

NORTH CAROLINA REGISTER

VOLUME 37 • ISSUE 20 • Pages 2004 – 2043

April 17, 2023

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PUBLISHED BY

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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

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Raleigh, North Carolina 27603-8005

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215 North Dawson Street

919-715-2893

Raleigh, North Carolina 27603

contact: Amy Bason

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919-715-2925

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

mjackson@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

919-733-2578

Raleigh, North Carolina 27611

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NORTH CAROLINA REGISTER
Publication Schedule for January 2023 – December 2023

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	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
37:13	01/03/23	12/07/22	01/18/23	03/06/23	03/20/23	04/20/2023	05/01/23	09/30/23
37:14	01/17/23	12/20/22	02/01/23	03/20/23	04/20/23	05/18/2023	06/01/23	10/14/23
37:15	02/01/23	01/10/23	02/16/23	04/03/23	04/20/23	05/18/2023	06/01/23	10/29/23
37:16	02/15/23	01/25/23	03/02/23	04/17/23	04/20/23	05/18/2023	06/01/23	11/12/23
37:17	03/01/23	02/08/23	03/16/23	05/01/23	05/20/23	06/15/2023	07/01/23	11/26/23
37:18	03/15/23	02/22/23	03/30/23	05/15/23	05/20/23	06/15/2023	07/01/23	12/10/23
37:19	04/03/23	03/13/23	04/18/23	06/02/23	06/20/23	07/20/2023	08/01/23	12/29/23
37:20	04/17/23	03/24/23	05/02/23	06/16/23	06/20/23	07/20/2023	08/01/23	01/12/24
37:21	05/01/23	04/10/23	05/16/23	06/30/23	07/20/23	08/17/2023	09/01/23	01/26/24
37:22	05/15/23	04/24/23	05/30/23	07/14/23	07/20/23	08/17/2023	09/01/23	02/09/24
37:23	06/01/23	05/10/23	06/16/23	07/31/23	08/20/23	09/21/2023	10/01/23	02/26/24
37:24	06/15/23	05/24/23	06/30/23	08/14/23	08/20/23	09/21/2023	10/01/23	03/11/24
38:01	07/03/23	06/12/23	07/18/23	09/01/23	09/20/23	10/19/2023	11/01/23	03/29/24
38:02	07/17/23	06/23/23	08/01/23	09/15/23	09/20/23	10/19/2023	11/01/23	04/12/24
38:03	08/01/23	07/11/23	08/16/23	10/02/23	10/20/23	11/16/2023	12/01/23	04/27/24
38:04	08/15/23	07/25/23	08/30/23	10/16/23	10/20/23	11/16/2023	12/01/23	05/11/24
38:05	09/01/23	08/11/23	09/16/23	10/31/23	11/20/23	12/14/2023	01/01/24	05/28/24
38:06	09/15/23	08/24/23	09/30/23	11/14/23	11/20/23	12/14/2023	01/01/24	06/11/24
38:07	10/02/23	09/11/23	10/17/23	12/01/23	12/20/23	01/18/2024	02/01/24	06/28/24
38:08	10/16/23	09/25/23	10/31/23	12/15/23	12/20/23	01/18/2024	02/01/24	07/12/24
38:09	11/01/23	10/11/23	11/16/23	01/02/24	01/20/24	02/15/2024	03/01/24	07/28/24
38:10	11/15/23	10/24/23	11/30/23	01/16/24	01/20/24	02/15/2024	03/01/24	08/11/24
38:11	12/01/23	11/07/23	12/16/23	01/30/24	02/20/24	03/21/2024	04/01/24	08/27/24
38:12	12/15/23	11/22/23	12/30/23	02/13/24	02/20/24	03/21/2024	04/01/24	09/10/24

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

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) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) 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; and
- (7) 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.



State of North Carolina

ROY COOPER
GOVERNOR

March 13, 2023

EXECUTIVE ORDER NO. 278

RECOGNIZING THE VALUE OF EXPERIENCE IN STATE GOVERNMENT HIRING

WHEREAS, the State of North Carolina is dedicated to broadening access to career opportunities in state government; and

WHEREAS, the undersigned has issued previous executive orders to eliminate barriers to employment with the state; and

WHEREAS, these previous executive orders have included Executive Order No. 92, which directs state agencies to implement best practices in recruiting workers with disabilities and create an inclusive job climate; Executive Order No. 93, which eliminated from state job applications the salary history questions that created a barrier to equal pay for equal work; and Executive Order No. 158, which removed criminal arrest or history questions from employment applications when those questions were unnecessary; and

WHEREAS, state agencies continue to face challenges recruiting and retaining the skilled workforce essential to ensuring North Carolinians have safe, effective, and efficient government programs and services; and

WHEREAS, the undersigned recognizes that state employees bring value to their jobs from their experience and skills, not only from academic degrees; and

WHEREAS, applicants to state government jobs bring with them a variety of directly related knowledge and skills from prior jobs and experiences—such as military service, on-the-job training, apprenticeships, internships, industry-recognized credentials and AmeriCorps service—and this experience equips them with the skills and competencies to work successfully in state government; and

WHEREAS, access to skill development opportunities—including career and technical education, work-based learning, youth apprenticeships, and apprenticeships—continues to grow, and these programs create new opportunities for individuals to prepare for the careers of today and tomorrow; and

WHEREAS, two-thirds of North Carolinians do not have a bachelor's degree or higher, according to statistics from the U.S. Census Bureau; and

WHEREAS, diversity is a key strength of the State of North Carolina, promoting innovation and deepening trust and connections to communities and people throughout the state; and

WHEREAS, lowering barriers to people with experience-based qualifications provides an opportunity to further diversify and strengthen the state government workforce, especially given the historical inequities in access to traditional higher education for individuals from diverse backgrounds, including people of color, people with disabilities, and people living in rural areas; and

WHEREAS, today, approximately 75% of state job classifications either do not require a higher education degree or allow experience to be substituted for education; however, more should be done to ensure that people's limited access to higher education does not become an unnecessary barrier to recruitment; and

WHEREAS, it is in the State's interest to reach out to skilled and talented people from all kinds of backgrounds—including people who have learned from experience rather than education—and it is in the State's interest to lower any barriers that would prevent skilled and experienced people without formal degrees from applying for state jobs; and

WHEREAS, pursuant to Article III of the Constitution of North Carolina and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the State and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 147-12, the Governor has the authority and duty to supervise the official conduct of all executive and ministerial officers; and

WHEREAS, pursuant to N.C. Gen. Stat. § 126-3, the State of North Carolina uses a decentralized Human Resources system, where each agency has its own human resources staff and the Director of the Office of State Human Resources (the "Director of OSHR") is responsible for providing policy, rule development, and training in personnel management to staff at other agencies, departments, and institutions; and

WHEREAS, pursuant to N.C. Gen. Stat. § 126-4, the State Human Resources Commission (the "HR Commission") shall establish state human resources rules and policies subject to approval of the Governor, including position classification plans and, for each class of positions, qualifications as to education, experience, specialized training, licenses, certifications, and other job-related requirements pertinent to the work to be performed.

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

Section 1. Emphasize in Job Postings that Experience Can Replace Formal Education.

The undersigned directs and authorizes the Director of OSHR to develop human resources policies, training, and statements to illustrate how directly related experience can replace formal education.

OSHR, with directed assistance from Cabinet Agencies, is directed to take the following actions to emphasize how directly related experience substitutes for formal education in job recruitment. These actions should include, at a minimum:

1. Require job postings to include a statement explaining how experience can qualify an applicant for all classifications that indicate an equivalent combination of education and experience is allowed. This statement must show how, to meet the minimum requirements of the position, directly related experience can be a substitute for education.
2. Review the experience and education requirements to determine whether experience can substitute, and whether specified educational degrees should be required, for classifications that do not indicate an equivalent combination of education and experience is allowed.
3. Work directly with Cabinet agencies' human resources staff to eliminate unnecessary management preferences for degrees.

4. Train Cabinet agency human resources staff on how directly related experience helps an applicant meet minimum qualifications. Additional training, developed with the support of Cabinet agencies, will include support for hiring justice-involved individuals, individuals with disabilities, veterans and their families, and other priority populations.
5. Support and encourage the use of trainee progression pathways and apprenticeships.

Section 2. Providing Opportunities to Gain Experience through Internships.

The North Carolina Department of Administration (“DOA”), which administers the State Government Internship Program, is directed to conduct a review of existing state internship programs to encourage engagement of students at community and technical colleges. In addition, DOA is directed to determine how best to create new internship opportunities for individuals not currently enrolled in secondary and postsecondary institutions, in consultation with OSHR and other state agencies.

Section 3. Implementation.

OSHR will propose to the HR Commission and to the Office of the Governor for approval those policy or rule changes needed to implement this Executive Order which require approval.

Agency human resources staff will be important partners in implementing this Executive Order. Cabinet agency leadership and human resources staff are expected to work cooperatively with OSHR to perform tasks necessary to carry out this Executive Order.

Section 4. Exceptions.

The requirements of this Executive Order regarding job postings, management preferences, and training apply only to Cabinet agencies. Non-Cabinet agencies are encouraged to voluntarily opt into those portions of this Executive Order. Agencies that voluntarily opt into this Executive Order should send a notification letter to the Director of OSHR. All North Carolina employers are encouraged to review their human resources practices to eliminate unnecessary barriers to employment.

Section 1 of this Executive Order does not apply when the state classification requires an applicant to be licensed and the license requires an academic degree. All state licensing boards are encouraged to review their licensing requirements by September 1, 2023, to determine whether there are any academic requirements that are unnecessary. Section 1 of this Executive Order also does not apply where statutes require the employees in state positions to have a particular level of education or amount of academic training.

Section 5. No Private Right of Action.

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof.

Section 6. Distribution.

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public and (2) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 7. Effective Date.

This Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this the 13th day of March in the year of our Lord two thousand twenty-three.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State





State of North Carolina

ROY COOPER
GOVERNOR

March 14, 2023

EXECUTIVE ORDER NO. 279

ESTABLISHING THE NORTH CAROLINA OFFICE OF VIOLENCE PREVENTION

WHEREAS, violence has resulted in the tragic loss of life in North Carolina; and

WHEREAS, an average of five (5) North Carolinians die per day from a firearm injury and rates of firearm violence and injury are increasing in North Carolina and nationally; and

WHEREAS, injuries from firearms have surpassed motor vehicle crashes as the leading cause of death for children; and

WHEREAS, rural communities and communities with higher social vulnerability, such as poverty, food insecurity, unemployment, and lower educational levels, have higher rates of firearm injuries and deaths; and

WHEREAS, communities of color are disproportionately impacted by firearm violence and Black North Carolinians are almost twice as likely as white North Carolinians to die by a firearm; and

WHEREAS, more than half of intimate partner homicides involve a firearm and the presence of a firearm in a domestic violence situation increases the risk of homicide by 500%; and

WHEREAS, more than half of firearm related deaths are suicides and American Indians, non-Hispanic white adults, and veterans have higher rates of firearm suicides than the general population; and

WHEREAS, violence is a significant public health issue, not only because of injury and death but also because of the fear and trauma caused to families and communities; and

WHEREAS, effective strategies to combat violence and a coordinated approach across state and local government, law enforcement, public health, health care, and community organizations are needed to stop violent crime; and

WHEREAS, a public health approach to violence and firearm misuse relies on data and best practices and involves four steps: defining and monitoring the problem; identifying risk and protective factors; developing and testing prevention strategies for the different types of firearm violence and misuse; and assuring widespread adoption of prevention strategies; and

WHEREAS, several state agencies and organizations including the Governor's Crime Commission, the North Carolina Department of Justice, the North Carolina Department of Public

Safety, and the North Carolina Department of Health and Human Services, have initiatives and programs that address violence prevention and firearm misuse; and

WHEREAS, the Task Force for Racial Equity in Criminal Justice recommended state government support for communities in developing violence prevention programs and adopted a resolution supporting the creation of a statewide office of violence prevention in fulfillment of its recommendations; and

WHEREAS, North Carolina communities have been leading the way through innovative programs and practices, including the Office of Violence Prevention in Mecklenburg County and community-based and hospital-based violence intervention programs across the state; and

WHEREAS, North Carolina state government can promote local success in violence prevention by enhancing coordination across state agencies, improving data collection and sharing, offering technical assistance to local officials, promoting collaboration and sharing of best practices between localities, and managing grant programs to pursue and direct available federal funding to law enforcement and community-based organizations focused on reducing gun violence; and

WHEREAS, the Governor is committed to building safer, more prosperous communities in North Carolina and stopping violent crime; and

WHEREAS, pursuant to Article III of the North Carolina Constitution and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 147-12, the Governor has the authority and the duty to supervise the official conduct of all executive and ministerial officers.

NOW, THEREFORE, by the authority vested in the undersigned as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Office of Violence Prevention

A. Establishment and Purpose

The North Carolina Department of Public Safety is hereby directed to establish the North Carolina Office of Violence Prevention (“Office”). The Office shall be established within the Department of Public Safety. The mission of the Office shall be to reduce violence, harm from violence, and firearm misuse in North Carolina by coordinating efforts across state agencies and partnering with local communities to support and deploy evidence-based and promising programs and strategies.

The Office shall work closely and coordinate with other state agencies, including the Injury and Violence Prevention Branch of the North Carolina Department of Health and Human Services’ Division of Public Health (“Injury and Violence Prevention Branch”), to ensure a whole-of-government and public health approach to reducing violence.

The Office may engage in activities that align with its mission, such as: offering training and technical assistance; issuing best practice guidance and model processes; facilitating cross-jurisdictional information sharing; conducting public awareness campaigns; sharing data and collaborating with research institutions; and identifying and applying for funding from federal and philanthropic sources.

