at least monthly for a total of six months.~~

~~(2) During the first six months of a subsequent collaborative practice agreement between a nurse practitioner previously approved to practice and a different primary supervising physician, there shall be meetings with the new primary supervising physician monthly for the first six months.~~

(2)~~(3)~~ Documentation of the meetings shall:

(A) identify clinical issues discussed and actions taken;

(B) be signed and dated by those who attended; and

(C) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

Authority G.S. 90-6; 90-18(14); 90-18.2; 90-171.23(14).

21 NCAC 32M .0116 PRACTICE DURING A DISASTER

(a) A nurse practitioner approved to practice in this State or another state may perform medical acts as a nurse practitioner under the supervision of a physician licensed to practice medicine in North Carolina during a disaster in a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared.

(b) The nurse practitioner shall notify ~~both Boards~~ the Board of Nursing in writing of the names, practice locations and telephone number for the nurse practitioner and each primary supervising physician within 15 days of the first performance of medical acts as a nurse practitioner during the disaster, and the Board of Nursing shall notify the Medical Board pursuant to protocols developed by both Boards. ~~disaster.~~

(c) Teams of physician(s) and nurse practitioner(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements and plans for prescriptive authority as otherwise required pursuant to Rules .0109 and .0110 of this Subchapter.

Authority G.S. 90-18(c)(13), (14); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.42.

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CHAPTER 36 - BOARD OF NURSING

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Board of Nursing intends to amend the rules cited as 21 NCAC 36 .0801, .0804-.0808, .0810, .0814.*

Proposed Effective Date: *December 1, 2009*

Public Hearing:
Date: *September 25, 2009*
Time: *1:00 p.m.*
Location: *Board of Nursing Office, 3724 National Drive, Suite 201, Raleigh, NC*

Reason for Proposed Action: *The Board of Nursing and the Medical Board recently reviewed all nurse practitioner rules to*

improve clarity. Revision of the rules is necessary to clarify language within each rule for consistency and to better reflect new processes. Deletion of language that is no longer appropriate; allow additional CE options; and correct placement of rule language within the Section.

Procedure by which a person can object to the agency on a proposed rule: *Persons may submit objections to these rules by contacting Jean H. Stanley, APA Coordinator, NC Board of Nursing, P.O. Box 2129, Raleigh, NC 27602, fax (919)781-9461, email jeans@ncbon.com*

Comments may be submitted to: *Jean H. Stanley, NC Board of Nursing, P.O. Box 2129, Raleigh, NC 27602, phone (919)782-3211, ext 252, fax (919)781-9461, email jeans@ncbon.com*

Comment period ends: *September 25, 2009*

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 919-431-3000.

Fiscal Impact:
☐ **State**
☐ **Local**
☐ **Substantive (**≥$3,000,000**)**
☒ **None**

SECTION .0800 – APPROVAL AND PRACTICE PARAMETERS FOR NURSE PRACTITIONERS

21 NCAC 36 .0801 DEFINITIONS

The following definitions apply to this Section:

(1) "Medical Board" means the North Carolina Medical Board.

(2) "Board of Nursing" means the Board of Nursing of the State of North Carolina.

(3) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and Members of the Medical Board to whom responsibility is given by G.S. 90-6 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.

(4) "Nurse Practitioner or NP" means a currently licensed registered nurse approved to perform medical acts consistent with the nurse's area of nurse practitioner academic educational preparation and national certification under an agreement with a licensed physician for ongoing supervision, consultation, collaboration and evaluation of the medical acts performed. Such medical acts are in addition to those nursing acts performed by virtue of registered nurse (RN) licensure. The NP is held accountable under the RN license for those nursing acts that he or she may perform.

(5) "Registration" means authorization by the Medical Board and the Board of Nursing for a registered nurse to use the title nurse practitioner in accordance with this Section.

(6) "Approval to Practice" means authorization by the Medical Board and the Board of Nursing for a nurse practitioner to perform medical acts within her/his area of educational preparation and certification under a collaborative practice agreement (CPA) with a licensed physician in accordance with this Section.

~~(7) "Nurse Practitioner Applicant" means a registered nurse who may function prior to full approval as a Nurse Practitioner in accordance with Rule .0804(g) of this Section.~~

(7)~~(8)~~ "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.

(8)~~(9)~~ "Collaborative practice agreement" means the arrangement for nurse practitioner-physician continuous availability to each other for ongoing supervision, consultation, collaboration, referral and evaluation of care provided by the nurse practitioner.

(9)~~(10)~~ "Primary Supervising Physician" means the licensed physician who, by signing the nurse practitioner application, shall provide ongoing supervision, collaboration, consultation and evaluation of the medical acts performed by the nurse practitioner as defined in the collaborative practice agreement. Supervision shall be in compliance with the following:

(a) The primary supervising physician shall assure both Boards that the nurse practitioner is qualified to perform those medical acts described in the collaborative practice agreement.

(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.

(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation may supervise a

nurse practitioner in the non-training situation.

(10)~~(11)~~ "Back-up Supervising Physician" means the licensed physician who, by signing an agreement with the nurse practitioner and the primary supervising physician(s) shall provide supervision, collaboration, consultation and evaluation of medical acts by the nurse practitioner in accordance with the collaborative practice agreement when the Primary Supervising Physician is not available. Back-up supervision shall be in compliance with the following:

(a) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.

(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.

(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation and has a signed collaborative practice agreement with the nurse practitioner and the primary supervising physician. may be a back-up supervising physician for a nurse practitioner in the non-training situation.

(11)~~(12)~~ "Volunteer Approval" means approval to practice consistent with this rule except without expectation of direct or indirect compensation or payment (monetary, in kind or otherwise) to the nurse practitioner.

(12)~~(13)~~ "Disaster" means a state of disaster as defined in G.S. 166A-4(3) and proclaimed by the Governor, or by the General Assembly pursuant to G.S. 166A-6.

~~(14) "Interim Status" means limited privileges granted by the Board of Nursing to a graduate of a nurse practitioner educational program meeting the requirements of Rule .0805 of this Section or a registered nurse seeking initial approval in North Carolina as defined in Rule .0804(g) of this Section while awaiting final approval to practice as a nurse practitioner.~~

(13)~~(15)~~ "National Credentialing Body" means one of the following credentialing bodies that offers certification and re-certification in the nurse practitioner's specialty area of practice: American Nurses Credentialing Center (ANCC); American Academy of Nurse Practitioners (AANP); National Certification Corporation of the Obstetric Gynecologic and Neonatal Nursing Specialties (NCC); and the Pediatric Nursing Certification Board (PNCB).

Authority G.S. 90-6; 90-18(14); 90-18.2; 90-171.20(4); 90-171.20(7); 90-171.23(b); 90-171.83.

21 NCAC 36 .0804 PROCESS FOR APPROVAL TO PRACTICE

(a) Prior to the performance of any medical acts, a nurse practitioner shall:

(1) meet registration requirements as specified in 21 NCAC 36 .0803 of this Section;

(2) submit an application for approval to practice;

(3) submit any additional information necessary to evaluate the application as requested; and

(4) have a collaborative practice agreement with a primary supervising physician.