The Office will be led by an Executive Director. The Executive Director will develop the Office’s strategic plan and performance objectives in coordination with the Injury and Violence Prevention Branch and the Community Violence Advisory Board established herein.

B. Community Violence Advisory Board

The Office will collaborate with a broad range of stakeholders, including public health professionals, law enforcement, community-based organizations, and survivors of violence. To facilitate this collaboration, the Community Violence Advisory Board ("Advisory Board") is hereby established. In consultation with the Governor's Office, the Office will manage the Advisory Board. The Executive Director shall ensure that the membership of the Advisory Board consists of individuals dedicated to the mission of the Office. The Advisory Board will provide guidance to the Executive Director, including on the development of the Office's strategic plan.

C. Report

The Office shall deliver to the Office of the Governor and publish a public report describing the Office's activities and recommendations annually by December 31st of each year.

Section 2. Effective Date

This Executive Order is effective immediately and shall remain in effect until March 31, 2025, unless rescinded or superseded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capital in the City of Raleigh, this 14th of March in the year of our Lord two thousand and twenty-three.



Roy Cooper
Governor

ATTEST:



William Toole
Deputy Secretary of State



North Carolina License and Theft Bureau

PUBLIC NOTICE

This serves as a notice pursuant to G.S. § 20-288 of a license application submission by a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative that has not been previously issued a license by the Division.

Applicant's Name: Harley-Davidson Motor Company Inc

Applicant's Address: 3700 W Juneau Ave, Milwaukee WI 53208

Application Date: 3/7/2023

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant:

Jochen Zeitz President and CEO

Paul J Krause VP, CLO, CCO, and Secretary

Gina M Goetter CFO

David Viney VP and Treasurer

Geralyn M Fallon Assistant Treasurer

Lynda M Johnson Assistant Treasurer

Mai Der Shaw Assistant Secretary

Allen Gerrard Assistant Secretary

Adraea Brown Assistant Secretary

North Carolina License and Theft Bureau

PUBLIC NOTICE

This serves as a notice pursuant to G.S. § 20-288 of a license application submission by a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative that has not been previously issued a license by the Division.

Applicant's Name: Workhorse Technologies Inc

Applicant's Address: 3600 Park 42 Drive Ste 160E, Sharonville OH 45240

Application Date: 2/13/2023

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant:

Richard Dauch CEO

Robert Ginnan CFO

James Harrington General Counsel & Secretary

Workhorse Group Inc 100% owner

PUBLIC NOTICE STATE OF NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

The Division of Energy, Mineral, and Land Resources (DEMLR) invites public comment on, or objections to, the following NPDES Industrial Stormwater General Permits to be revised and re-issued. The public comment period begins at 9:00 am on 04/17/2023 and ends at 5:00 pm on 05/17/2023. Persons wishing to comment on or object may submit written comments to the address below during the public comment period. All comments received during the public comment period will be considered in the final determinations regarding permit issuance. Public comments may result in changes to the proposed permitting actions. All comments should reference the specific permit numbers listed below.

- NCG050000 for Apparel, Printing, Leather, Rubber, proposed issuance date 6/01/2023
- NCG070000 for Stone, Clay, Glass, proposed issuance date 6/01/2023
- NCG110000 for Treatment Works, proposed issuance date 6/01/2023
- NCG130000 for Nonmetal Waste and Scrap, proposed issuance date 6/01/2023
- NCG210000 for Timber Products, proposed issuance date 6/01/2023

The General Permits and Fact Sheets may be viewed at: <https://deq.nc.gov/about/divisions/energy-mineral-and-land-resources/stormwater/stormwater-program/stormwater-public-notices> . Please direct comments or questions to: Brittany Cook, Stormwater Program, NC Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center Raleigh, NC 27699-1612, Telephone number: (919) 707-3648, brittany.cook@ncdenr.gov.

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 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Natural and Cultural Resources intends to adopt the rules cited as 07 NCAC 14B .0608, .0609, amend the rule cited as 07 NCAC 14B .0403, and repeal the rule cited as 07 NCAC 14B .0404.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncdcr.gov/request-public-comments>

Proposed Effective Date: August 1, 2023

Public Hearing:

Date: June 13, 2023

Time: 1:00 p.m. - 2:00 p.m.

Location: This public hearing will be held by teleconference at (919) 814-6771 (no access code needed)

Reason for Proposed Action: The following rules are being amended to reflect current operating procedures of the managing state agency: 07 NCAC 14B .0403. The following rules are being adopted and updated to reflect current Zoo operations: 07 NCAC 14B .0608; 07 NCAC 14B .0609. The following rules are being repealed because they are no longer necessary because of proposed changes in the amended rules: 07 NCAC 14B .0404.

Comments may be submitted to: Jonathan Avery, 4601 Mail Service Center, Raleigh, NC 27699-4601; phone (919) 814-6771; email jonathan.avery@ncdcr.gov

Comment period ends: June 16, 2023

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 14 - NORTH CAROLINA ZOOLOGICAL PARK REGULATIONS

SUBCHAPTER 14B - GENERAL PROVISIONS

SECTION .0400 - FIREARMS: FIRES: ETC.

07 NCAC 14B .0403 ~~FIRES: LIGHTED CIGARETTES: ETC.~~ SMOKING AND FIRES

~~All fires except for personal smoking materials are prohibited except in designated areas. A competent person 16 years old or older must continuously tend any fire from the time it is kindled until it is extinguished.~~

(a) Smoking, vaping or the use of similar devices or materials is prohibited on Zoo property except where designated through posted signage.

(b) Starting or maintaining a fire on Zoo property is prohibited except as part of an organized Zoo program.

Authority G.S. 143B-135.204(a).

07 NCAC 14B .0404 SMOKING

Authority G.S. 143B-135.204(a).

SECTION .0600 - COMMERCIAL ENTERPRISES: ADVERTISING: MEETINGS: EXHIBITIONS: ETC.

07 NCAC 14B .0608 ROCK CLIMBING

(a) Rock climbing, bouldering, or rappelling is prohibited except in areas designated by the Zoo Director or their designee. The Zoo Director or their designee may designate a daily capacity limit for specific climbing routes and bouldering areas based on public safety and the protection and use of state property.

(b) A Day-Use Climbing Permit is required for each individual participating in climbing, rappelling, and bouldering on Zoo property. Applications for permits may be made at www.nczoo.org. A completed Day-Use Climbing Permit shall include the following information:

- (1) the permittee's name, address, and contact information;
- (3) the permittee's expected time to return to their vehicle;
- (4) the permittee's vehicle registration number and state of vehicle registration;
- (5) name and contact information of an emergency contact; and
- (6) signature indicating agreement to abide by the terms and conditions of the permit.

(c) Day-Use Climbing Permits shall be issued upon receipt of a completed application unless:

- (1) the daily capacity limit for a specific climbing route or area has been reached prior to receipt of the completed application;
- (2) the activity would be detrimental to the protection and use of state property or threaten the health or safety of the public; or
- (3) The activity or use would constitute a violation of applicable law or the rules of this Subchapter.

(d) The permit may contain such additional conditions or restrictions as are consistent with protection and use of the Zoo and public safety and health.

(e) If a permit is denied, the applicant shall be informed in writing with the reason(s) for the denial set forth.

(f) Permittees shall maintain a copy of their signed Day-Use Climbing Permit with them at all times while on Zoo property.

(g) The following prohibitions shall apply to rock climbing on Zoo property:

- (1) The installation of permanent or fixed rock climbing anchors, such as pitons and expansion bolts, is prohibited;
- (2) Chipping or gluing holds onto the rock face is prohibited;
- (3) The removal of rock from its natural position is prohibited except where failure to remove the rock poses a risk to public safety and such removal has been approved by the Zoo Director or their designee; and
- (4) The intentional removal of vegetation to clean a climbing route is prohibited.

(h) Violation of the terms and conditions of a Day-Use Climbing permit issued in accordance with this Section is prohibited and shall result in the revocation of the permit and removal of the violator from Zoo property.

Authority G.S. 143B-135.204(a).

07 NCAC 14B .0609 TRAIL ACCESS AND ACTIVITIES

(a) Public access to Zoo property, including all hiking trails, is available only between opening and closing hours as posted at www.nczoo.org.

(b) Public use of hiking trails on Zoo property shall be limited to each trail's designated uses as posted. The Division may prohibit or restrict public activity occurring on Zoo property if such activity would be detrimental to the protection and use of state property or threaten the health or safety of the public.

(c) A person using Zoo property located outside of the perimeter fence must remain on the marked trails or in a designated climbing area at all times.

(d) Use of bicycles, all-terrain vehicles, dirt bikes, golf carts, go-karts, scooters, skateboards, and other similar conveyances is prohibited on Zoo property outside of a trail designated for such use. Public use of motorized vehicles is prohibited on Zoo property except on public roads and designated parking areas.

(e) Horseback riding is prohibited on Zoo property outside of a trail designated for such use.

(f) The following activities are prohibited on Zoo property:

- (1) Hunting;
- (2) Littering; and
- (3) Camping, except through a Zoo organized camping program.

(g) Public use of Ridges Mountain trails is available only by a reservation approved by the Zoo Director or their designee. Reservations shall be approved unless such use would be detrimental to the protection and use of state property or threaten the health or safety of the public. A completed reservation request shall include the following:

- (1) Requestor's name and contact information;
- (2) The name of an organization or group coordinating the use;
- (3) The number of users;
- (4) The date of the requested use; and
- (5) The intended use.

(h) Pets, except as required by applicable federal and state law for service animals assisting individuals with disabilities, are not permitted on the Ridges Mountain property.

Authority G.S. 143B-135.204(a).

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Child Care Commission intends to amend the rule cited as 10A NCAC 09 .2703.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://ncchildcare.ncdhhs.gov/Whats-New>

Proposed Effective Date: August 1, 2023

Public Hearing:

Date: May 15, 2023

Time: 11:00 a.m.

Location: Division of Child Development and Early Education, 333 E. Six Forks, Rd., Conference Room 165, Raleigh, NC 27609

Reason for Proposed Action: *The proposed amendments to rule 10A NCAC 09 .2703 are necessary to align the rule with recent changes to the child care statute. Session Law 2022-74 (Sections 9C.3.(a) and (b), Align State Criminal Background Checks for Prospective Child Care Providers with Federal Block Grant Requirements/Report) amended G.S. 110-90.2 (Mandatory child care providers' criminal history checks) and brought North*

Carolina into alignment with 45 CFR § 98.43 (Criminal background checks). Specifically, the session law changed the frequency at which criminal background checks are required for child care providers from every three years to every five years. The session law also established a 45-day timeline for qualifying a child care provider that is under provisional status, as long as there are no disqualifying results from the criminal background checks. Currently, Rule .2703 has a timeframe of six months for provisional status. Other proposed changes are for the purpose of making the application process more efficient and to provide clarity.

Comments may be submitted to: Dedra Alston, 2201 Mail Service Center, Raleigh, NC 27699-2200; phone (919) 814-6307; fax (919) 715-0970; email Dedra.Alston@dhhs.nc.gov

Comment period ends: June 16, 2023

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 09 - CHILD CARE RULES

SECTION .2700 - CRIMINAL BACKGROUND CHECKS

10A NCAC 09 .2703 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR CHILD CARE PROVIDERS

(a) In addition to the requirements in Rules .0302 and .1702 of this Chapter, a child care provider shall submit the following to the Division prior to the issuance of a license or prior to beginning employment:

- (1) a signed and completed Authority for Release of Information form; and
- (2) fingerprint impressions submitted on the forms required by the Division and State Bureau of Investigation;

- (3) ~~if a child care provider is an out of state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence. any applicant who has lived outside of North Carolina in the previous five years, shall submit an affidavit verifying they have completed a request for an out-of-state background check for each state in which they resided in the preceding five years.~~

All required forms can be found on the Division's website at http://ncchildcare.dhhs.state.nc.us/general/dhhsrsc_childcare.asp

(b) If the child care provider has a criminal history of convictions, pending indictment of a crime, or pending criminal charges, ~~he or she~~ they may submit to the Division additional information concerning the conviction or charges ~~that~~ the Division shall use in making the determination of the child care provider's qualification. The Division shall also consider the following in making its decision:

- (1) the length of time since conviction;
- (2) whether the child care provider is currently on probation;
- (3) the nature of the offense;
- (4) the circumstances surrounding the commission of the offense or offenses;
- (5) the evidence of rehabilitation;
- (6) the number and type of prior offenses; and
- (7) the age of the child care provider at the time of occurrence.

(c) If the child care provider is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity or a person designated by the chief executive officer as responsible for the operation of the facility, shall complete the criminal history record check as specified in Paragraph (a) of this Rule.

(d) If a Letter of Intent to Operate pursuant to G.S. 110-106 is submitted to the Division, the person signing the Letter of Intent shall submit all forms as required in Paragraph (a) of this Rule.

(e) Child care providers shall have a valid qualification letter prior to employment or living in the family child care home, and the qualification letter shall be kept on file at the facility for review by representatives of the Division.

(f) Provisional child care providers may be employed at a child care facility or reside in a family child care home, nonlicensed home, or child care center in a residence and shall be counted in staff/child ratio. Provisional child care providers shall be supervised at all times by an individual who received a qualifying result on a criminal background check within the past ~~three~~ five years and may not be left alone with children. Owners found to be in violation of this Paragraph may be issued an administrative action up to and including revocation of their child care license or notice of compliance in accordance with Section .2200 of this Chapter.

~~(g) Within five days of~~ When applying for provisional status through the Division's online portal, the applicant shall complete and submit any documents specific to their former state(s) of residence that are necessary to complete the out-of-state portion of their background check. ~~The applicant shall also certify in writing within five days to the Division that they have made the~~

~~required requests.~~ When requested by the Division, the applicant shall submit a copy and proof of submission of the documents necessary to complete the out-of-state portion of their background check. The Division shall provide to the applicant the necessary information to make these requests, if applicable.