(b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

(c) The nurse practitioner shall not practice until notification of approval to practice is received from the ~~Boards.~~ Board of Nursing after both Boards have approved the application.

(d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement, or experiences an interruption in her/his registered nurse licensure status, and the nurse practitioner shall notify the Board of Nursing ~~both Boards~~ in writing. The Boards may extend the nurse practitioner's approval to practice in cases of emergency such as injury, sudden illness or death of the primary supervising physician.

(e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:

(1) the Board of Nursing shall verify compliance with Rule .0803 and Paragraph (a) of this Rule; and

(2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Paragraph (a) of this Rule.

(f) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:

(1) addition or change of primary supervising physician shall be submitted to ~~both Boards;~~ the Board of Nursing and processed pursuant to protocols developed by both Boards; and

(2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.

~~(g) Interim status for a nurse practitioner applicant shall be granted to: a registered nurse who has met the registration requirements as set forth in Rules .0803 and .0805 of this Section with the following limitations:~~

~~(1) no prescribing privileges;~~

~~(2) primary or back up physicians shall be continuously available for ongoing supervision, collaboration, consultation and countersigning of notations of medical acts in all patient charts within two working days of nurse practitioner applicant patient contact;~~

~~(3) face to face consultation with the primary supervising physician shall be weekly with documentation of consultation consistent with Rule .0810(e)(3) of this Section; and~~

~~(4) shall not exceed six months.~~

~~(g)~~(h) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:

(1) meet the nurse practitioner approval requirements as stipulated in Rule .0808(c) of this Section; and

(2) complete the appropriate application.

~~(h)~~(i) Volunteer Approval to Practice. ~~Both Boards may grant approval~~ Approval to practice in a volunteer capacity may be granted to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.

~~(i)~~(j) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0813 of this Section.

~~(j)~~(k) A Nurse Practitioner approved under this Section shall keep proof of current licensure, registration and approval available for inspection at each practice site upon request by agents of either Board.

Authority G. S. 90-18(13), (14); 90-18.2; 90-171.20(7); 90-171.23(b).

21 NCAC 36 .0805 EDUCATION AND CERTIFICATION REQUIREMENTS FOR REGISTRATION AS A NURSE PRACTITIONER

A nurse practitioner applicant who completed a nurse practitioner education program prior to December 31, 1999 shall provide evidence of successful completion of a course of education that contains a core curriculum including 400 contact hours of didactic education and 400 hours of preceptorship or supervised clinical experience.

(1) The core curriculum shall contain the following components:

(a) health assessment and diagnostic reasoning including:

(i) historical data;

(ii) physical examination data;

(iii) organization of data base;

(b) pharmacology;

(c) pathophysiology;

(d) clinical management of common health problems and diseases such as the following shall be evident in the nurse practitioner's academic program:

(i) respiratory system;

(ii) cardiovascular system;

(iii) gastrointestinal system;

(iv) genitourinary system;

(v) integumentary system;

(vi) hematologic and immune systems;

(vii) endocrine system;

(viii) musculoskeletal system;

(ix) infectious diseases;

(x) nervous system;

(xi) behavioral, mental health and substance abuse problems;

(e) clinical preventative services including health promotion and prevention of disease;

(f) client education related to Sub-items (1)(d) and (e) of this Rule; and

(g) role development including legal, ethical, economical, health policy and interdisciplinary collaboration issues.

(2) Nurse practitioner applicants exempt from components of the core curriculum requirements listed in Item (1) of this Rule are:

(a) Any nurse practitioner approved to practice in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.

(b) A nurse practitioner certified by a national credentialing body prior to January 1, 1998, who also provides evidence of satisfying Sub-items(1)(a) - (c) of this Rule shall be exempt from core curriculum requirements in Sub-Items (1)(d) - (g) of this Rule. Evidence of satisfying Sub-Items (1)(a) - (c) of this Rule shall include:

(i) a narrative of course content; and

(ii) contact hours.

(3) A nurse practitioner with first-time approval to practice after January 1, 2000, shall provide evidence of certification or recertification by a national credentialing body.

Authority G.S. 90-18(14); 90-171.42.

21 NCAC 36 .0806 ANNUAL RENEWAL

(a) Each registered nurse who is approved to practice as a nurse practitioner in this state shall annually renew each approval to practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:

(1) Maintaining current RN licensure;

(2) Submitting the fee required in Rule .0813 of this Section; and

(3) Completing the renewal application.

~~(b) A nurse practitioner with first time approval to practice after January 1, 2000, shall provide evidence of certification or recertification by a national credentialing body.~~

(b)~~(c)~~ If the nurse practitioner has not renewed by the last day of her/his birth month, the approval to practice as a nurse practitioner shall lapse.

Authority G.S. 90-6; 90-18(14) 90-171.23(b); 90-171.83.

21 NCAC 36 .0807 CONTINUING EDUCATION (CE)

In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of continuing education each year beginning with the first renewal after initial approval to practice has been granted. ~~Continuing Education hours are~~ At least 20 hours of the required 50 hours must be those hours for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), other national credentialing bodies or practice relevant courses in an institution of higher learning. Documentation shall be maintained by the nurse practitioner and made available upon request to either Board.

Authority G.S. 90-6; 90-18(14); 90-171.23(b)(14); 90-171.42.

21 NCAC 36 .0808 INACTIVE STATUS

(a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the Board of Nursing. ~~both Boards by completing the form supplied by both Boards.~~

(b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.

(c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice as stipulated in Rules .0803(a)(1), .0804(a), .0806(b), .0807, and .0810 of this Section and receive notification from the Board of Nursing ~~both Boards~~ of approval prior to beginning practice after the application is approved by both Boards. ~~practice.~~

(d) A nurse practitioner with an inactive approval to practice status of greater than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

Authority G.S. 90-18(13); 90-18.2; 90-171.36; 90-171.83.

21 NCAC 36 .0810 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT

(a) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.

(b) Collaborative Practice Agreement:

(1) shall be agreed upon and signed by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;

(2) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice agreement and available for inspection by members or agents of either Board;

(3) shall include the drugs, devices, medical treatments, tests and procedures that may be prescribed, ordered and performed by the nurse practitioner consistent with Rule .0809 of this Section; and

(4) shall include a pre-determined plan for emergency services.

(c) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.

(d) Quality Improvement Process.

(1) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.

(2) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time-frame.

(3) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:

(A) identify clinical problems discussed, including progress toward improving outcomes as stated in Subparagraph (d)(2) of this Rule, and recommendations, if any, for changes in treatment plan(s);

(B) be signed and dated by those who attended; and

(C) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

(e) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner/primary ~~or back up~~ supervising physician(s):

(1) During the first six months of ~~the initial~~ a collaborative practice agreement between a nurse practitioner and the primary supervising physician, ~~agreement,~~ there shall ~~be:~~ be monthly meetings for the first six months to discuss practice relevant clinical issues and quality improvement measures.

~~(A) review and countersigning of notations of medical acts by a primary or back-up supervising physician within seven days of nurse practitioner patient contact.~~

~~(B) meetings with the primary supervising physician on a weekly basis for one month after approval to practice is received and at least monthly for a total of six months.~~

~~(2) During the first six months of a subsequent collaborative practice agreement between a nurse practitioner previously approved to practice and a different primary supervising physician, there shall be meetings with the new primary supervising physician monthly for the first six months.~~

(2)~~(3)~~ Documentation of the meetings shall:

(A) identify clinical issues discussed and actions taken;

(B) be signed and dated by those who attended; and

(C) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

Authority G.S. 90-6; 90-18(14); 90-18.2; 90-171.23(b)(14).

21 NCAC 36 .0814 PRACTICING DURING A DISASTER

(a) A nurse practitioner approved to practice in this State or another state may perform medical acts, as a nurse practitioner under the supervision of a physician licensed to practice medicine in North Carolina during a disaster in a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared.

(b) The nurse practitioner shall notify the Board of Nursing ~~and the Medical Board~~ in writing of the names, practice locations and telephone numbers for the nurse practitioner and each primary supervising physician within 15 days of the first performance of medical acts, as a nurse practitioner during the disaster, and the Board of Nursing shall notify the Medical Board pursuant to protocols developed by both Boards. ~~disaster.~~

(c) Teams of physician(s) and nurse practitioner(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements and plans for prescriptive authority as otherwise required pursuant to Rules .0809 and .0810 of this Section.

Authority G.S. 90-18(c)(13), (14); 90-18.2; 90-171.23(b).

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on May 21, 2009.

		REGISTER CITATION TO THE NOTICE OF TEXT
ADMINISTRATION, DEPARTMENT OF		
Duration of Certification	01 NCAC 44A .0204*	23:11 NCR
Required Documentation	01 NCAC 44A .0301*	23:11 NCR
MENTAL HEALTH, COMMISSION FOR		
Schedule II	10A NCAC 26F .0103*	n/a G.S. 90-88(d)
Schedule III	10A NCAC 26F .0104*	n/a G.S. 90-88(d)
Regions for Division Institutional Admissions	10A NCAC 28F .0101*	23:07 NCR
PRIVATE PROTECTIVE SERVICES BOARD		
Fees for Licenses and Trainee Permits	12 NCAC 07D .0202*	23:10 NCR
Experience Requirements for Counterintelligence License	12 NCAC 07D .0402*	23:04 NCR
Experience Requirements for Polygraph License	12 NCAC 07D .0501*	23:04 NCR
Training Requirements for Unarmed Security Guards	12 NCAC 07D .0707*	23:06 NCR
Training Requirements for Armed Security Guards	12 NCAC 07D .0807*	23:06 NCR
Renewal of Firearms Trainer Certificate	12 NCAC 07D .0904*	23:06 NCR
WILDLIFE RESOURCES COMMISSION		
Possession of Certain Fishes	15A NCAC 10C .0211*	23:11 NCR
State Inland Fishing License Exemptions	15A NCAC 10C .0216*	23:11 NCR
Establishment and Operation	15A NCAC 10H .0102*	23:11 NCR
COSMETIC ART EXAMINERS, BOARD OF		
Sanitary Ratings and Posting of Ratings	21 NCAC 14H .0105*	22:22 NCR
DENTAL EXAMINERS, BOARD OF		
Board Approved Examinations	21 NCAC 16B .0303*	23:12 NCR
Board Approved Examinations	21 NCAC 16C .0303*	23:12 NCR
REAL ESTATE COMMISSION		
Withdrawal or Denial of Approval	21 NCAC 58C .0105*	23:14 NCR
Licensing Exam Confidentiality: School Perform/Licensing	21 NCAC 58C .0218*	23:14 NCR
Denial or Withdrawal of Approval	21 NCAC 58C .0608*	23:14 NCR
COMMUNITY COLLEGES, BOARD OF		
Program Classification	23 NCAC 02E .0101 *	23:10 NCR

TITLE 01 – DEPARTMENT OF ADMINISTRATION

01 NCAC 44A .0204 DURATION OF CERTIFICATION

Certification remains in effect for four years unless there is a change in the business ownership, management or control of daily business operations that affects the HUB Certification status.

History Note: Authority G.S. 143-48.4; 143-128.4;
Eff. March 1, 2008;
Amended Eff. June 1, 2009.

01 NCAC 44A .0301 REQUIRED DOCUMENTATION

The Office for Historically Underutilized Businesses shall request the following documentation based on the business structure of the applicant, to determine that the applicant's ownership, management and control of daily business operations are consistent with the eligibility requirements as provided in G.S. 143.48.4 and 143-128.4:

(1) All Applicants:
- (a) Work experience resumes for all owners that include places of ownership/employment with corresponding dates;
- (b) Proof of citizenship or Permanent Residence (Birth Certificate, Passport, Voter's Registration Card, Green Card, Military ID, or Driver's License);
- (c) Proof of Ethnicity (Passport, Green Card, Birth Certificate);
- (d) Copies of Professional Licenses, if required;
- (e) Schedule of Salaries paid to all officers, managers, owners, or directors of the firm;
- (f) Copies of signed leases for office and storage space;
- (g) List of equipment (leased or owned) along with signed lease agreements, titles/proof of ownership of equipment needed to operate the business;
- (h) Documented proof of contributions used to acquire ownership for each owner;
- (i) Statement prepared and signed by banking institution listing names of all persons who have signature authority for the business account;
- (j) Two letters of reference (with contact information, nature and duration of relationship; and
- (k) Home state certification for out of state businesses, if applicable;

(2) Corporation or LLC or Franchise:
- (a) All documentation requested in Item (1) of this Rule;
- (b) Official Articles of Incorporation (signed by State official if incorporated;
- (c) Both sides of all Corporate Certificates and Stock if incorporated;
- (d) Assumed Name Certificate if applicable;
- (e) Transfer ledger;
- (f) Shareholders Agreement;
- (g) Minutes of first and most recent stockholder and Board of Directors meetings;
- (h) Corporate bylaws and any amendments if incorporated;
- (i) Articles of Organization (LLC);
- (j) Operating Agreement (LLC); and
- (k) Franchise Agreement (Franchise); and

(3) Partnership or Joint Venture:
- (a) All documentation requested in Item (1) of this Rule;
- (b) Partnership Agreement if a partnership;
- (c) Joint Venture Agreement if a joint venture.

The HUB Office shall take all necessary steps to safeguard information requested in compliance with State and federal law, including G.S. 14-113.2; 14-113.8(6); 132-1.2; and 132-1.10.

History Note: Authority G.S. 143-48(d1); 143-128.3(e1);
Eff. June 1, 2008;
Amended Eff. June 1, 2009.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 26F .0103 SCHEDULE II

(a) Schedule II shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name or brand name designated and as specified in G.S. 90-90. Each drug or substance has been assigned the Drug Enforcement Administration controlled substances code number set forth in the Code of Federal Regulations, Title 21, Section 1308.12.