~~(h) After six months, Within 45 days of issuing a provisional status to an applicant, the Division shall issue a qualification letter to a provisional child care provider if the Division does not receive a response to its request no criminal background check results that would disqualify the applicant are returned or if there is no response to the applicant's or the Division's request for the state sex offender registry check, the state abuse and neglect registry, or the state criminal history check from the state or states in which the provisional provider currently resides or has resided at any time during the preceding years. five years prior to submitting documents for a criminal history check. However, nothing in this Rule shall prevent the Division from disqualifying a provisional child care provider at a later date based upon failure to comply with the requirements of Paragraph (g) of this Rule or if the Division determines the applicant has submitted false information to the Division or if information is received from any other state after the qualification letter has been issued. six months have elapsed.~~

(i) Child care providers found to be disqualified shall not be eligible for employment in child care until a qualification letter has been issued by the Division.

(j) Child care providers determined by the Division to be disqualified shall ~~be~~ have their employment terminated by the center or family child care home immediately upon receipt of the disqualification notice.

(k) Disqualification of a child care provider living in a family child care home or a center located in a residence shall be grounds for issuance of a summary suspension of the license in accordance with 10A NCAC 09 .2213.

(l) Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial, or revocation of the license or any other administrative action or civil penalty permitted by law or rule. If an applicant appeals the disqualification, the child care provider shall not be employed during the appeal process.

(m) Operators, as defined by G.S. 110-86(7), shall include the criminal history mandatory reporting requirement in all new employee orientation information. All child care providers and household members who have incurred any pending charges, indictments, or convictions (other than minor traffic offenses) since the last qualification letter was issued by the Division shall notify the operator of such charges within five business days or before returning to work, whichever comes first. The operator shall notify the Division of any such pending charges, indictments, or convictions within one business day of being notified.

(n) The qualification letter shall be valid for a maximum of ~~three~~ five years from the date of issuance.

(o) Prior to the expiration date of the qualification letter, the child care provider shall complete and submit the forms listed in Paragraph (a) of this Rule.

(p) After a child care provider has been qualified, the Division shall complete a new criminal history record check if the Division of Child Development and Early Education conducts an

investigation involving alleged criminal activity by the child care provider.

(q) Individuals who ~~live in the household~~ use a family child care home or center located in a residence on a permanent or temporary basis as their place of residence, including those who have had their 16th birthday after the initial licensing of a family child care home or center located in a residence, shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five business days of using the home as their permanent or temporary residence or their 16th birthday.

(r) Child care operators shall notify the Division of all new child care providers who are hired or have moved into the home or center located with a residence within five business days by submitting the form provided by the Division.

(s) Any application for a criminal background check that is not complete, including the required components in Paragraph (a) of this Rule, within 30 days of beginning the application, will expire and be withdrawn by the Division.

(t) The Division shall disqualify any child care provider or household member of a family child care home or center located in a residence if they fail to comply with the requirements of Paragraph (g) of this Rule or if the Division determines the applicant has submitted false information in connection with their criminal background check or application to the Division or if information that disqualifies the child care provider is received from any state during the qualification time period.

Authority G.S. 110-85; 110-86(7); 110-90.2; 110-106; 114-19.5; 143B-168.3.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Justice intends to amend the rule cited as 12 NCAC 02J .0201.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>

Proposed Effective Date: *October 1, 2023*

Public Hearing:

Date: *August 9, 2023*

Time: *10:00 a.m.*

Location: *Wake Tech Community College Public Safety Center, 321 Chapanoke Road, Raleigh, NC 27603*

Reason for Proposed Action: *To update reporting requirements for Campus Police Officers to be consistent with requirements for all law enforcement officers as published in amended rules previously submitted.*

Comments may be submitted to: *Michelle Schilling, NC Department of Justice, Criminal Justice Standards Division, PO Drawer 149, Raleigh, NC 27602-0149; email MSchilling@ncdoj.gov*

Comment period ends: August 9, 2023

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 02 - OFFICE OF THE ATTORNEY GENERAL

SUBCHAPTER 02J - CAMPUS POLICE

SECTION .0200 - COMMISSIONING

12 NCAC 02J .0201 MINIMUM STANDARDS FOR CAMPUS POLICE OFFICERS

Every campus police officer must meet the following requirements to obtain and maintain a campus police commission:

- (1) be a citizen of the United States;
(2) be a high school graduate or have passed the General Educational Development Test indicating high school equivalency. A specific exception to this educational requirement is granted to:
(a) an applicant who was the holder of a valid campus police commission on June 30, 1972; or
(b) an applicant properly certified as a law enforcement officer by the Criminal Justice Education and Training Standards Commission on March 14, 1973.

In either case, the exception will not be applicable if the applicant has had more than a 12 month break in service;

- (3) have attained a score of not less than 80 percent on a written examination of basic knowledge of laws of arrest, search, and investigation, and of these Rules to be administered by a representative of the North Carolina Department of Justice;

Note: All examination questions will be based on the book Arrest, Search, and Investigation as published by and available from the Institute School of Government, the University of North Carolina at Chapel Hill, Chapel Hill, North Carolina 27514, and these Rules.

Applicants will be advised in writing of test dates and sites at least five days prior to the examination. In the event an applicant fails to successfully complete the examination, only one re-test will be allowed. Upon an applicant's failure to successfully complete the second test, the applicant must successfully complete accredited Basic Law Enforcement Training coursework prior to re-testing;

- (4) meet the minimum standards for criminal justice officers established by the North Carolina Criminal Justice Education and Training Standards Commission, appearing in Title 12, Chapter 9 of the North Carolina Administrative Code; which Standards are hereby incorporated by reference, and shall automatically include any later amendments and editions of the referenced material;
(5) applicants who do not hold general certification as a law enforcement officer issued by the Criminal Justice Education and Training Standards Commission or the North Carolina Sheriff's Education and Training Standards Commission, must submit to and successfully complete a polygraph examination administered by the State Bureau of Investigation;
(6) be at least 20 years of age;
(7) have produced a negative result on a drug screen administered according to the following specifications:
(a) the drug screen shall be a urine test consisting of an immunoassay method and a confirmatory test on an initial positive test result using a gas chromatography mass spectrometry (GC/MS) or other reliable initial and confirmatory tests as may, from time to time, be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
(b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
(c) the drugs whose use shall be tested for shall include at least cannabis, cocaine, phencyclidine (PCP), opiates and amphetamines or their metabolites;
(d) the test threshold values established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs are hereby incorporated by reference, and shall automatically include any later

amendments and editions of the referenced material. Copies of this publication may be inspected at the office of the agency:

Campus Police Program
North Carolina Department of Justice
~~114 West Edenton Street~~ PO Drawer 179

~~Old Education Building~~
Raleigh, North Carolina 27602

and may be obtained at no charge from the office of the agency:

Campus Police Program
North Carolina Department of Justice
Post Office ~~Box 310~~ Drawer 179
Raleigh, North Carolina 27602

- (e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment;
- (f) the laboratory conducting the test must be certified for federal workplace drug testing programs, and must adhere to applicable federal rules, regulations and guidelines pertaining to the handling, testing, storage and preservation of samples, except that individual agencies may specify other drugs to be tested for in addition to those drugs set out in Item (7)(c) of this Rule; and
- (g) every agency head shall be responsible for making adequate arrangements for the services of a Medical Review officer (MRO) for the purpose of review of drug tests reported by the laboratory and such officer shall be a licensed physician;
- (8) notify the Campus Police Administrator in writing of all criminal offenses for which the officer is arrested, pleads no contest, pleads guilty, or is found guilty of. This shall include all criminal offenses except minor traffic offenses and shall specifically include any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Item, as an offense where the maximum punishment allowable is 60 days or less. The notifications required must specify the nature of the offense, the court in which the case was handled and the date of the conviction if applicable. The notifications must be received by the Campus Police Administrator within ~~30~~ five days of the date of the case disposition. Applicants and officers required to notify the Campus Police Administrator under this Item shall also make the same notification to their Department Head within ~~20~~ five days of the date the case was disposed of in court.

However, the notification to the Campus Police Administrator does not excuse the officer from making an independent notification otherwise required by either the Criminal Justice Education and Training Standards Commission or the Sheriffs' Education and Training Standards Commission. The notifications required by this section shall be required while the application is pending as well as subsequent to a commission being issued;

- (9) be of good moral character as referred to in G.S. 17C-10(c); and
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 2J .0209(b), such that the applicant would be ineligible for commissioning as a Campus Police officer.

Authority G.S. 74G-4.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 08 – BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Certified Public Accountant Examiners intends to amend the rules cited as 21 NCAC 08F .0103, .0105, .0401, .0410; 08H .0101; 08M .0105; 08N .0205, .0209, .0211, .0215, .0304, .0305, .0307-.0309, .0403-.0406, .0409 and .0410.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://nccpaboard.gov/>

Proposed Effective Date: September 1, 2023

Public Hearing:

Date: June 20, 2023

Time: 10:00 a.m.

Location: NC State Board of CPA Examiners, 1101 Oberlin Road, Suite 104, Raleigh, NC 27605

Reason for Proposed Action: *Proposed amendments to the Rules are to align the rules for NC CPAs with changes occurring within the profession. Several amendments recognize more current operating processes for dealing with applicants and changes that are coming to the Uniform CPA Examination. Many of the amendments provide the internet location whereby persons can access the documentation for free versus previously being directed to hard copies for a standard fee. Clarifying language has been added to better assist CPAs in the performance of their work.*

Comments may be submitted to: David R. Nance, 1101 Oberlin Rd, Raleigh, NC 27605; phone (919) 733-4215; email dnance@nccpaboard.gov

Comment period ends: June 20, 2023

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SUBCHAPTER 08F - REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANT EXAMINATION AND CERTIFICATE APPLICANTS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 08F .0103 FILING OF EXAMINATION APPLICATIONS AND FEES

(a) All applications for CPA examinations shall be filed with the Board and accompanied by the examination fee. The Board sets the fee for each examination at the amount that enables the Board to recover its actual costs of examination services. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned. CPA Examination applications and fee information are on the Board's website at www.nccpboard.gov nccpboard.gov and may be requested from the Board.

(b) The initial application filed to take the examination shall include supporting documentation demonstrating that all legal requirements have been met, including:

- minimum legal age;
education; and
good moral character.

(c) Any In addition, any person born outside the United States shall furnish to the Board office evidence of citizenship; evidence of resident alien status; or office:

- evidence of citizenship; or
evidence of resident alien status; or
(+) other bona fide evidence that the applicant is legally allowed to remain in the United States;
or

- (2)(4) a notarized affidavit of intention to become a U.S. citizen; or
(3)(5) evidence that the applicant is a citizen of a foreign jurisdiction that extends to citizens of this State like or similar privileges to be examined.

(d) Official transcripts (originals, not photocopies) Education and degree requirements shall be proven by submission of either original official transcripts, not photocopies, signed by the college registrar and bearing the college seal are required to prove education and degree requirements, or by electronic delivery of official transcripts directly from the college registrar or through the institution's chosen provider. A letter from the college registrar of the school may be filed as documentation that the applicant has met the graduation requirements if the degree has not been awarded and posted to the transcript. No examination grades shall be released until an official transcript is filed with the Board confirming the education requirement as stated in the college registrar's letter.

(e) Applicants for re-examination shall not re-submit official transcripts, additional statements, or affidavits regarding education.

(f) To document good moral character as required by G.S. 93-12(5), three persons not related by blood or marriage to the applicant shall sign the application certifying the good moral character of the applicant and the Board shall conduct a background check of the applicant including a check of criminal records.

(g) An applicant shall include as part of any application for the CPA examination a statement of explanation and a certified copy of the final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued, or pleaded nolo contendere to any criminal offense. An applicant shall not be required to disclose any arrest, charge, or conviction that has been expunged by the court, a court.

(h) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(i) Two identical photographs shall accompany An applicant shall submit one photograph or digital image as part of the application for the CPA examination. These photographs The photograph or digital image shall be of the applicant alone, 2x2 inches in size, front view, full face, taken in normal street attire without a hat or dark glasses, printed on paper with a plain light background background, and taken within the last six months. Photographs The photograph or digital image may be in black and white or in color. Retouched photographs or digital images shall not be accepted. If submitting a photograph, Applicants applicants shall write their names on the back of their photographs. photograph, with the photograph 2x2 inches in size.

(j) If an applicant's name has legally changed and is different from the name on any transcript or other document supplied to the Board, the applicant shall furnish copies of the documents legally authorizing the name change.

(k) Candidates shall file initial and re-exam applications to sit for the CPA ~~Examination~~ examination on forms provided by the Board.

(l) Examination fees are valid for a six-month period from the date of the applicant's notice to schedule for the examination from the examination vendor.

(m) No application for examination shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

Authority G.S. 93-2; ~~93-9(12)~~; 93-10; 93-12(3); 93-12(4); 93-12(5); 93-12(7).

21 NCAC 08F .0105 CONDITIONING REQUIREMENTS

(a) Passing Grades. A candidate shall pass all sections of the examination with a grade of 75 or higher on each section.

(b) Military Service. A candidate who is on active military service shall not have the time on active military service counted against Subparagraph (c)(1) of this Rule unless the candidate applies to take the examination during the active military service, in which case each month a candidate sits shall be counted toward Subparagraph (c)(1) of this Rule.