(b) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds Lisdexamfetamine, its salts, isomers, and salts of its isomers to Schedule II for Stimulants.

History Note: Authority G.S. 90-88; 90-90; 143B-147;
Eff. June 30, 1978;
Amended Eff. January 1, 1994; April 1, 1993; August 1, 1991; August 1, 1989;
Temporary Amendment Eff. May 13, 1997;
Amended Eff. June 1, 2009; August 1, 2002; July 1, 1998.

10A NCAC 26F .0104 SCHEDULE III

(a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated and as specified in G.S. 90-91. Each drug or substitute has been assigned the Drug Enforcement Administration controlled substances code number set forth in the Code of Federal Regulations, Title 21, Section 1308.13.

(b) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds Embutramide to Schedule III for Depressants.

(c) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds Buprenorphine to Schedule III for Narcotic Drugs.

History Note: Authority G.S. 90-88; 90-91; 143B-147;
Eff. June 30, 1978;
Amended Eff. June 1, 2009; August 1, 2002; August 1, 1991; December 1, 1987; August 1, 1987; July 1, 1982.

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10A NCAC 28F .0101 REGIONS FOR DIVISION INSTITUTIONAL ADMISSIONS

(a) Except as otherwise provided in rules codified in this Chapter and Chapters 26 through 29 of this Title and except for State-wide programs and cross-regional admissions approved by the Division Director based upon the clinical need of the individual or for the purpose of accessing available beds or services, a person seeking admission to a regional institution of the Division shall be admitted only to the institution which serves the region of the state which includes the person's "county of residence" as defined in G.S. 122C-3.

(b) For state operated facilities, the regions of the state and the counties which constitute the regions are as follows:

(1) Western Region: Broughton Hospital, Julian F. Keith Alcohol and Drug Abuse Treatment Center (ADATC), and J. Iverson Riddle Developmental Center shall serve Alleghany, Alexander, Ashe, Avery, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Davidson, Gaston, Graham, Haywood, Henderson, Iredell, Jackson, Lincoln, Macon, Madison, McDowell, Mecklenburg, Mitchell, Polk, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Union, Watauga, Wilkes, Yadkin, and Yancey County;

(2) Central Region: Central Regional Hospital, Murdoch Developmental Center, R. J. Blackley ADATC, Whitaker School, and Wright School shall serve Alamance, Anson, Caswell, Chatham, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Halifax, Harnett, Hoke, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Stokes, Vance, Wake, and Warren County; and

(3) Eastern Region: Cherry Hospital, Caswell Developmental Center, and Walter B. Jones ADATC shall serve Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Edgecombe, Gates, Greene, Hertford, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Robeson, Sampson, Scotland, Tyrrell, Washington, Wayne, and Wilson County.

History Note: Authority G.S. 122C-3; 143B-147;
Eff. February 1, 1976;
Amended Eff. June 1, 2009; April 1, 1990; July 1, 1983.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 07D .0202 FEES FOR LICENSES AND TRAINEE PERMITS

(a) Application, license and trainee permit fees are as follows:

(1) one hundred and fifty dollars ($150.00) non-refundable application fee;

(2) two hundred twenty-five dollars ($225.00) annual fee for a new or renewal license, unless the applicant is requesting a new license be issued because of a transfer to a new company, which shall require a one hundred dollar ($100.00) fee for issuance of the new license with the original expiration date in the new company name;

(3) two hundred twenty-five dollars ($225.00) annual trainee permit fee;

(4) fifty dollars ($50.00) new or renewal fee for each license in addition to the basic license;

(5) twenty five dollars ($25.00) duplicate license fee;

(6) one hundred dollars ($100.00) late renewal fee in addition to the renewal fee;

(7) one hundred dollars ($100.00) temporary license fee;

(8) fifty dollars ($50.00) branch office license fee; and

(9) fifty dollars ($50.00) special limited guard and patrol licensee fee.

(b) Fees may be paid in the form of a check or money order made payable to the Private Protective Services Board.

History Note: Authority G.S. 74C-9;
Eff. June 1, 1984;
Amended Eff. July 1, 1987; December 1, 1985;
Temporary Amendment Eff. January 1, 1990 for a period of 180 days to expire on July 1, 1990;
ARRC Objection Lodged January 18, 1990;
Amended Eff. June 1, 2009; January 1, 2004; February 1, 1995; July 1, 1990.

12 NCAC 07D .0402 EXPERIENCE REQUIREMENTS FOR A COUNTERINTELLIGENCE LICENSE

In addition to the requirements of 12 NCAC 07D .0200, applicants for a counterintelligence license shall:

(1) establish to the Board's satisfaction three years experience in counterintelligence; or

(2) have successfully completed a course in counterintelligence given by a school specializing in counterintelligence which consists of not less than 40 hours of actual classroom instruction.

History Note: Authority G.S. 74C-5;
Eff. June 1, 1984;
Amended Eff. July 1, 2009; January 4, 1994; July 1, 1987.

12 NCAC 07D .0501 EXPERIENCE REQUIREMENTS FOR A POLYGRAPH LICENSE

(a) In addition to the requirements of 12 NCAC 07D .0200, applicants for a polygraph license shall:

(1) pass an examination and a performance test administered by a panel of polygraph examiners designated by the Board;

(2) successfully complete a course of instruction at any polygraph school approved by the American Polygraph Association; and

(3) have one year of polygraph experience or successfully complete at least six months of training as a holder of a polygraph trainee permit, and administer no less than 50 polygraph examinations.

(b) Applicants for a polygraph license may take the examination required in Paragraph (a) of this Rule no more than twice in any calendar year and any applicant who fails the polygraph examination four times shall retake the polygraph school required in Paragraph (a) of this Rule before taking the polygraph examination again.

(c) Polygraph operators who are duly licensed in another state may run up to three examinations in this state without being licensed, provided that those examinations are for the purpose of an evaluation of that examiner and provided that the administrator has given authorization for this evaluation in advance.

History Note: Authority G.S. 74C-5;
Eff. June 1, 1984;
Amended Eff. July 1, 2009; December 1, 1985.

12 NCAC 07D .0707 TRAINING REQUIREMENTS FOR UNARMED SECURITY GUARDS

(a) Applicants for an unarmed security guard registration shall complete a basic training course for unarmed security guards within 30 days from the date of permanent hire. The course shall consist of a minimum of 16 hours of classroom instruction including:

(1) The Security Officer in North Carolina -- (minimum of one hour);

(2) Legal Issues for Security Officers -- (minimum of three hours);

(3) Emergency Response -- (minimum of three hours);

(4) Communications -- (minimum of two hours);

(5) Patrol Procedures -- (minimum of three hours);

(6) Note Taking and Report Writing -- (minimum of three hours);

(7) Deportment -- (minimum of one hour).

A minimum of four hours of classroom instruction shall be completed within 20 calendar days of a probationary or regular security guard being placed on a duty station. These four hours shall include The Security Officer in North Carolina and Legal Issues for Security Officers.

(b) Licensees shall submit the name and resume for a proposed certified unarmed security guard trainer to the Director for Board Approval.

(c) Training shall be conducted by a Board certified unarmed security guard trainer. A Board approved lesson plan covering the training requirements in 12 NCAC 07D .0707(a) shall be made available to each trainer. The Board shall approve other media training materials that deliver the training requirements of 12 NCAC 07D .0707(a).

(d) The 16 hours of training may be delivered interactively under the following conditions:

(1) The training is presented by a Private Protective Services Board certified unarmed security officer trainer.

(2) Each student is given a copy of the PPS unarmed security officer training manual to use for the duration of the 16 hour training course.

(3) The technology used allows the trainer to see the students and the students to see the trainer in real time during the training.

(4) All students in each classroom are able to see and read the screen or monitor, and they must be able to clearly hear and understand the audio presentation. All monitors used in each classroom must be at least 32 inches wide.

(5) The technology used is of sufficient quality so that the training audio and video is done smoothly and without interruption.

(6) Each student is taught to use the audio and video equipment in their classroom prior to the start of the 16 hour unarmed security officer training course.

(7) The total number of students receiving the interactive training at one time does not exceed 35 students.

(8) All training not included in the NC Private Protective Services unarmed security officer training manual is done either before or after the 16 hour unarmed security officer training.

(9) The Director of Private Protective Services is notified five days prior to training of the location of each classroom, name and location of the certified trainer, and the number of students who will be present.

(10) The sponsoring agency allows the Director or designee access via computer of the training during the time that it is taking place.

History Note: Authority G.S. 74C-5; 74C-11; 74C-13;
Eff. January 1, 1990;
Amended Eff. June 1, 2009; November 1, 2006; June 1, 2004.

12 NCAC 07D .0807 TRAINING REQUIREMENTS FOR ARMED SECURITY GUARDS

(a) Applicants for an armed security guard firearm registration permit shall first complete the basic unarmed security guard training course set forth in 12 NCAC 07D .0707. Private Investigator Licensees applying for an armed security guard firearm registration permit shall first complete a four hour training course consisting of blocks of instruction "The Security Officer in North Carolina" and "Legal Issues for Security Officers" as set forth in 12 NCAC 07D .0707(a). Private Investigator Licensees applying for an armed security guard firearm registration permit are not required to complete the following training blocks found in the basic training course referenced in 12 NCAC 07D. 0707(a): "Emergency Response," "Communications," "Patrol Procedures," "Note Taking and Report Writing," and "Deportment." A Private Investigator Licensee applying for an armed security guard firearm registration permit shall meet all additional training requirements set forth in 12 NCAC 07D .0707 as well as the training requirements set forth in this Rule.

(b) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed security guards which consists of at least 20 hours of classroom instruction including:

(1) legal limitations on the use of handguns and on the powers and authority of an armed security guard, including, familiarity with rules and regulations relating to armed security guards (minimum of four hours);
(2) handgun safety, including range firing procedures (minimum of one hour);
(3) handgun operation and maintenance (minimum of three hours);
(4) handgun fundamentals (minimum of eight hours); and
(5) night firing (minimum of four hours).

(c) In addition to the requirements set forth in Paragraphs (a) and (b) of this Rule and prior to being issued a permit,
applicants shall attain a score of at least 80 percent accuracy on a firearms range qualification course adopted by the Board and the Attorney General, a copy of which is on file in the Director's office.

(d) All armed security guard training required by 12 NCAC 07D shall be administered by a certified trainer and shall be successfully completed no more than 90 days prior to the date of issuance of the armed security guard firearm registration permit.

(e) All applicants for an armed security guard firearm registration permit must obtain training under the provisions of this Section using their duty weapon and their duty ammunition.

(f) No more than six new or renewal armed security guard applicants per one instructor shall be placed on the firing line at any one time during firearms range training.

(g) Applicants for re-certification of an armed security guard firearm registration permit shall complete a basic recertification training course for armed security guards which consists of at least four hours of classroom instruction and is a review of the requirements set forth in Paragraphs (b)(1) through (b)(5) of this Rule. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of an armed security guard firearm registration permit shall also complete the requirements of Paragraph (c) of this Rule.

(h) To be authorized to carry a standard 12 gauge shotgun in the performance of his duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (b) and (c) of this Rule, four hours of classroom training which shall include the following:

(1) legal limitations on the use of shotguns;
(2) shotgun safety, including range firing procedures;
(3) shotgun operation and maintenance; and
(4) shotgun fundamentals.

An applicant may take the additional shotgun training at a time after the initial training in this Rule. If the shotgun training is completed at a later time, the shotgun certification shall run concurrent with the armed registration permit.

(i) In addition to the requirements set forth in Paragraph (h) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a shotgun range qualification course adopted by the Board and the Attorney General, a copy of which is on file in the Director's office.

(j) Applicants for shotgun recertification shall complete an additional one hour of classroom training as set forth in Paragraphs (h)(1) through (h)(4) of this Rule and shall also complete the requirements of Paragraph (i) of this Rule.

(k) Applicants for an armed security guard firearm registration permit who possess a current firearms trainer certificate shall be given, upon their written request, a firearms registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with their duty weapons as set forth in Paragraph (c) of this Rule.

History Note: Authority G.S. 74C-5; 74C-13;
Eff. June 1, 1984;
Amended Eff. November 1, 1991; February 1, 1990; July 1, 1987;
Temporary Amendment Eff. January 14, 2002;
Amended Eff. June 1, 2009; February 1, 2006; August 1, 2002.

12 NCAC 07D .0904 RENEWAL OF A FIREARMS TRAINER CERTIFICATE

Each applicant for renewal of a firearms trainer certificate shall complete a renewal form provided by the Board. This form shall be submitted not less than 30 days prior to the expiration of the applicant's current certificate and shall be accompanied by:

(1) certification of the successful completion of a firearms trainer refresher course approved by the Board and the Attorney General consisting of a minimum of eight hours of classroom and

practical range training in handgun and shotgun safety and maintenance, range operations, control and safety procedures, and methods of handgun and shotgun firing. This training shall be completed within 180 days of the submission of the renewal application;

(2) a certified statement of the result of a criminal records search from the governmental authority housing criminal record information or clerk of superior court in each area where the applicant has resided within the immediate preceding 48 months;

(3) the applicant's renewal fee; and

(4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

History Note: Authority G.S. 74C-5; 74C-13;
Eff. June 1, 1984;
Amended Eff. June 1, 2009; December 1, 1995; December 1, 1985.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 10C .0211 POSSESSION OF CERTAIN FISHES

(a) It is unlawful to transport, purchase, possess, or sell any live individuals of piranha, "walking catfish" (Clarias batrachus), snakehead fish (from the Family Channidae, formerly Ophiocephalidae), black carp (Mylopharyngodon piceus), rudd (Scardinius erythropthalomus), round goby (Neogobius melanostomus), tubenose goby (Proterorhinus marmoratus), ruffe (Gymnocephalus cernuus), Japanese mysterysnail (Cipangopaludina japonica), Chinese mysterysnail (Cipangopaludina chinensis malleata), red-rim melania (Melanoides tuberculatus), virile crayfish (Orconectes (Gremicambarus) virilis), rusty crayfish (Orconectes (Procericambarus) rusticus), white amur or "grass carp" (Ctenopharyngodon idella), swamp or "rice" eel (Monopterus albus), red shiner (Cyprinella lutrensis), or zebra mussel (Dreissena polymorpha)or to stock any of them in the public or private waters of North Carolina.