(c) A candidate is subject to the following conditioning requirements:

- (1) a candidate shall ~~obtain~~ earn a passing grade on all sections of the examination within an 18-month period;
- (2) a candidate may sit for any section of the examination ~~individually~~; individually and in any order;
- (3) a candidate may retake the same section of the examination as many times during a one-year period as determined by the examination vendors but shall not retake a failed test section until the candidate has been notified of the score of the most recent attempt of that failed section; vendor(s); and
- (4) credit awarded by the Board for passage of a section of the examination ~~is~~ shall be valid for an 18-month period ~~beginning on the date the section is taken~~. from the date the passing scores are released by the examination vendors; the 18-month period begins on the date the first passing score is released to the candidate and concludes with the sit date of the final passed examination section, regardless of when the score is released by the examination vendors for the final passed section. A candidate, after earning credit for the initial passed section, must complete the remaining test sections of the examination by the last day of the 18-month period. If all four sections of the examination are not passed within the 18-month period, credit for any test section passed outside of the 18-month period shall expire; and

(6) notwithstanding Subparagraphs (c)(1), (c)(4), and (c)(5) of this Rule, the period of time in which to pass all test sections of the examination may be extended by the Board upon a showing that the credit was lost by reason of circumstances beyond the testing candidate's control.

Authority G.S. 93-12(3); 93-12(4); 93-12(5).

SECTION .0400 - EXPERIENCE

21 NCAC 08F .0401 WORK EXPERIENCE REQUIRED OF CANDIDATES FOR CPA CERTIFICATION

(a) ~~G.S. 93-12(5)~~ G.S. 93-12(5)(c) sets forth work experience alternatives, one of which is required of candidates applying for CPA certification. In connection with those requirements, the following provisions apply:

- (1) the work experience shall be acquired prior to the date a candidate applies for certification; and
- (2) all experience that is required ~~to be under the direct supervision of a CPA~~ shall be under the direct supervision of a licensed CPA on active status; status in one of the U.S. states or jurisdictions.

(b) The following provisions apply to all candidates seeking to meet the work experience requirement of ~~G.S. 93-12(5)~~ G.S. 93-12(5)(c)(3) by working in the field of accounting:

- (1) One year of work experience is 52 weeks of full-time employment. The candidate is employed full-time when the candidate is expected by the employer to work for the employer at least 30 hours each week. Any other work is working part-time.
- (2) All weeks of actual full-time employment are added to all full-time equivalent weeks in order to calculate how much work experience a candidate has acquired. Dividing that number by 52 results in the years of work experience the candidate has acquired.
- (3) Full-time-equivalent weeks are determined by the number of actual part-time hours the candidate has worked. Actual part-time hours do not include hours paid for sick leave, vacation leave, attending continuing education courses, or other time not spent directly performing accounting services. For each calendar week during which the candidate worked actual part-time hours of 30 hours or more, the candidate receives one full-time-equivalent week. The actual part-time hours worked in the remaining calendar weeks are added together and divided by 30. The resulting number is the additional number of full-time-equivalent weeks to which the candidate is entitled.

(4) The candidate shall submit experience affidavits on a form provided by the Board from all of the relevant employers; provided that when such experience was not acquired while employed with a CPA firm, the candidate shall also submit details of the work experience and supervision on a form provided by the Board. Experience affidavits for part-time work shall contain a record of the actual part-time hours the candidate has worked for each week of part-time employment. Both the experience affidavit and the form for additional detail shall be certified by the employer's office supervisor or an owner of the firm who is a certificate holder.

(c) Rule .0409 of this Section applies to teaching experience acquired pursuant to ~~G.S. 93-12(5)e-2 and 4.~~ G.S. 93-12(5)(c)(2) and (4).

Authority G.S. 93-12(3); 93-12(5).

21 NCAC 08F .0410 EDUCATION REQUIRED OF CANDIDATES FOR CPA CERTIFICATION

(a) ~~G.S. 93-12(5)a~~ G.S. 93-12(5)(a) sets forth the education required of candidates applying for CPA certification. The 150 semester hours required ~~include~~ include:

- (1) a concentration in accounting, as defined by 21 NCAC 08A .0309; and
- ~~(b)(2)~~ (2) 24 semester hours of coursework that ~~include~~ includes one three semester hour course from at least eight of the following 10 fields of study:
 - ~~(1)(A)~~ (A) communications;
 - ~~(2)(B)~~ (B) computer technology;
 - ~~(3)(C)~~ (C) economics;
 - ~~(4)(D)~~ (D) ethics;
 - ~~(5)(E)~~ (E) finance;
 - ~~(6)(F)~~ (F) humanities or social science;
 - ~~(7)(G)~~ (G) international environment;
 - ~~(8)(H)~~ (H) law;
 - ~~(9)(I)~~ (I) management; or
 - ~~(10)(J)~~ (J) statistics.

~~(e)(b)~~ Anyone applying for CPA certification who holds a Master's or more advanced degree in accounting, tax law, economics, finance, business administration, or a law degree from an accredited college or university is in compliance with ~~Paragraph (b)~~ Subparagraph (a)(2) of this Rule.

Authority G.S. 93-12(5).

SUBCHAPTER 08H – RECIPROCITY

21 NCAC 08H .0101 RECIPROCAL CERTIFICATES

(a) A person having a CPA certificate from another jurisdiction who desires to utilize the CPA title in this State or offer or render professional services as a CPA to his or her employer or a client in this State shall meet all the requirements imposed on an applicant under G.S. 93-12(5) or the requirements of G.S. 93-12(6); obtain a reciprocal North Carolina CPA certificate.

(b) The fee for a reciprocal certificate shall be the maximum amount allowed by G.S. 93-12(7a).

(c) An applicant for a reciprocal certificate shall meet the following requirements:

- (1) The applicant has the legal authority to use the CPA title and to practice public accountancy in a ~~jurisdiction.~~ United States jurisdiction; and
- (2) The applicant has received a passing score on each ~~part~~ section of the Uniform CPA Examination.

Authority G.S. 93-12(6); 93-12(7a).

SUBCHAPTER 08M - STATE QUALITY REVIEW PROGRAM

21 NCAC 08M .0105 PEER REVIEW REQUIREMENTS

(a) A CPA or CPA firm providing any of the following services to the public shall participate in a peer review program:

- (1) audits;
- (2) reviews of financial statements;
- (3) compilations of financial statements; or
- (4) any engagement to be performed in accordance with the Statements on Standards for Attestation Engagements.

(b) A CPA or CPA firm not providing any of the services listed in Paragraph (a) of this Rule is exempt from peer review until the issuance of the first report provided to a client. A CPA or CPA firm shall register with the peer review program as listed in Paragraph (d) of this Rule within 30 days of the issuance of the first report provided to a client.

(c) A CPA, a new CPA firm, or a CPA firm exempt from peer review that starts providing any of the services in Paragraph (a) of this Rule shall furnish to the peer review program selected financial statements, corresponding work papers, and any additional information or documentation required for the peer review program within 18 months of the issuance of the first report provided to a client.

(d) Participation in and completion of the AICPA Peer Review ~~Program~~ Program, or a program that substantially complies with the AICPA Standards for Performing and Reporting on Peer Reviews, shall be required. The AICPA Standards for Performing and Reporting on Peer Reviews are incorporated by reference, including subsequent amendments and editions. This document may be accessed at <https://us.aicpa.org/research/standards/peerreview> at no cost.

(e) CPA firms shall not rearrange their structure or act in any manner with the intent to avoid participation in peer review.

(f) A CPA firm that does not have offices in North Carolina and that has provided any services as listed in G.S. 93-10(c)(3) to North Carolina clients shall participate in a peer review program.

(g) Subsequent peer reviews of a CPA firm are due three years and six months from the year end of the 12-month period of the first peer review, unless granted an extension by the peer review program.

(h) All CPA firms enrolled in the AICPA Peer Review Program shall also participate in the AICPA Facilitated State Board Access process.

Authority ~~G.S. 93-12(3); G.S. 93-10(c); 93-12(8c).~~

SUBCHAPTER 08N – PROFESSIONAL ETHICS AND CONDUCT

SECTION .0200 - RULES APPLICABLE TO ALL CPAS

21 NCAC 08N .0205 CONFIDENTIALITY

(a) Nondisclosure. A CPA shall not disclose any confidential information obtained in the course of employment or a professional engagement except with the consent of the employer or client.

(b) Exceptions. This Rule shall not be construed:

- (1) to relieve a CPA of any reporting obligations pertaining to Section .0400 of this Subchapter;
- (2) to affect in any way the CPA's compliance with an order of a court or a validly issued subpoena by this Board;
- (3) to preclude the CPA from responding to any inquiry made by the AICPA Ethics Division or Trial Board, by a duly constituted investigative or disciplinary body of a state CPA society, or under state statutes;
- (4) to preclude the disclosure of confidential client information necessary for the peer review ~~process or for any quality review program;~~ process;
- (5) to preclude the CPA from assisting the Board in enforcing the accountancy statutes and rules;
- (6) to affect a CPA's disclosure of confidential information to state or federal authorities when the CPA concludes in good faith based upon professional judgment that a crime is being or is likely to be committed; ~~or~~
- (7) to affect a CPA's disclosure of confidential information when such disclosure is required by state or federal laws or ~~regulations;~~ regulations; ~~or~~
- (8) to prohibit a CPA from revealing information:
 - (A) in order to establish a claim or defense on behalf of the CPA in a controversy between the CPA and a client;
 - (B) to establish a defense to a criminal charge or civil claim against the CPA based upon conduct in which the client was involved; or
 - (C) to respond to allegations in any proceeding concerning the CPA's professional services to the client.

Authority *G.S. 55B-12; 57D-2-02; 93-12(9).*

21 NCAC 08N .0209 ACCOUNTING PRINCIPLES

(a) Generally Accepted Accounting Principles. A CPA shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from an accounting principle that has a material effect on the statements taken as a whole, unless the CPA can demonstrate that due to unusual

circumstances the financial statements would otherwise have been misleading. In such cases the CPA's report shall describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

(b) Financial Accounting Standards Board Accounting Standards Codification. ~~The Financial Accounting Standards Board Accounting Standards. Codification, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered generally accepted accounting principles for the purposes of Paragraph (a) of this Rule.~~

~~(c) Copies of Standards. Copies of the Financial Accounting Standards Board Accounting Standards Codification may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the FASB, Post Office Box 5116, Norwalk, CT 06856 as part of the "FASB Accounting Standards." They are available at cost, which is two hundred fifteen dollars (\$215.00) in paperback form. Codification is incorporated by reference, including subsequent amendments and editions and shall be considered generally accepted accounting principles for the purposes of Paragraph (a) of this Rule. This document may be accessed at <https://asc.fasb.org> at no cost.~~

Authority *G.S. 55B-12; 57D-2-02; 93-12(9).*

21 NCAC 08N .0211 RESPONSIBILITIES IN TAX PRACTICE

(a) Standards for Tax Services. A CPA shall not render services in the area of taxation unless the CPA has complied with both the standards for tax services. Statements on Standards for Tax Services and the Treasury Department Circular 230 as defined in this Section. In the event that there is a conflict between the Statements on Standards for Tax Services and Treasury Department Circular 230, the CPA shall comply with Treasury Department Circular 230.

(b) Statements on Standards for Tax Services. The Statements on Standards for Tax Services issued by the AICPA, ~~including subsequent amendments and editions, are hereby incorporated by reference, as provided by G.S. 150B-21.6, and shall be considered as the standards for tax services for the purposes of Paragraph (a) of this Rule. Departures from the statements listed in this Paragraph shall be justified by those who do not follow them as set out in the statements.~~ AICPA are incorporated by reference, including subsequent amendments and editions. This document may be accessed at <https://www.aicpa.org/resources/toolkit/statements-on-standards-for-tax-services> at no cost.

~~(c) Copies of Standards. Copies of the Statements on Standards for Tax Services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 220 Leigh Farm Road, Durham, NC, 27707 as part of the "AICPA Professional Standards." They are available at cost, which is one hundred ninety four dollars (\$194.00) in paperback form or one hundred sixty nine dollars (\$169.00) in online subscription form. Treasury Department Circular 230. The Treasury Department Circular 230 is incorporated by reference, including subsequent amendments and editions. This document~~

may be accessed at <https://www.irs.gov/pub/irs-pdf/pcir230.pdf> at no cost.

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0215 INTERNATIONAL FINANCIAL ACCOUNTING STANDARDS

(a) International Financial Accounting Standards. A CPA shall not express an opinion that financial statements are presented in accordance with international financial accounting standards if such statements contain any departure from an accounting standard that has a material effect on the statements, taken as a whole, unless the CPA can demonstrate that due to unusual circumstances the financial statements would otherwise have been misleading. In such cases, the CPA's report shall describe the departure, the approximate effect thereof if practicable, and the reason(s) reason why compliance with the standard would result in a misleading statement.

(b) International Financial Accounting Standards consist of the following:

- (1) International Financial Reporting Standards (IFRS) issued after ~~2001~~; 2003;
- (2) International Accounting Standards (IAS) issued before ~~2001~~; 2004;
- (3) Interpretations originated from the International Financial Reporting Interpretations Committee (IFRIC) issued after ~~2001~~; 2003; and
- (4) Standing Interpretations Committee (SIC) issued before ~~2001~~; 2003.

(c) Copies of Standards. Copies of International Financial Accounting Standards ~~may be inspected in the office of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the International Accounting Standards Board, IASC Foundation Publications Department, 30 Cannon Street, London, EC4M6XH, United Kingdom. They are available at cost, which is approximately one hundred two dollars (\$102.00) in paperback form or four hundred thirty two dollars (\$432.00) in loose-leaf subscription form.~~ issued by IFRS are incorporated by reference, including subsequent amendments and editions. The documents may be accessed at <https://www.ifrs.org/issued-standards/list-of-standards/> at no cost.

Authority G.S. 55-12; G.S. 55B-12; 57D-2-02; 93-12(9).

SECTION .0300 - RULES APPLICABLE TO ALL CPAS WHO USE THE CPA TITLE IN OFFERING OR RENDERING PRODUCTS OR SERVICES TO CLIENTS

21 NCAC 08N .0304 CONSULTING SERVICES STANDARDS

(a) Standards for Consulting Services. A CPA shall not render consulting services unless the CPA has complied with the ~~standards for consulting services.~~ Statements on Standards for Consulting Services.

(b) Statements on Standards for Consulting Services. The Statements on Standards for Consulting Services (~~including the definition of such services~~) including the definition of such services issued by the AICPA, ~~including subsequent amendments~~

~~and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for consulting services for the purposes of Paragraph (a) of this Rule. Departures from the statements listed in this Paragraph shall be justified by those who do not follow them as set out in the statements.~~

~~(c) Copies of Statements. Copies of the Statements on Standards for Consulting Services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 220 Leigh Farm Road, Durham, NC 27707 as part of the "AICPA Professional Standards." They are available at cost, which is one hundred ninety four dollars (\$194.00) in paperback form or one hundred sixty nine dollars (\$169.00) in on-line subscription form. AICPA are incorporated by reference, including subsequent amendments and editions. This document may be accessed at <https://www.aicpa.org/resources/download/statement-on-standards-for-consulting-services-no-1> at no cost.~~

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0305 RETENTION OF CLIENT RECORDS

(a) A CPA shall return client-provided records in the CPA's custody or control to the client at the client's request. Client-provided records are accounting or other records, including hardcopy and electronic reproductions of such records, belonging to the client that were provided to the CPA by, or on behalf of, the client.

(b) Unless a CPA and the client have agreed to the contrary, when a client makes a request for CPA prepared records or a CPA's work products that are in the CPA's custody or control that have not previously been provided to the client, the CPA shall respond to the client's request as follows:

- (1) The CPA shall provide CPA prepared records relating to a completed and issued work product to the client, except that such records may be withheld if fees are due to the CPA for that specific work product; and
- (2) ~~CPA's~~ The CPA's work products shall be provided to the client, except that such work products may be withheld:
 - (A) if fees are due to the CPA for the specific work product;
 - (B) if the work product is incomplete;
 - (C) if for purpose of complying with professional standards ~~(for example, withholding an audit report due to outstanding audit issues);~~ standards. For example, withholding an audit report due to outstanding audit issues; or
 - (D) if threatened or outstanding litigation exists concerning the engagement or CPA's work.

(c) CPA prepared records are accounting or other records that the CPA was not specifically engaged to prepare and that are not in the client's books and records or are otherwise not available to the client, thus rendering the client's financial information

incomplete. Examples include adjusting, closing, combining, or consolidating journal entries ~~(including computations supporting such entries)~~ including computations supporting such entries and supporting schedules and documents that the CPA proposed or prepared as part of an engagement, ~~(for an example, an audit): an audit being an example.~~ CPA's work products are deliverables set forth in the terms of the engagement, such as tax returns.

(d) Once a CPA has complied with ~~these requirements,~~ the requirements described in Paragraphs (a) and (b) of this Rule, he or she shall not be under any further ethical obligation to:

- (1) comply with any subsequent requests to again provide records or copies of records described in Paragraphs (a) and (b) of this Rule. If subsequent to complying with a request, a client experiences a loss of records due to a natural disaster, the CPA shall comply with an additional request to provide such ~~records;~~ records that are in possession of the CPA; and
- (2) retain records for periods that exceed applicable professional standards, state and federal statutes and regulations, and contractual agreements relating to the service performed.

(e) A CPA who has provided records to an individual designated or held out as the client's representative, such as the general partner, or majority shareholder, ~~or spouse,~~ shall not be obligated to provide such records to other individuals associated with the client. However, in the case of joint individual tax returns, each named taxpayer on that return shall be entitled to a copy of the tax returns and supporting schedules from the CPA.

(f) Work papers shall be the CPA's property, and the CPA is not required to provide such information to the client. However, state and federal statutes and regulations and contractual agreements may impose additional requirements on the CPA.

(g) In fulfilling a request for client provided records, CPA prepared records, or a CPA's work products, the CPA may:

- (1) charge the client a fee for the time and expense incurred to retrieve and copy such records and require that the client pay the fee before the CPA provides the records to the client;
- (2) provide the requested records in any format usable by the client. The CPA is not required to convert records that are not in electronic format to electronic format. If the client requests records in a specific format and the records are available in such format within the CPA's custody and control, the client's request ~~should~~ shall be honored. In addition, the CPA is not required to provide the client with formulas, unless the formulas support the client's underlying accounting or other records or the CPA was engaged to provide such formulas as part of a completed work ~~product;~~ and product. The CPA is not required to provide electronic data files to a client if they were created with tax preparation software owned or licensed by the CPA; and
- (3) make and retain copies of any records that the CPA returned or provided to the client.

(h) A CPA who is required to return or provide records to the client shall comply with the client's request as soon as practicable, but no later than 45 days after the request is made.

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0307 CPA FIRM NAMES

~~(a) Deceptive Names Prohibited. A CPA or CPA firm shall not trade upon the CPA title through use of any name that would have the capacity or tendency to deceive. The name or initials of one or more members of a new CPA firm, as defined in 21 NCAC 08A .0301, shall be included in the CPA firm name. The name of former members and the initials of former members that are currently in the CPA firm name and the name of current members and the initials of current members may be included in a new CPA firm name. The name, the portion of the name, the initials of the name or the acronym derived from the name of a firm network that includes names that were not previous CPA members or are not current CPA members of the CPA firm may be included in the CPA firm name. The name or initials of a non-CPA member in a CPA firm name may be included in the CPA firm name if certified public accountant or CPA is not included in or with the CPA firm name.~~ Registration of Firm Names. A business may not use a CPA firm name unless that name has been registered with the Board.

~~(b) Style of Practice. It is misleading if a CPA firm practices under a name or style that would tend to imply the existence of a partnership or registered limited liability partnership or a professional corporation or professional limited liability company of more than one CPA shareholder or CPA member or an association when in fact there is no partnership nor is there more than one CPA shareholder or CPA member of a CPA firm. For example, no CPA firm having just one CPA member may have as a part of its name the words "associates," "group," "firm," or "company" or their abbreviations. It is also misleading if a CPA renders non-attest professional services through a non-CPA firm using a name that implies any non-licensees are CPAs.~~ Misleading Names Prohibited. A CPA firm shall not trade upon the CPA title through use of any name that is misleading. A misleading CPA firm name is one which:

- (1) Implies the existence of a partnership or registered limited liability partnership or a professional corporation or professional limited liability company if the firm is not, in fact, one of those entities;
- (2) Includes the name of an individual who is not a CPA if the words "certified public accountants" or "CPAs" are included in the firm name;
- (3) Includes information about or indicates an association with persons who are not current or former members of the firm, unless the name is that of a firm network;
- (4) Includes the terms "& Company", "& Associates", or "Group", but the firm does not include, in addition to the named partner, shareholder, owner, or member, at least one other unnamed partner, shareholder, owner, member, or staff employee;
- (5) Contains any representation that would be likely to cause a reasonable person to have a

false or unjustified expectation of favorable results or capabilities, including names indicating qualitative superiority or pricing differences;

- (6) Claims or implies the ability to influence a regulatory body or official; or
- (7) Includes the name of an owner whose license has been revoked for disciplinary reasons by the Board, whereby the licensee has been prohibited from practicing public accountancy or prohibited from using the title CPA or holding themselves out as a Certified Public Accountant.

(c) ~~Any CPA firm that has continuously used an assumed name approved by the Board prior to April 1, 1999, may continue to use the assumed name. A CPA firm (or a successor firm by sale, merger, or operation of law) using the name, or a portion of a name, or the initials of the name, or the acronym derived from the name of a firm association or firm network that was approved by the Board prior to April 1, 1999 may continue to use that name so long as that use is not deceptive. A CPA firm (or a successor firm by sale, merger, or operation of law) may continue to use the surname of a retired or deceased partner or shareholder in the CPA firm's name so long as that use is not deceptive. Permissible Firm Names: The following is a non-exhaustive list of types of CPA firm names that are not in and of themselves misleading and are permissible so long as they do not violate other firm name provisions:~~

- (1) A firm name that includes the names or initials of one or more former or current owners;
- (2) A firm name that excludes the names of one or more former or current owners;
- (3) A firm name that uses the "CPA" title as part of the firm name when all named individuals are owners of the firm who hold the CPA title or are former owners who held the CPA title at the time they ceased to be owners of the firm; or
- (4) A firm name that includes the name of a non-CPA owner if the words "certified public accountant" or "CPA" title are not a part of the firm name.

(d) Any CPA firm registered in another jurisdiction that provides notification of intent to practice pursuant to G.S. 93-10(c)(3) may practice under the name as registered with that jurisdiction.

Authority G.S. 55B-12; G.S. 55B-5; 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0308 VALUATION SERVICES STANDARDS

(a) Standards for Valuation Services. A CPA shall not render valuation services of a business, a business ownership interest, security, or intangible asset unless the CPA has complied with the ~~standards for valuation services. Statements on Standards for Valuation Services.~~

(b) Statements on Standards for Valuation Services. The Statements on Standards for Valuation ~~Services, Services (including the definition of such services) including the definition of such services, issued by the AICPA, including amendments and editions, are hereby adopted by reference, as provided by G.S.~~

~~150B-21.6, and shall be considered as the approved standards for valuation services for the purposes of Paragraph (a) of this Rule. Departures from the standards listed in this Paragraph shall be justified by those who do not follow them as set out in the statements.~~

(e) ~~Copies of Statements. Copies of the statements on standards for valuation services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 220 Leigh Farm Road, Durham, NC 27707 as part of the "AICPA Professional Standards." They are available at cost, which is one hundred ninety four dollars (\$194.00) in paperback form or one hundred sixty nine dollars (\$169.00) in on-line subscription form. AICPA are incorporated by reference, including subsequent amendments and editions. This document may be accessed at~~

~~<https://www.aicpa.org/resources/download/statement-on-standards-for-valuation-services-vs-section-100> at no cost.~~

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0309 PERSONAL FINANCIAL PLANNING SERVICES

(a) Statement on Standards on Personal Financial Planning Services. A CPA shall not render personal financial planning services unless the CPA has complied with the ~~applicable standards for personal financial planning services. Statement on Standards on Personal Financial Planning Services.~~

(b) Statement on Standards on Personal Financial Planning Services. The Statement on Standards on Personal Financial Planning ~~Services, Services (including the definition of such services) including the definition of such services, issued by the AICPA, including subsequent amendments and editions, is hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for personal financial planning services for the purpose of Paragraph (a) of this Rule. Departures from the statements listed in this Paragraph shall be justified by those who do not follow them as set out in the statements.~~

(e) ~~Copies of Statements. Copies of the Statement on Standards on Personal Financial Planning Services may be inspected in the office of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 220 Leigh Farm Road, Durham, NC 27707 as part of the "AICPA Professional Standards." They are available at cost, which is one hundred sixty nine dollars (\$169.00) in paperback form or four hundred eighty six dollars (\$486.00) in online subscription form. AICPA are incorporated by reference, including subsequent amendments and editions. This document may be accessed at~~
~~<https://aicpa.org/resources/download/statement-on-standards-in-personal-financial-planning-services> at no cost.~~

Authority G.S. 55-12; G.S. 55B-12; 57D-2-02; 93-12(9).

SECTION.0400 - RULES APPLICABLE TO CPAS PERFORMING ATTEST SERVICES

21 NCAC 08N .0403 AUDITING STANDARDS

(a) Standards for Auditing Services. A CPA shall not render auditing services unless the CPA has complied with the applicable generally accepted auditing standards.

(b) Statements on Auditing Standards. The Statements on Auditing Standards issued by the ~~AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6; AICPA are incorporated by reference, including subsequent amendments and editions,~~ and shall be considered generally accepted auditing standards for the purposes of Paragraph (a) of this Rule. ~~Departures from the statements listed in this Paragraph shall be justified by those who do not follow them as set out in the statements.~~

~~(c) Copies of Statements. Copies of the Statements on Auditing Standards may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 220 Leigh Farm Road, Durham, NC 27707 as part of the "AICPA Professional Standards." They are available at cost, which is one hundred ninety four dollars (\$194.00) in paperback form or one hundred sixty nine dollars (\$169.00) in on-line subscription form. This document may be accessed at <https://us.aicpa.org/research/standards/auditattest/clarifiedsas.html> at no cost.~~

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0404 ACCOUNTING AND REVIEW SERVICES STANDARDS

(a) Standards for Accounting and Review Services. A CPA shall not render accounting and review services unless the CPA has complied with the standards for accounting and review services.

(b) Statements on Standards for Accounting and Review Services. The Statements on Standards for Accounting and Review Services issued by the ~~AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6; AICPA are incorporated by reference, including subsequent amendments and editions,~~ and shall be considered as the approved standards for accounting and review services for the purposes of Paragraph (a) of this Rule. ~~Departures from the statements listed in this Paragraph shall be justified by those who do not follow them as set out in the statements.~~

~~(c) Copies of Statements. Copies may be obtained from the AICPA, 220 Leigh Farm Road, Durham, NC 27707 as part of the "AICPA Professional Standards." They are available at cost, which is one hundred ninety four dollars (\$194.00) in paperback form or one hundred sixty nine dollars (\$169.00) in on-line subscription form. This document may be accessed at <https://us.aicpa.org/research/standards/compilationreview.html> at no cost.~~

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0405 GOVERNMENTAL ACCOUNTING STANDARDS

(a) Standards for Governmental Accounting. A CPA shall not permit the CPA's name to be associated with governmental financial statements for a client unless the CPA has complied with the standards for governmental accounting.