(b) A person may buy, possess or stock triploid grass carp only for the purpose of controlling aquatic vegetation under a permit issued by the Executive Director when the director determines that conditions of such possession or stocking provide minimal probability of escape and threat to sensitive aquatic habitat and that the carp is certified to be sterile by genetic testing at a federal, state, or university laboratory.

History Note: Authority G.S. 113-134; 113-274(c)(1c); 113-292;
Eff. February 1, 1976;
Amended Eff. September 1, 1984;
Temporary Amendment Eff. July 1, 2001;
Amended Eff. July 18, 2002;
Temporary Amendment Eff. September 1, 2002;
Amended Eff. June 1, 2009, June 1, 2005; August 1, 2004.

15A NCAC 10C .0216 STATE INLAND FISHING LICENSE EXEMPTIONS

(a) Any governmental or non-profit entity conducting an organized fishing event for educational or therapeutic purposes may obtain from the Commission an exemption from the requirements of the fishing license for participants in the event.

(b) The state inland fishing license exemption shall only be issued when all the information required by these Rules contained on a form provided by the Commission is submitted by the applicant to the Chief of the Division of Inland Fisheries not less than 21 days prior to the organized fishing event, subject to the following conditions:

(1) The person in charge of the event must be on-site at all times and have a copy of the exemption available for inspection on request by Commission personnel; and

(2) The exemption shall be limited to the immediate location of the event and shall remain in effect only for the duration of the event.

(c) The Commission may require that an applicant receiving a state fishing license exemption report both the number of male participants and the number of female participants less than 16 years of age and the names of participants 16 years of age and older who do not have a fishing license.

History Note: Authority G.S. 113-134; 113-272.2; 113-276; 113-292;
Eff. May 1, 2007;
Amended Eff. June 1, 2009.

15A NCAC 10H .0102 ESTABLISHMENT AND OPERATION

(a) Size of Preserve. Controlled hunting preserves licensed under these regulations shall consist of not less than 100 acres and shall be in one block of land.

(b) Boundary of Preserve. The boundary of each controlled hunting preserve shall be posted with printed signs that face both outward and inward from the preserve boundary and that are supplied and posted by the preserve owner as follows:

(1) Size and color. Signs shall be at least 12 inches wide and at least nine inches tall with white background and black lettering of uniform and legible font.

(2) Text for signs that face outward from the boundary shall bear the following information:

(i) the words "Controlled Hunting Preserve" in font size no less than ¼ of an inch in height;

(ii) the words, "The owner or lessee of this property is operating by authority of a license issued by the N.C. Wildlife Resources Commission. All

hunting on this preserve shall be in accordance with special regulations adopted by the Commission" in font size no less than ¼ of an inch in height;

(iii) the words, "state hunting license is required" in font size no less than ¼ inches in height; and

(iv) the name of the operator of the controlled hunting preserve in font size no less than ¼ of an inch in height.

(3) Text for signs that face inward from the boundary shall bear the words "Controlled Hunting Preserve" in font size no less than ¾ of an inch in height.

(4) Location. Signs shall be placed along the boundaries of the controlled hunting preserve, spaced not more than 150 feet apart.

(c) Stocking Preserve with Game. An applicant for a controlled hunting preserve license shall present satisfactory evidence of his ability to raise, or purchase, for release on the preserve during the year at least the minimum number herein designated of each species he plans to advertise as being available on his preserve for hunting in accordance with the following formula:

(1) ring-necked pheasants (and other nonnative game birds except Mallard ducks)--100 birds of each species for first 300 acres, or fraction thereof, and 100 birds for each additional 200 acres, or fraction thereof, included in the hunting preserve;

(2) bobwhite quail--1,000 quail for the first 300 acres, or fraction thereof, and 500 quail for each additional 200 acres, or fraction thereof, included in the hunting preserve;

(3) Mallard ducks (one generation removed from the wild) --100 minimum for each preserve.

History Note: Authority G.S. 113-134; 113-273;
Eff. February 1, 1976;
Amended Eff. June 1, 2009; January 1, 1992; November 1, 1990.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS

21 NCAC 14H .0105 SANITARY RATINGS AND POSTING OF RATINGS

(a) The sanitary rating of a beauty establishment shall be based on a system of grading outlined in this Subchapter. Based on the grading, all establishments shall be rated in the following manner:

(1) all establishments receiving a rating of at least 90 percent or more, shall be awarded a grade A;

(2) all establishments receiving a rating of at least 80 percent, and less than 90 percent, shall be awarded grade B;

(3) all establishments receiving a rating of at least 70 percent or more, and less than 80 shall be awarded grade C.

(b) Every beauty establishment shall be given a sanitary rating. A cosmetic art school shall be graded no less than three times a year, and a cosmetic art salon shall be graded once a year.

(c) The sanitary rating given to a beauty establishment shall be posted in a conspicuous place at all times.

(d) The willful operation of a beauty establishment which fails to receive a sanitary rating of at least 70 percent (grade C) shall be sufficient cause for revoking or suspending the letter of approval or permit.

(e) A re-inspection for the purpose of raising the sanitary rating of a beauty establishment shall not be given within 30 days of the last inspection, unless the rating at the last inspection was less than 80 percent.

(f) A pedi-spa unit sanitation record must be kept for inspection on a form provided by the Board.

History Note: Authority G.S. 88B-4; 88B-23; 88B-24;
Eff. February 1, 1976;
Amended Eff. June 1, 2009; June 1, 2007; August 1, 1998; June 1, 1994; April 1, 1991; January 1, 1989.

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CHAPTER 16 – BOARD OF DENTAL EXAMINERS

21 NCAC 16B .0303 BOARD APPROVED EXAMINATIONS

(a) All applicants for dental licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule 16B .0406(c).

(b) All applicants for dental licensure shall achieve passing scores on written and clinical examinations administered by the Board or Board approved testing agencies according to this Rule.

(c) Clinical testing agencies must permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.

(d) The clinical examination shall:

(1) be substantially equivalent to or an improvement to the clinical licensure examination most recently administered by the Board;

(2) include procedures performed on human subjects as part of the assessment of restorative clinical competencies;

(3) include evaluations in at least four of the following subject matter areas:

(A) periodontics, clinical abilities testing;

(B) endodontics, clinical abilities testing;

(C) amalgam preparation and restoration;

(D) anterior composite preparation and restoration;
(E) posterior ceramic or composite preparation and restoration;
(F) cast gold, clinical abilities testing;
(G) prosthetics, written or clinical abilities testing;
(H) oral diagnosis, written or clinical abilities testing; or
(I) oral surgery, written or clinical abilities testing.