(b) Statements on Governmental Accounting and Financial Reporting Services. The Statements on Governmental Accounting and Financial Reporting Services issued by the ~~GASB, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6; GASB are incorporated by reference, including subsequent amendments and editions,~~ and shall be considered as the approved standards for governmental accounting for the purposes of Paragraph (a) of this Rule. ~~Departures from the statements listed in this Paragraph shall be justified by those who do not follow them as set out in the statements.~~

~~(c) Copies of Statements. Copies of the Statements on Governmental Accounting and Financial Reporting Standards, including technical bulletins and interpretations, may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the GASB, Post Office Box 30784, Stamford, CT 06150. They are available at cost, which is one hundred eighty four dollars (\$184.00). In addition to the basic set, an updating subscription service is available for two hundred twenty five dollars (\$225.00) annually. This document may be accessed at <https://www.gasb.org/standards> at no cost.~~

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0406 ATTESTATION STANDARDS

(a) Standards for Attestation Services. A CPA shall not render attestation services unless the CPA has complied with the applicable attestation standards.

(b) Statements on Standards for Attestation Engagements. The Statements on Standards for Attestation Engagements issued by the ~~AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6; AICPA are incorporated by reference, including subsequent amendments and editions,~~ and shall be considered attestation standards for the purposes of Paragraph (a) of this Rule. ~~Departures from the statements listed in this Paragraph shall be justified by those who do not follow them as set out in the statements.~~

~~(c) Copies of Statements. Copies of the Statements on Standards for Attestation Engagements may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 220 Leigh Farm Road, Durham, NC 27707 as part of the "AICPA Professional Standards." They are available at cost, which is one hundred ninety four dollars (\$194.00) in paperback form or one hundred sixty nine dollars (\$169.00) in on-line subscription form. This document may be accessed at <https://us.aicpa.org/research/standards/auditattest/ssae> at no cost.~~

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0409 GOVERNMENT AUDITING STANDARDS

(a) Standards for Government Audits. A CPA shall not render audit services to a government entity or entity that receives government awards and is required to receive an audit in accordance with Government Auditing Standards unless the CPA has complied with the applicable Generally Accepted Government Auditing Standards.

(b) Government Auditing Standards. The Government Auditing Standards issued by the United States Government Accountability Office, including subsequent amendments and additions, are hereby incorporated by reference, as provided by G.S. 150B-21.6. Office are incorporated by reference, including subsequent amendments and editions, and shall be considered Generally Accepted Government Auditing Standards for the purpose of Paragraph (a) of this Rule. Departures from the standards listed in this Paragraph shall be justified by those who do not follow them as set out in the standards.

(c) Copies of Standards. Copies of the Government Auditing Standards may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the Government Printing Office, Washington, D.C. 20402-0001. They are available at a cost, which is sixteen dollars (\$16.00) in paperback form. This document may be accessed at <https://www.gao.gov/yellowbook> at no cost.

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0410 INTERNATIONAL STANDARDS ON AUDITING

(a) International Standards on Auditing. A CPA shall not render auditing services that report to comply with international standards unless the CPA has complied with the applicable international standards on auditing.

(b) Statement on International Standards on Auditing. The Statement on International Standards on Auditing issued by the International Auditing and Assurance Board, including subsequent amendments and additions, are hereby incorporated by reference, as provided by G.S. 150B-21.6. Assurance Standards Board are incorporated by reference, including subsequent amendments and editions, and shall be considered International Standards on Auditing for the purpose of Paragraph (a) of this Rule. Departures from the standards listed in this Paragraph shall be justified by those who do not follow them as set out in the standards.

(c) Copies of the Standards. Copies of the International Standards on Auditing may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the International Auditing and Assurance Board at 529 5th Avenue, 6th Floor, New York, NY 10017. They are available at a cost, which is one hundred sixty dollars (\$160.00) in paperback form. This document may be accessed at <https://www.iaasb.org/standards-pronouncements> at no cost.

Authority G.S.55-12; G.S. 55B-12; 57D-2-02; 93-12(9).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Certified Public Accountant Examiners intends to adopt the rules cited as 21 NCAC 08J .0112; 08N .0411 and .0412.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://nccpaboard.gov/>

Proposed Effective Date: September 1, 2023

Public Hearing:

Date: June 20, 2023

Time: 10:00 a.m.

Location: NC State Board of CPA Examiners, 1101 Oberlin Road, Suite 104, Raleigh, NC 27605

Reason for Proposed Action: Proposed rules are to create a new CPA-retired status to allow NC CPAs to continue to be recognized as a CPA after they cease performing professional services. The Board currently only has Active and Inactive designations and the new CPA-retired status mirrors similar statuses granted by other jurisdictions around the country and aligns with the Uniform Accountancy Act model rules. In addition, the Board is proposing rules related to services performed under the federal single audit act and newly created forensic audit standards to ensure NC CPAs perform such services in accordance with the proper professional standards.

Comments may be submitted to: David R. Nance, 1101 Oberlin Rd, Raleigh, NC 27605; phone (919) 733-4215; email dnance@nccpaboard.gov

Comment period ends: June 20, 2023

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

SECTION .0100 -RENEWALS AND REGISTRATIONS

21 NCAC 08J .0112 RETIRED STATUS - CHANGE OF STATUS

(a) A CPA on active or inactive status may apply to the Board for a change to CPA-retired status if that CPA completes an application provided by the Board confirming the following:

- (1) they will not perform any of the services listed in 21 NCAC 08A .0307(2) except that:

- (A) they may prepare tax returns for themselves and their immediate family members without compensation. Immediate family is defined as spouse, domestic partner, parent, child, sibling, stepparent, parent-in-law, stepchild, child-in-law, grandparent, grandchild, sibling-in-law, or legal dependent; and
- (B) they may prepare tax returns through public service programs without compensation, such as the Volunteer Income Tax Assistance program.
- (2) they will not hold themselves out to the public as a certified public accountant while they remain on CPA-retired status except that they may use the designation "CPA-retired".
- (3) they consent to the continued regulatory authority of the Board.

(b) Individuals on CPA-retired status may receive compensation for any services that are not listed in 21 NCAC 08A .0307(2).

(c) Individuals on CPA-retired status must renew their certificate annually as set forth in 21 NCAC 08J .0101. However, individuals on CPA-retired status are exempt from the Board's annual CPE requirements.

(d) An individual on inactive status may change to CPA-retired status by submitting an application consistent with 21 NCAC 08F .0502. However, they are not required to provide the Board with an experience affidavit or three certificates of good moral character.

(e) An individual on CPA-retired status may change to active status by:

- (1) furnishing the Board with evidence of satisfactory completion of 40 hours of CPE courses during the 12-month period immediately preceding the application for change of status. Eight of the required hours shall be credits derived from a course or examination in North Carolina accountancy statutes and rules (including the Code of Professional Ethics and Conduct as set forth in 21 NCAC 08N contained therein) as set forth in 21 NCAC 08F .0504; and
- (2) submitting three certificates of good moral character completed by CPAs on active status.

Authority G.S. 93-12(3); 93-12(8); 93-12(8b).

SUBCHAPTER 08N – PROFESSIONAL ETHICS AND CONDUCT

SECTION .0400 - RULES APPLICABLE TO CPAS PERFORMING ATTEST SERVICES

21 NCAC 08N .0411 AUDITS SUBJECT TO THE SINGLE AUDIT ACT

A CPA rendering audit services to a state or local government entity, non-profit organization, or other entity that is subject to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act

Amendments of 1996, P.L. 104-156, must comply with the Single Audit Act amendments as implemented through Subpart F - Audit Requirements of Title 2 of C.F.R., Chapter II, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200).

Authority G.S. 55B-12; 57D-2-02; 93-12(9).

21 NCAC 08N .0412 FORENSIC SERVICES

(a) Statement on Standards for Forensic Services. A CPA shall not render forensic services unless the CPA has complied with the Statement on Standards for Forensic Services.

(b) Statement on Standards for Forensic Services. The Statement for Forensic Services, including the definition of such services, issued by the AICPA are incorporated by reference, including subsequent amendments and editions. This document may be accessed at

<https://www.aicpa.org/resources/download/statement-on-standards-for-forensic-services> at no cost.

Authority G.S. 55B-12; 57-D-02; 93-12(9).

CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners in Optometry intends to amend the rule cited as 21 NCAC 42B .0304.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncoptometry.org/proposed-rules>

Proposed Effective Date: *August 1, 2023*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Contact the Board at (910) 285-3160 or janice@ncoptometry.org*

Reason for Proposed Action: *All renewals are done online; update required information*

Comments may be submitted to: *Janice K. Peterson, 521 Yopp Rd., Suite 214 #444, Jacksonville, NC 28540; phone (910) 285-3160; fax (910) 285-4546; email janice@ncoptometry.org*

Comment period ends: *June 16, 2023*

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

SUBCHAPTER 42B - LICENSE TO PRACTICE OPTOMETRY

SECTION .0300 - ANNUAL LICENSE RENEWAL

21 NCAC 42B .0304 APPLICATION FOR LICENSE RENEWAL

The application for license renewal shall show the licensee's full name, the serial number of his or her license, the address of each location in which he or she practices, the county in which each such practice is located, licensee's contact information, and questions about events or other facts which could impact his or her maintenance of licensure. ~~whether the licensee has been certified to prescribe and use pharmaceutical agents.~~ The application shall be available through the licensee's portal on the Board's website ~~mailed to each licensed optometrist at his address of record~~ on or before November 15 of each year preceding the date on which the application and the fees are due.

Authority G.S. 90-117.5; 90-118.10.

CHAPTER 46 – BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to adopt the rule cited as 21 NCAC 46 .1821 and amend the rule cited as 21 NCAC 46 .1616.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncbop.org/rulemakings.htm

Proposed Effective Date: *September 1, 2023*

Public Hearing:

Date: *June 13, 2023*

Time: *9:00 a.m.*

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

Reason for Proposed Action: *The Board of Pharmacy proposes to adopt a rule permitting pharmacies to employ certain direct to patient systems, which are technologies that dispense drugs directly to patients. The proposed rule contains provisions to allow pharmacies to comply with the laws governing dispensing*

drugs, devices, or medical equipment while using these systems. The proposed rule further contains provisions that would ensure that the systems can be used safely and securely, that required records are maintained, that the home pharmacy can adequately supervise and service these systems, and that patients may use these systems while also receiving information, safeguards and counseling that they need to use their drugs, devices, and medical equipment safely. There is an accompanying proposed change to the Board of Pharmacy's limited service permit rules to provide for permitting of systems that a pharmacy may place in a location other than the home pharmacy's facility.

Comments may be submitted to: *Jay Campbell, 6015 Farrington Rd Ste 201, Chapel Hill, NC 27517; email ncboprulemaking@ncbop.org*

Comment period ends: *June 16, 2023*

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

SECTION .1600 - LICENSES AND PERMITS

21 NCAC 46 .1616 LIMITED SERVICE PERMITS

(a) The following pharmacy practice locations are eligible to apply for "limited service permits" whose operations are modified by the provisions set forth in this Rule:

- (1) auxiliary medication inventories permitted and operating in health care facilities pursuant to Rule .1414(d) of this Chapter;
- (2) automated dispensing or drug supply devices permitted and operating in health care facilities pursuant to Rule .1419 of this Chapter;
- (3) direct to patient systems that are not located at the home pharmacy's facility pursuant to Rule .1821 of this Chapter;

- ~~(3)~~(4) facilities where drugs are dispensed only by nurse practitioners or physician assistants pursuant to Section .1700 of this Chapter;
- ~~(4)~~(5) county health departments or other governmental entities providing local health services under G.S. 130A-34 where drugs are dispensed only by registered nurses and only pursuant to G.S. 90-85.34A and Section .2400 of this Chapter;
- ~~(5)~~(6) county health departments or other governmental entities providing local health services under G.S. 130A-34 that engage in dispensing beyond that set out in G.S. 90-85.34A and Section .2400 of this Chapter;
- ~~(6)~~(7) free clinics, as defined in G.S. 90-85.44(a)(6); or
- ~~(7)~~(8) critical access hospitals, as defined in G.S. 131E-76.

(b) A pharmacist-manager for a limited service permit may designate one assistant pharmacist-manager but is not required to do so. The assistant pharmacist-manager shall be responsible for exercising all of the responsibilities of a pharmacist-manager when the assistant pharmacist-manager is present and the pharmacist-manager is not present at the limited service permit. If the pharmacist-manager chooses to designate an assistant pharmacist-manager, the pharmacist-manager shall notify the Board on the limited service permit application and, in writing, within 15 days of any change in the designation. Notwithstanding the pharmacist-manager's designation of an assistant pharmacist-manager, the pharmacist-manager shall be responsible for ensuring the pharmacy's compliance with all statutes, rules, and standards at all times.

(c) For limited service permits, the pharmacist-manager attendance requirements set out in Rule .2502(b) of this Chapter are modified only as set forth herein:

- (1) For limited service permits described in Subparagraphs ~~(a)(4) and (a)(1)~~, (2) and (3) of this Rule, either the pharmacist-manager or the assistant pharmacist-manager must perform an in-person, on-site visit at least once per calendar quarter to inspect the permit, review the operations of the permit with the persons involved in accessing them, and ensure that the permits are operated in compliance with all applicable State and federal laws.
- (2) For limited service permits described in Subparagraphs ~~(a)(4) and (5)(a)(3) and (4)~~ of this Rule, either the pharmacist-manager or the assistant pharmacist-manager must perform an in-person, on-site visit at least once per week to inspect the permit, review the operations of the permit with the persons involved in dispensing, and ensure that the permits are operated in compliance with all applicable State and federal laws.
- (3) For limited service permits described in Subparagraphs ~~(a)(5), (6), and (a)(6)~~, (7) and (8) of this Rule, either the pharmacist-manager or the assistant pharmacist-manager employed

or otherwise engaged to supply pharmaceutical services may have a flexible schedule of attendance but shall be present for at least one-half of the hours the pharmacy is open or 20 hours a week, whichever is less. For the limited service permits described in Subparagraphs (a)(5) and (6) of this Rule, a licensed pharmacist must be present when the pharmacy is open as described in Rule .2502(e) of this Chapter. For the limited service permits described in Subparagraph (a)(7) of this Rule, the limited service permit may operate in the absence of a pharmacist only as set out in Rule .1413 of this Chapter.