(4) provide the following:
(A) anonymity between applicants and examination raters;
(B) standardization and calibration of raters;
(C) a mechanism for post exam analysis;
(D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged or overall scoring to compensate for failures in individual subject areas;
(E) a minimum passing score set by the Board for each subject area tested;
(F) an annual review of the examination and its technical manual by the Board and a psychometrician selected by the Board;
(G) a task analysis performed once every four years which surveys dentists on a nationwide survey to determine the content domain to be scored and how the sections of the examination are scored;
(H) a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
(I) a system of applicant assessment which utilizes raters of applicant performance who are not full time employees of any dental academic institution.

(e) The Board shall accept scores upon such examinations for a period of five years following the date of such examinations. Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores.

(f) The applicant shall comply with all requirements of such testing agency in applying for and taking the examination.

(g) The Board shall specify the times, places and agencies which will conduct Board approved licensure examinations in the state.

History Note: Authority G.S. 90-30; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. June 1, 2009; March 1, 2006; August 1, 1998; March 1, 1988.

21 NCAC 16C .0303 BOARD APPROVED EXAMINATIONS

(a) All applicants for dental hygiene licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule 16C .0405.

(b) All applicants for dental hygiene licensure shall achieve passing scores on written and clinical examinations administered by the board or Board approved testing agencies according to this Rule.

(c) Clinical testing agencies must permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.

(d) The clinical examination shall:
(1) be substantially equivalent to or an improvement to the clinical licensure examination most recently administered by the Board;
(2) include procedures performed on human subjects as part of the assessment of clinical competency;
(3) include probing, supra and subgingival scaling and soft tissue management;
(4) provide the following:
(A) anonymity between applicants and examination raters;
(B) standardization and calibration of raters;
(C) a mechanism for post exam analysis;
(D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged or overall scoring to compensate for failures in individual subject areas;
(E) a minimum passing score set by the Board for each subject area tested;
(F) an annual review of the examination and its technical manual by the Board and a psychometrician selected by the Board;
(G) a task analysis performed once every four years which surveys dentists on a nationwide survey to determine the content domain to be scored and how the sections of the examination are scored;
(H) a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
(I) a system of applicant assessment which utilizes raters of applicant performance who are not full time

employees of any dental academic institution.

(d) The Board shall accept scores upon approved examinations for a period of five years following the date of such examinations. Each applicant shall arrange for and ensure that the applicant's scores are submitted to the Board office. The applicant shall comply with all requirements of such testing agency in applying for and taking the examination.

(e) The Board shall specify the times, places and agencies which will conduct Board approved licensure examinations in the state.

History Note: Authority G.S. 90-224;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. June 1, 2009; June 1, 2006; May 1, 1989; March 1, 1988.

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CHAPTER 58 – REAL ESTATE COMMISSION

21 NCAC 58C .0105 WITHDRAWAL OR DENIAL OF APPROVAL

The Commission may deny or withdraw any approval granted to a school upon finding that such school has:

(1) refused or failed to comply with any of the provisions of Sections .0100 or .0300 of this Subchapter;

(2) obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate licensing examination questions;

(3) compiled a licensing examination performance record for first-time examination candidates which is below 70 percent passing for two or more of the previous five annual reporting periods; or

(4) failed to provide to the Commission a within 30 days of a written request from the Commission a written plan describing the changes the school intends to make in its instructional program including instructors, course materials, methods of student evaluation, and completion standards to improve the performance of the school's students on the licensing examination in the future following attainment by the school of a licensing performance record for first-time examination candidates which was below 70 percent passing for the previous annual reporting period.

History Note: Authority G.S. 93A-4; 93A-6;
Eff. September 1, 1979;
Amended Eff. July 1, 2009; April 1, 2006; July 1, 2000; July 1, 1994; May 1, 1990; February 1, 1989; November 1, 1987.

21 NCAC 58C .0218 LICENSING EXAM CONFIDENTIALITY: SCHOOL PERFORM./LICENSING

(a) Schools shall not obtain or use, or attempt to obtain or use, in any manner or form, North Carolina real estate licensing examination questions.

(b) Schools must maintain a satisfactory performance record on the real estate licensing examination. A school performance record for first-time examination candidates which is below 70 percent passing for two or more of the five previous annual reporting periods shall be considered unsatisfactory under this Rule.

(c) A school shall provide to the Commission within 30 days of a written request from the Commission a written plan describing the changes the school intends to make in its instructional program to improve the performance of the school's students on the licensing examination in the future following attainment by the school of a licensing examination performance record for first-time examination candidates which was below 70 percent passing for the previous annual reporting period.

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. April 1, 1987; September 1, 1984;
Transferred and Recodified from 21 NCAC 58A .1318 Eff. November 27, 1989;
Amended Eff. July 1, 2009; July 1, 2000; July 1, 1994; July 1, 1990.

21 NCAC 58C .0608 DENIAL OR WITHDRAWAL OF APPROVAL

(a) The Commission may deny or withdraw approval of any instructor approved to teach prelicensing and postlicensing courses upon finding that:

(1) the instructor or instructor applicant has failed to meet the criteria for approval described in Rule .0603 of this Section or the criteria for renewal of approval described in Rule .0607 of this Section at the time of application or at any time during an approval period or has refused or failed to comply with any other provisions of this Subchapter;

(2) the instructor has made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval;

(3) the instructor has failed to submit any report, course examination or video recording the instructor is required to submit to the Commission;

(4) the instructor has provided false, incomplete, or incorrect information in connection with any report the instructor or a school is required to submit to the Commission;

(5) the instructor has failed to demonstrate, during the teaching of Commission-approved prelicensing, postlicensing or continuing education courses, those effective teaching skills described in Rule .0604 of this Section;

(6) the instructor has compiled a licensing examination performance record for first-time examination candidates which is below 70 percent passing for two or more of the previous five annual reporting periods;

(7) the instructor has failed to provide to the Commission within 30 days of a written request from the Commission a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the instructor's students on the licensing examination in the future following attainment by the instructor of a licensing examination performance record for first-time examination candidates which was below 70 percent passing for the previous annual reporting period.

(8) the instructor has been disciplined by the Commission or any other occupational licensing agency in North Carolina or another jurisdiction; or

(9) the instructor has obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions.

(b) If a licensee who is an approved prelicensing and postlicensing course instructor engages in any dishonest, fraudulent or improper conduct in connection with the licensee's activities as an instructor, the licensee shall be subject to disciplinary action pursuant to G.S. 93A-6.

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 93A-34; Eff. October 1, 2000;
Amended Eff. July 1, 2009; April 1, 2006; July 1, 2005; April 1, 2004.

TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES

23 NCAC 02E .0101 PROGRAM CLASSIFICATION

The following criteria are used for classifying the programs offered in the North Carolina Community College System.

(1) Curriculum Programs:

(a) A curriculum program is an organized sequence of courses leading to an associate degree, a diploma, or a certificate. All curriculum programs are designed to provide education, training, or retraining for the work force.

(i) Associate degree programs are planned programs of study culminating in an associate in applied science, associate in arts, associate in fine arts, associate in science, or associate in general education degree.

(A) The associate in applied science degree programs are designed to prepare individuals for employment. These programs involve the application of scientific principles in research, design, development, production, distribution, or service.

(B) The associate in arts, associate in science, and associate in fine arts degree programs are designed to prepare students for transfer at the junior level to institutions offering baccalaureate degrees.

(C) The associate in general education degree programs are designed for students who desire a general liberal arts education.

(ii) The diploma programs are designed to provide entry-level employment training. A diploma program may be a stand-alone curriculum program title, or a college may award a diploma under the college's associate in applied science degree curriculum program for a series of courses taken from the program of study and structured so that a student may complete additional non-duplicative coursework to receive an associate in applied science degree.

(iii) The certificate programs are designed to lead to employment or to provide skills upgrading or retraining for individuals already in the workforce. A certificate

program may be a stand-alone curriculum program title, or a college may award a certificate under the college's associate degree or diploma curriculum program for a series of courses taken from the program of study.

(b) Developmental Education programs consist of courses and support services which include diagnostic assessment and placement, tutoring, advising, and writing assistance. These programs are designed to address academic preparedness, workforce retraining, development of general and discipline-specific learning strategies, and affective barriers to learning. Developmental courses do not earn credit toward a degree, diploma, or certificate.

(2) Continuing Education Programs:

(a) Occupational Extension courses consist of single courses, each complete in itself, designed for the specific purposes of training an individual for full- or part-time employment, upgrading the skills of persons presently employed, and retraining others for new employment in occupational fields.

(b) Community Service:

(i) Community Service courses consist of single courses, each complete in itself, that focus on an individual's personal or leisure needs rather than occupational or professional employment.

(ii) The cultural and civic, and visiting artist component of this program meets community needs through lecture and concert series, art shows, the use of college facilities by community groups, providing speakers to community organizations, and providing visiting artist activities for college communities. Visiting artists may be provided an opportunity to work as artists in residence to enhance local arts resources and promote the various visual, performing and literary arts in communities throughout North Carolina.

(c) Self-Supporting Programs:

(i) A self-supporting course is not reported to the state for budget FTE since the cost of conducting the course is paid by students enrolled.

(ii) Recreational programs are self-supporting courses which the college may provide at the request of the community but for which the college receives no budgetary credit. Funds appropriated as operating expenses for allocation to the colleges shall not be used to support recreation courses. The financing of these courses by a college shall be on a self-supporting basis, and membership hours produced from these activities shall not be counted when computing full-time equivalent students for use in budget-funding formulas at the state level.

(d) Basic Skills Programs. The State Board and the community college system shall encourage persons to complete high school rather than seek testing for the High School Diploma Equivalency.

(i) High School Equivalency programs consist of classroom instruction, learning laboratory courses, or a combination of activities designed to qualify a student for an adult high school diploma. An Agreement of Affiliation with a local public school system is required for minors sixteen or seventeen years old. No agreement is required for adults eighteen years old and older.

(ii) General Educational Development (GED) testing programs consist of classroom instruction, or learning laboratory courses, or a combination of both designed to qualify a student to demonstrate competency on the General Educational Development (GED) tests and to receive a High School

Diploma equivalency from the State Board. The State Board is responsible for the administration of the General Educational Development testing program in cooperation with the Office on Educational Credit of the American Council on Education. The procedures regulating the GED Testing Program set forth in the GED Examiner's Manual published by the General Educational Development Testing Service of the American Council on Education are hereby incorporated by reference. A copy of this manual is available for inspection in the Office of the System President, Community College System Office, 200 W. Jones Street, Raleigh NC 27603-1379. A copy of this manual may be obtained at a cost of fifteen dollars ($15.00) from the GED Testing Service of the American Council on Education, One Dupont Circle NW, Suite 250, Washington, DC 20036-1163.

(iii) The Adult Basic Education (ABE) program is designed for adults who are functioning at or below the eighth grade educational level. The major objectives of the program are to enable adults to acquire the basic educational skills necessary to be fully competent in our society, to improve their ability to benefit from occupational training and to have greater opportunities for more productive and profitable employment, and to meet their own objectives for enrolling in the program. Classes are offered and focus on fundamental skills such as reading, writing, speaking, computing, critical thinking, and problem solving.

(iv) The English as a Second Language (ESL) program offers classes which accommodate the varied needs of the immigrant and refugee populations. Attention is given to both the cultural and linguistic needs as instruction is focused upon the formation of accurate, appropriate communication skills and upon the student's ability to function in the adult American community. Classes are offered at the beginning through the advanced levels of ESL. The curriculum is designed to develop the basic language skills of reading, writing, speaking, and listening. Instruction integrates the English language with topics that prepare students for everyday life, employment, and citizenship.

(v) The Compensatory Education (CED) program is designed for adults with mental retardation. The program is highly individualized and fosters a maximum level of independent living commensurate with personal ability. Instruction is offered in math, language, social science, health, community living, consumer education and vocational education.

(e) Customized Training Program.

(i) The Customized Training Program addresses company-specific training customized for job growth, technology investment, or productivity enhancement. Based on needs specified in G.S. 115D-5.1, Customized Training Programs shall address job-specific training.

(ii) The Small Business Center program provides training, counseling and referral services especially designed in content and delivery modes for small businesses,

both existing and prospective.

(f) The Human Resources Development (HRD) program provides skill assessment services, employability skills training, and career development counseling to unemployed and underemployed adults. These courses shall address six core components as follows:

(i) assessment of an individual's assets and limitations;

(ii) development of a positive self-concept;

(iii) development of employability skills;

(iv) development of communication skills;

(v) development of problem-solving skills; and

(vi) awareness of the impact of information technology in the workplace.

(g) The Learning Laboratory programs consist of self-instruction using programmed texts, audio visual equipment, and other self-instructional materials. A learning laboratory coordinator has the function of bringing the instructional media and the student together on the basis of objective and subjective evaluation and of counseling, supervising, and encouraging persons working in the lab.

History Note: Authority G.S. 115D-1; 115D-2; 115D-5; S.L. 1995, c. 625; S.L. 2001, c. 424, s. 30.3(b), (e);
Eff. February 1, 1976;
Readopted Eff. January 24, 1978;
Amended Eff. September 1, 1993; September 1, 1982; August 17, 1981;
Temporary Amendment Eff. June 1, 1997;
Amended Eff. July 1, 1998;
Temporary Amendment Eff. October 4, 2001;
Amended Eff. June 1, 2009; April 1, 2003.

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 431-3000. Also, the Contested Case Decisions are available on the Internet at http://www.ncoah.com/hearings.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray
Selina Brooks
Melissa Owens Lassiter
Don Overby
Randall May
A. B. Elkins II
Joe Webster

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