(4) The limited service permit may name a temporary pharmacist-manager or assistant pharmacist-manager for a period not to exceed 90 days from the departure date of the previous pharmacist-manager or assistant pharmacist-manager. The temporary pharmacist-manager or assistant pharmacist-manager must accept the responsibilities of that position and must be present as set forth in this Rule. A limited service permit may not operate for a period of more than 30 days without a pharmacist employed or otherwise engaged as a permanent or temporary pharmacist-manager who has signed the permit for that pharmacy.

(d) A person may serve as the pharmacist-manager or the assistant pharmacist-manager for multiple limited service permits, and may serve as the pharmacist-manager or assistant pharmacist-manager for limited service permits in addition to serving as the pharmacist-manager for a maximum of one permit other than a limited service permit. A person may serve multiple limited permits only if that person is able to fulfill all of that person's duties under State and federal law.

(e) Other than as set forth in this Rule, limited service permits and their personnel must follow all requirements of State and federal law. This Rule does not replace or modify the requirements that the pharmacist-manager provide oversight and supervision as provided elsewhere in this Chapter.

Authority G.S. 90-18.1(c); 90-18.2; 90-85.6; 90-85.21; 90-85.32; 90-85.33; 90-85.34.

SECTION .1800 - PRESCRIPTIONS

21 NCAC 46.1821 DIRECT-TO-PATIENT DELIVERY SYSTEMS

(a) This Rule sets out the requirements under which pharmacies may utilize "direct-to-patient" or ("DTP") delivery systems for dispensing in the State of North Carolina.

(b) Definitions.

- (1) "Direct to patient system" or "DTP system" means any delivery system through which a pharmacy dispenses drugs, devices or medical equipment to a patient through any means other than:

- (A) in-person dispensing to a patient by pharmacy personnel inside a pharmacy,
- (B) in-person dispensing by delivery to a patient's residence or to a health care provider treating that patient,
- (C) shipping through common carrier to a patient or to a health care provider treating that patient, or
- (D) the use of an automated dispensing device by a health care facility pharmacy that is governed by Rule .1419 of this Chapter.

Except as provided in this Rule or one of the exceptions set out above, no licensee or permittee shall participate in any arrangement whereby prescriptions may be left at, picked up from, accepted by, or delivered to any other place. The only DTP systems allowed are "lockers" and "kiosks" as defined herein.

- (2) The "home pharmacy" means the pharmacy responsible for dispensing drugs, devices or medical equipment through a DTP system.
- (3) A "locker" means a secure container in which pharmacy personnel place completed and labeled patient-specific drugs, devices, or medical equipment to be picked up by the patient.
- (4) A "kiosk" means an automated system that is capable of filling, labeling and dispensing drugs, devices, or medical equipment to be dispensed to a patient.

(c) Any DTP system located within the State of North Carolina (whether a locker or a kiosk) must meet the following requirements:

- (1) Before any drugs, devices, or medical equipment may be dispensed from a DTP system, the home pharmacy must be permitted by the Board. In addition, before any drugs, devices, or medical equipment may be dispensed from the DTP system, the DTP system must hold a limited service permit if it is not located at the home pharmacy's permitted facility.
- (2) The home pharmacy must notify the Board, in writing, prior to using any DTP system, including the location of the DTP system and the licensed pharmacist(s) responsible for the DTP system. The home pharmacy must notify the Board prior to moving the DTP system and must secure a new limited service permit, if one is required by Subparagraph (c)(1) of this Rule, before operating the DTP system in the new location. The home pharmacy must notify the Board within 10 days after discontinuing the use of any DTP system.
- (3) The home pharmacy must own or otherwise have the legal right to sole use of the DTP system.

- (4) Any DTP system must be 60 miles or fewer from the home pharmacy (via the shortest surface street route) in order to facilitate supervision of the DTP system.
- (5) A DTP system may be placed in the office of a prescriber only if the DTP system is under the ownership and control of the home pharmacy, which is responsible for compliance with all laws regarding the DTP system. The prescriber must offer patients a choice of pharmacy, and neither the home pharmacy nor the prescriber may compensate the other for the placement of the DTP system or for any prescriptions filled by the DTP system.
- (6) The DTP system must be secured to prohibit access by unauthorized personnel and to maintain confidentiality of patient information. The DTP system must be under the continuous supervision of a pharmacist employed by the home pharmacy. To qualify as continuous supervision, the pharmacist is not required to be physically present at the site of the DTP system if the pharmacist electronically supervises the DTP system.
- (7) The DTP system must display the home pharmacy's name, address, phone number, North Carolina permit number, and the name of the home pharmacy's pharmacist-manager, as well as (where applicable) the limited service permit number for the DTP system and the name of the limited service permit's pharmacist-manager and assistant pharmacist-manager, if any.
- (8) The home pharmacy must ensure that there is video surveillance of the DTP system and any persons using or accessing the DTP system. It must maintain any recordings for a minimum of 90 days.
- (9) The home pharmacy shall develop, maintain, and follow a manual of policies and procedures that includes policies and procedures for:
 - (A) Maintaining the security of the DTP system and the drugs, devices, and medical equipment within the DTP system.
 - (B) Determining and applying criteria regarding which drugs, devices, and medical equipment are appropriate for placement in the DTP system and which patients are eligible to use the DTP system.
 - (C) Maintaining any drugs, devices, and medical equipment at temperatures, humidities and other environmental conditions to ensure that they do not become adulterated under G.S. 106-133 and to ensure that they are transported and stored in accordance

- (D) Removing outdated drugs, devices, and medical equipment from the DTP system as set forth in Subparagraph (c)(11) of this Rule on a regular basis so that patients do not receive drugs, devices, and medical equipment with a beyond use date during the period when the patient is to use the item.
 - (E) Describing the assignment of responsibilities to, and training of, pharmacy personnel regarding the maintenance and filling procedures for the DTP system.
 - (F) Orienting participating patients on use of the DTP system; notifying patients when expected drugs, devices, or medical equipment are not available in the DTP system or when the DTP system is not functioning and notifying them of alternate methods for having those prescriptions filled; and ensuring that patient use of the DTP system does not interfere with the delivery of drugs, devices, and medical equipment to patients.
 - (G) Inspecting the DTP system during each required inspection.
- This written manual of policies and procedures shall be reviewed and updated, if needed, annually.
- (10) The home pharmacy shall comply with any federal and state controlled substance laws and rules, including but not limited to registrations that may be required for any DTP systems, before any controlled substances are dispensed from any DTP systems. The home pharmacy must comply with G.S. 90-106.1 in dispensing any drugs covered by that statute from a DTP system, and must visually confirm that the person seeking the dispensation is the same as the person on the photographic identification provided.
 - (11) Drugs, devices, and medical equipment may be stocked in, or removed from, a DTP system in the State of North Carolina only by pharmacy personnel who are licensed with this Board as pharmacists or registered with this Board as technicians or pharmacy interns. The home pharmacy must maintain records of any access to the DTP system by pharmacy personnel stocking or otherwise accessing the DTP system.
 - (12) The home pharmacy may use DTP system only with prior approval of the patient.
 - (13) The dispensing pharmacist on any drugs, devices, or medical equipment dispensed from a DTP system in the State of North Carolina must be licensed with this Board.
 - (14) Before a prescription is dispensed from the DTP system, the dispensing pharmacist at the home pharmacy must verify each prescription and must conduct a drug utilization review and otherwise assure that the drug, device, or medical equipment may safely be dispensed to the patient.
 - (15) The labels of any drugs, devices, and medical equipment dispensed from a DTP system must be labeled for the individual patient and contain all information required by law, including but not limited to having the dispensing pharmacist identified on the label.
 - (16) The home pharmacy must create and maintain all required records for any drugs, devices, and medical equipment dispensed in a DTP system. Any kiosk must be connected to the home pharmacy's automated data processing system, and any drugs, devices, or medical equipment dispensed from any locker must be recorded in the home pharmacy's recordkeeping system. The records must reflect that the drugs, devices, and medical equipment were dispensed by the DTP system, and the recordkeeping system must be capable of producing a record of all drugs, devices, and medical equipment dispensed from the DTP system.
 - (17) The DTP system must have a means to identify each patient and release only that patient's prescription drugs, devices, or medical equipment to the patient. In the event that the DTP system releases a patient's drugs to the agent for a patient, the DTP system must have a means to ensure that the agent is authorized to receive drugs, devices, or medical equipment for that patient.
 - (18) The DTP system must offer to counsel a patient as required by Rule .2504 of this Chapter and must provide the ability for the patient to have an immediate real-time consultation with a pharmacist licensed by this Board and employed by the home pharmacy who has access to all of the home pharmacy's information related to the patient. The communication link shall protect the confidentiality of the patient's information. The home pharmacy must check the communication link at least daily and the DTP system must be closed if the link malfunctions or if a licensed pharmacist is not available from the home pharmacy for counseling, unless a licensed pharmacist is physically present at the DTP system. A pharmacist who is responsible for counseling may not provide that service for more than three sites simultaneously. In the event that the DTP system is placed in the same physical space as the dispensing area of the home pharmacy, this provision may be satisfied during the time that the pharmacy is open by

informing the patient how to receive counseling from a pharmacist in the home pharmacy. If the dispensing pharmacist has determined that the patient should receive counseling before the prescription is dispensed, the DTP system must provide the ability for the pharmacist to force counseling before the DTP system dispenses the drug, device, or medical equipment.

(19) The home pharmacy shall record and review any incident involving a complaint, delivery error, or omission regarding a DTP as part of the home pharmacy's quality assurance program.

(20) Drugs, devices, or medical equipment that are not picked up by a patient may be returned to stock under the same conditions as if the item had been maintained in the pharmacy, as long as the requirements of this Rule for operating the DTP system have been followed.

(d) With respect to drugs, devices, or medical equipment dispensed through a kiosk, the following additional requirements shall be met:

(1) The dispensing pharmacist shall electronically compare via video link the stock bottle, drug dispensed, the strength, and the beyond-use date. The dispensing pharmacist must verify the entire label for accuracy on the video link.

(2) The kiosk shall utilize a barcode system that prints the barcode of the stock bottle or other packaging on the label of the dispensed drug,

device, or medical equipment. If the stock bottle or other packaging does not have a barcode, the home pharmacy shall create one. Pharmacy personnel shall scan both the stock bottle or other packaging and the label of the dispensed drug, device, or medical equipment to verify that the item dispensed is the same as the one in the stock bottle or other packaging for each prescription dispensed.

(3) Drugs, devices, or medical equipment dispensed by the kiosk may be packaged only by a licensed manufacturer or repackager, or prepackaged by the home pharmacy in compliance with the Pharmacy Practice Act and its rules.

(4) The home pharmacy shall keep a perpetual inventory of controlled substances that are received and dispensed from each kiosk.

(5) The home pharmacy may not dispense compounded medications through a kiosk.

(6) The kiosk shall not accept returns of drugs, devices and medical equipment from patients.

(e) This Rule does not alter the method by which patients or providers may transmit prescriptions to the home pharmacy. Prescriptions may not be collected by the home pharmacy through the DTP system.

Authority G.S. 90-85.6; 90-85.15A; 90-85.21; 90-85.32.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission March 16, 2023 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeanette Doran (Chair)
Robert A. Bryan, Jr. (2nd Vice Chair)
Jay R. Hemphill
Jeff Hyde
Robert A. Rucho

Appointed by House

Andrew P. Atkins (1st Vice Chair)
Wayne R. Boyles, III
Barbara A. Jackson
Randy Overton
Paul Powell

COMMISSION COUNSEL

Brian Liebman	984-236-1948
Lawrence Duke	984-236-1938
William W. Peaslee	984-236-1939
Seth M. Ascher	984-236-1934

RULES REVIEW COMMISSION MEETING DATES

April 20, 2023	June 15, 2023
May 18, 2023	July 20, 2023

**RULES REVIEW COMMISSION MEETING
MINUTES
March 16, 2023**

The Rules Review Commission met on Thursday, March 16, 2023, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeanette Doran, Jeff Hyde, Barbara Jackson, Randy Overton, and Bob Rucho were present in the Commission Room. Commissioners Jay Hemphill and Paul Powell were present via WebEx.

Staff member Alexander Burgos, and Commission Counsel Seth Ascher, Lawrence Duke, Brian Liebman, and Bill Peaslee were present in the room.

The meeting was called to order at 9:04 a.m. with Chair Doran presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the February 16, 2023 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

FOLLOW UP MATTERS

Medical Care Commission

10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, and .5411 – These Rules remain on the agenda pending the agency’s intention to seek a legislative fix to address the overarching objection for lack of statutory authority. No action was required by the Commission.

Department of Public Safety

Upon the call of the Chair, 14B NCAC 03 .0401, .0402, .0403, .0404, .0405, .0406, .0407, .0408, .0409, and .0410 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Department of Environmental Quality

Upon the call of the Chair, 15A NCAC 01E .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0114, and .0115 were approved contingent upon incorporating a technical change to making these Rules effective on April 1, 2023 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Philip Reynolds, with the Department of Justice and representing the agency, addressed the Commission.

Environmental Management Commission

15A NCAC 02H .1301, .1401, .1402, .1403, .1404, and .1405 - The Commission objected to these Rules at the May 2022 meeting. The agency has not responded to the Commission’s objection since August 2022. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07H .0501, .0502, .0503, .0505, .0506, .0507, .0508, .0509, .0510; 07I .0406, .0506, .0702; 07J .0203, .0204, .0206, .0207, .0208, and .0312 – At the February meeting, the Commission continued its objection to these Rules from the September 2022 meeting pursuant to G.S. 150B-21.12(c). The agency has not responded to the Commission’s continued objection. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07H .2305 – At the February meeting, the Commission continued its objection to this Rule from the September 2022 meeting pursuant to G.S. 150B-21.12(c). The agency has not responded to the Commission’s continued objection. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07M .0201, .0202, .0401, .0402, .0403, .0701, .0703, .0704, .1001, .1002, and .1101 – At the February meeting, the Commission continued its objection to these Rules from the September 2022 meeting pursuant to G.S. 150B-21.12(c). The agency has not responded to the Commission’s continued objection. No action was required by the Commission.

State Board of Education

Upon the call of the Chair, 16 NCAC 06E .0204 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

LOG OF FILINGS (PERMANENT RULES)

Commission for Public Health 10A NCAC 41C

Upon the call of the Chair, 10A NCAC 41C .1001, .1002, .1003, .1004, .1005, .1006, and .1007 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Commission for Public Health 15A NCAC 18A

Upon the call of the Chair, the Commission extended the period of review for 15A NCAC 18A .2801, .2802, .2803, .2804, .2806, .2807, .2808, .2809, .2810, .2812, .2814, .2815, .2816, .2817, .2818, .2819, .2820, .2821, .2822, .2823, .2824, .2825, .2826, .2827, .2829, .2830, .2831, .2832, .2833, .2834, .2835, and .2836 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Board of Cosmetic Art Examiners

Upon the call of the Chair, 21 NCAC 14A .0101; 14H .0201, .0203, .0401, .0402, .0403, .0501, .0503, .0504, .0505; 14P .0105, .0106, .0108, .0111, .0113, .0116, .0117; 14T .0101, .0102, .0201, .0202, .0301, .0302, .0303, .0304, .0305, .0502, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0608, .0609, .0610, .0611, .0612, .0613, .0614, .0615, .0616, .0617, .0701, .0702, .0706, .0802 and .0803 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Landscape Contractors' Licensing Board

Upon the call of the Chair, 21 NCAC 28B .0402 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Locksmith Licensing Board

Upon the call of the Chair, 21 NCAC 29 .0501 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

The Commission objected to 21 NCAC 29 .0705 in accordance with G.S. 150B-21.9(a). The Commission voted to adopt the staff opinion dated March 14, 2023 objecting to 21 NCAC 29 .0705 for lack of statutory authority to adopt the rule and ambiguity contained in the rule by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Board of Nursing

Upon the call of the Chair, 21 NCAC 36 .0228 and .0817 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Office of Administrative Hearings

Upon the call of the Chair, 26 NCAC 03 .0103, .0112, and .0123 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)

Department of Health and Human Services

10A NCAC 14J .1307 - The Commission objected to the rule in accordance with G.S. 150B-21.1(b1). The Commission voted to adopt the staff opinion dated March 8, 2023, objecting to 10A NCAC 14J .1307 for lack of necessity pursuant to G.S. 150B-21.9(a)(3) by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Raj Premakumar with the agency, addressed the Commission.

Private Protective Services Board

The rules were withdrawn at the request of the agency. No action was required by the Commission.

COMMISSION BUSINESS

At 9:30 a.m., upon a motion by the Chair Doran and a second by Commissioner Atkins, the Commission voted to call the public meeting of the Rules Review Commission into recess and enter into closed session pursuant to G.S. 143-318.11(a)(3) to consult with counsel under the attorney-client privilege regarding the lawsuit filed by the NC Environmental Management Commission v NC Rules Review Commission, 23 CV 005003-910 (Wake) by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jay Hemphill, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

No action was taken in closed session.

Following the closed session, Commissioner Hemphill left the meeting via Webex.

At 10:08 a.m., upon a motion by Commissioner Atkins and a second by Commissioner Bryan, the Commission voted to come out of closed session and reconvene the public meeting of the Rules Review Commission by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Upon a motion by Commissioner Atkins and a second by Commissioner Bryan, the Commission voted to exercise its discretion pursuant to G.S. 143B-30.1 and hold that G.S. 114-2.3 and G.S. 147-17(a) through (c1) shall not apply to the Commission in the matter of the North Carolina Environmental Management Commission v. the North Carolina Rules Review Commission file number 23 CV 005003-910 Wake County Superior Court. Further, that the Commission authorizes the Chair to retain private counsel, specifically Higgins Benjamin, PLLC, to represent the Commission in this matter and retain substitute counsel should the need arise. Additionally, that the Commission grant the Chair final decision-making authority with respect to the defense and disposition of this matter by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

The meeting adjourned at 10:12 a.m.

The next regularly scheduled meeting of the Commission is Thursday, April 20, 2023, at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

Rules Review Commission Meeting March 16, 2023
Via WebEx

Name	Agency
Ross Smith	NCMA
Joelle Burleson	DEQ
Laura Rowe	Treasurer
Dan Hirschman	DOJ
Angela Willis	CRC
Christine Ryan	EMC
Misty Piekaar	DHHS
Jeff Dellinger	DHHS
Melanie Mabrey	Nursing
Gina Cleary	DOJ
Nathan Vail	DHHS
Peter Daniel	ncchamber.com
Anne Coan	NCFB
Donna Gilbird	
Meredith Parris	Nursing
Dana Lee	Auditor
Calvin Kirven	NCLCLB
Julie Ventaloro	OSBM
David Palmer	docsedu.com
Kimberly Luisana	Nursing
Helen Landi	hntb.com
Carrie Ruhlman	WRC
Jeff Harms	DHHS
Tammy Sylvester	DHHS
Ellen Roeber	PT Board
Rob Pearsall	DHHS
Ryan Collins	DPI
Laura Lansford	DOR
Chris Millis	NCHBA
Jessica Montie	DEQ
Melva Bonner	WRC
Lou Martin	DPI
Brenda Bass	DHHS
Ross Smith	MYNCMA
Edward Norman	DHHS
Jill Cramer	DOL
Hyrum Hemingway	DOJ
Hannah Jernigan	DOT
Laryssa Smith	NCBDN

RULES REVIEW COMMISSION

Todd Neal	DIJ
Dauna Bartley	Dental
Ellis Angela	NCBON
John Barkley	DOJ
Larry Michael	DHHS
Brian Barnes	DPS
Ann Wall	SOS
Lynda Elliott	Cosmetic Arts

LIST OF APPROVED PERMANENT RULES
March 16, 2023 Meeting

PUBLIC HEALTH, COMMISSION FOR

<u>Definitions</u>	10A NCAC 41C .1001
<u>Funding</u>	10A NCAC 41C .1002
<u>Asbestos Inspections and Abatement in North Carolina Publ...</u>	10A NCAC 41C .1003
<u>Lead-Based Paint Inspections and Abatement in North Carol...</u>	10A NCAC 41C .1004
<u>Lead Poisoning Hazards in Drinking Water in North Carolin...</u>	10A NCAC 41C .1005
<u>Certified Risk Assessors</u>	10A NCAC 41C .1006
<u>Incorporation by Reference</u>	10A NCAC 41C .1007

PUBLIC SAFETY, DEPARTMENT OF

<u>Purpose</u>	14B NCAC 03 .0401
<u>Abbreviations and Definitions</u>	14B NCAC 03 .0402
<u>Dispatch of a Contract Response Team to a Search to a Sea...</u>	14B NCAC 03 .0403
<u>On-site Operations of a Contract Response Team</u>	14B NCAC 03 .0404
<u>Standards for Administration of a Contract Response Team,...</u>	14B NCAC 03 .0405
<u>Recovering the Costs of a Search and Rescue Team or Speci...</u>	14B NCAC 03 .0406
<u>Procedures for Bidding and Contracting for Search and Res...</u>	14B NCAC 03 .0407
<u>Criteria for Submitting Bids for Contract Response Team</u>	14B NCAC 03 .0408
<u>Personnel, Training, and Equipment Standards for Contract...</u>	14B NCAC 03 .0409
<u>Procedures for Auditing Contract Response Teams and Speci...</u>	14B NCAC 03 .0410

ENVIRONMENTAL QUALITY, DEPARTMENT OF

<u>Purpose</u>	15A NCAC 01E .0101
<u>Definitions</u>	15A NCAC 01E .0102
<u>Oil Refining Facility Permit Required</u>	15A NCAC 01E .0103
<u>Permit Application Requirements</u>	15A NCAC 01E .0104
<u>Permit Application Procedure</u>	15A NCAC 01E .0105
<u>Public Hearing on Permit Application</u>	15A NCAC 01E .0106
<u>Decision to Issue or Deny Permit</u>	15A NCAC 01E .0107
<u>Suspension: Revocation: or Amendment of Permits</u>	15A NCAC 01E .0108
<u>Administrative Hearings: Final Decision by Secretary</u>	15A NCAC 01E .0109
<u>Severability</u>	15A NCAC 01E .0110
<u>Mailing List</u>	15A NCAC 01E .0111
<u>Fees</u>	15A NCAC 01E .0112

<u>Extensions of Time Periods</u>	15A NCAC 01E .0113
<u>Delegations</u>	15A NCAC 01E .0114
<u>Unauthorized Discharges</u>	15A NCAC 01E .0115

EDUCATION, STATE BOARD OF

<u>Interscholastic Athletes and Administering Organizations ...</u>	16 NCAC 06E .0204
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COSMETIC ART EXAMINERS, BOARD OF

<u>Definitions</u>	21 NCAC 14A .0101
<u>Application for Shop License</u>	21 NCAC 14H .0201
<u>Newly Established Shops</u>	21 NCAC 14H .0203
<u>Licensees and Students</u>	21 NCAC 14H .0401
<u>Cosmetic Art Shops and Schools</u>	21 NCAC 14H .0402
<u>Disinfection Procedures</u>	21 NCAC 14H .0403
<u>Inspection of Cosmetic Art Shops</u>	21 NCAC 14H .0501
<u>Sanitary Ratings and Posting of Ratings</u>	21 NCAC 14H .0503
<u>Systems of Grading Beauty Establishments</u>	21 NCAC 14H .0504
<u>Rule Compliance and Enforcement Measures</u>	21 NCAC 14H .0505
<u>Renewals: Expired Licenses: Licenses Required</u>	21 NCAC 14P .0105
<u>Licenses Required</u>	21 NCAC 14P .0106
<u>Revocation of Licenses and Other Disciplinary Measures</u>	21 NCAC 14P .0108
<u>Establishment of Cosmetic Art Schools</u>	21 NCAC 14P .0111
<u>Operations of Schools of Cosmetic Art</u>	21 NCAC 14P .0113
<u>Civil Penalty Procedures</u>	21 NCAC 14P .0116
<u>Rule Compliance and Enforcement Measures</u>	21 NCAC 14P .0117
<u>Scope and Definitions</u>	21 NCAC 14T .0101
<u>New School Applications</u>	21 NCAC 14T .0102
<u>All Cosmetic Art Schools</u>	21 NCAC 14T .0201
<u>Cosmetology Schools</u>	21 NCAC 14T .0202
<u>Equipment for All Cosmetic Art Schools</u>	21 NCAC 14T .0301
<u>Equipment for Cosmetology Schools</u>	21 NCAC 14T .0302
<u>Equipment for Esthetics Schools</u>	21 NCAC 14T .0303
<u>Equipment for Manicuring Schools</u>	21 NCAC 14T .0304
<u>Equipment for Natural Hair Care Styling Schools</u>	21 NCAC 14T .0305
<u>Permanent Records, Forms and Documentation</u>	21 NCAC 14T .0502
<u>Cosmetic Art Curricula</u>	21 NCAC 14T .0601
<u>Cosmetology Curriculum</u>	21 NCAC 14T .0602
<u>Apprentice Cosmetology Curriculum</u>	21 NCAC 14T .0603
<u>Esthetics Curriculum</u>	21 NCAC 14T .0604
<u>Manicuring Curriculum</u>	21 NCAC 14T .0605
<u>Natural Hair Care Curriculum</u>	21 NCAC 14T .0606
<u>Cosmetology Teacher Trainee Curriculum</u>	21 NCAC 14T .0607
<u>Esthetic Teacher Trainee Curriculum</u>	21 NCAC 14T .0608
<u>Manicurist Teacher Trainee Curriculum</u>	21 NCAC 14T .0609
<u>Natural Hair Care Teacher Curriculum</u>	21 NCAC 14T .0610
<u>Online Instruction</u>	21 NCAC 14T .0611
<u>Instruction Guidelines</u>	21 NCAC 14T .0612
<u>Uniforms and Identification</u>	21 NCAC 14T .0613

<u>Internships</u>	21 NCAC 14T .0614
<u>Field Trips</u>	21 NCAC 14T .0615
<u>Additional Hours</u>	21 NCAC 14T .0616
<u>Teacher Trainees</u>	21 NCAC 14T .0617
<u>School Operations/Licensure Maintenance</u>	21 NCAC 14T .0701
<u>Transfer of Credit</u>	21 NCAC 14T .0702
<u>School Approval Changes and School Closing</u>	21 NCAC 14T .0706
<u>School Infection Control Grades</u>	21 NCAC 14T .0802
<u>School Inspections</u>	21 NCAC 14T .0803
 LANDSCAPE CONTRACTORS' LICENSING BOARD	
<u>Continuing Education Units</u>	21 NCAC 28B .0402
 LOCKSMITH LICENSING BOARD	
<u>Obligation of Licensed Locksmiths</u>	21 NCAC 29 .0501
 NURSING, BOARD OF	
<u>Clinical Nurse Specialist Practice</u>	21 NCAC 36 .0228
<u>COVID-19 Drug Preservation Rule</u>	21 NCAC 36 .0817
 ADMINISTRATIVE HEARINGS, OFFICE OF	
<u>Commencement of Contested Case: Notice and Filing Fee</u>	26 NCAC 03 .0103
<u>Discovery</u>	26 NCAC 03 .0112
<u>Official Record</u>	26 NCAC 03 .0123