

NORTH CAROLINA REGISTER

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May 1, 2023

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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.

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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.

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 12 – DEPARTMENT OF JUSTICE

CHAPTER 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Sheriffs' Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 10B .2201.

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

Link to agency website pursuant to G.S. 150B-19.1(e): https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/

SECTION .2200 – FORMS

Proposed Effective Date: November 1, 2023

Public Hearing:

Date: June 6, 2023

Time: 9:00 a.m.

Location: 1700 Tryon Park Dr., Raleigh, NC 27610

Reason for Proposed Action: This rule contains the contents of the forms utilized to fulfill the requirements established by the Commission for certification processes.

Comments may be submitted to: Melissa Bowman, 1700 Tryon Park Dr., Raleigh, NC 27610; phone (919) 779-8213; email mbowman@ncdoj.gov

Comment period ends: June 30, 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

12 NCAC 10B .2201 CERTIFICATION FORMS

(a) The following are Commission approved forms to be used by agencies in making reports, applications, or requests for certification of justice officers:

- (1) Form F-1, Medical History Statement, is completed by an applicant and consists of the applicant's medical information, information including medication, allergies, and immunizations, present and past physical condition, conditions, injuries, diseases, or operations.
(2) Form F-2, Medical Examination Report, is a form provided to the examining physician to record the results of the applicant's medical examination. The form consists of information about the applicant's biographical information, vision, hearing, cardiovascular and circulator circulatory health, urinalysis, TB skin test, other medical conditions relevant to the applicant's physical fitness to perform the duties of a justice officer, biographical information about the applicant, and the medical professional's recommendation and concerns as to an applicant's physical fitness to perform the duties of a justice officer.
(3) Form F-3, the (Personal Personal History Statement), Statement, is completed by the applicant and consists of information regarding the applicant's work, residential, military, and criminal history, history; financial condition, condition; and references.
(4) Form F-8, the Mandated Background Summary, Investigation Form, is completed by an agency's background investigator and consists of the applicant applicant's for certification's biographical data, family data, scholastic data, employment data, criminal history, interviews and references, and a summary of the background investigator's findings.
(5) Form F-4 and F-4T, Report of Appointment, is completed by the reporting agency for the appointment of justice officers and shall contain a checklist indicating the applicant's progress

- toward completing the requirements for ~~certification~~, certification; the ~~applicant~~ applicant's appointment date, position ~~title~~ title, and ~~status~~, status; the applicant's contact ~~information~~, information; and prior certification history. The F-4 form is utilized for appointments as a deputy sheriff or detention officer. The form F-4T is utilized for appointments as a telecommunicator.
- (6) Form F-6 and F-6R, Professional Certificate/Service Award, consists of information regarding the education, training, and experience qualifying the applicant for various levels of professional recognition under the Sheriffs' Education and Training Standards Commission's Professional Certificate Program. The F-6 form is utilized for full-time justice officers and the F-6R form is utilized for reserve justice officers.
- (7) Form F-7 and F-7T, Request for Certification, is completed by institutions and agencies requesting certification to deliver Detention Officer and Telecommunicator Courses. The form consists of information regarding the institution name, institution or agency head, school director, and facilities. Form F-7 is used when requesting certification to deliver Detention Officer courses and Form F-7T is used when requesting certification to deliver Telecommunicator courses.
- (8) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned instructional hours exceeding the minimum requirements. Form F-7A is utilized for Detention Officer courses and Form F-7A-T is utilized for Telecommunicator courses.
- (9) Form F-7B and F-7B-T, Post-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on any substitutions of instructors as originally reported on the Pre-Delivery Report, any trainees who were not recommended for the state exam due to withdrawal or deficiencies, and the students who participated in and completed the course. Form F-7B is utilized for Detention Officer courses and Form F-7B-T is utilized for Telecommunicator courses.
- (10) Form F-9 and F-9T, Change in Status, is completed by the employing agency and consists of any change in status for justice officers including full-time or part-time status,

- active or inactive status, changes to identifying information, and changes to firearms status. Form F-9 is utilized for any change in status for justice officers appointed as a deputy sheriff or detention officer. Form F-9T is utilized for any change in status for a justice officer appointed as a telecommunicator.
- (11) Form F-9A, Firearms Qualification Record, is completed by the employing agency to record the annual In-Service Firearms Training and Qualifications for justice officers who are authorized by the Sheriff to carry a shotgun, rifle, automatic weapon, or handgun. The form consists of training and qualification scores completed by the officer.
- (12) Form F-16, Criminal Justice Instructor Evaluation, is completed by the Certified School Director and In-Service Coordinator of the school and consists of a rating of instructional ability, student participation, and presentation of the lesson plan by the Instructor.
- (13) Form F-20, School Resource Officer Certification, is completed by an employing agency requesting certification of a justice officer as a School Resource Officer. The form consists of the officer's name, date of birth, name of agency and address, date awarded general certification, completion date of School Resource Officer training, and date assigned as a School Resource Officer.
- (14) Form I-2 and I-2-T, Request for Instructor Certification, is completed by an applicant for certification as an Instructor to deliver Detention Officer and Telecommunicator courses. The form consists of information about the applicant's experience and qualifications. Form I-2 is utilized by an applicant for certification as an Instructor to deliver Detention Officer courses and Form I-2-T is utilized by an applicant for certification as an Instructor to deliver Telecommunicator courses.

(b) All forms contained in this Rule may be accessed on the agency's website at <http://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/>.

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

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 52 – BOARD OF PODIATRY EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Podiatry Examiners intends to amend the rule cited as 21 NCAC 52 .0208.

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

Proposed Effective Date: September 1, 2023

Public Hearing:

Date: June 13, 2023

Time: 6:30 p.m.

Location: <https://us02web.zoom.us/j/82712924883> Meeting ID: 827 1292 4883

Reason for Proposed Action: The proposed amendment to 21 NCAC 52 .0208 will enable the Board to take advantage of technology to simplify and streamline the documentation and record keeping associated with tracking continuing education hours for the regulated professions. The proposed amendment will also allow for synchronous virtual learning in addition to in person learning.

Comments may be submitted to: Tracy Steadman, 3739 National Drive, Suite 102, Raleigh, NC 27612; phone (919) 861-5583; fax (919) 787-4916; email info@ncbpe.org

Comment period ends: June 30, 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 .0200 - EXAMINATION AND LICENSING

21 NCAC 52 .0208 CONTINUING EDUCATION

(a) An additional requirement for issuance of the annual renewal certificate shall be certification to the Board of proof of compliance with the continuing education provisions of the General Statutes. The Board shall notify all podiatrists that 25 hours are required annually, including one hour of controlled

substances prescribing practices and controlled substance prescribing for chronic pain management.

(b) General CME policy - 25 hours per year as follows:

- (1) Completion of 25 hours of Continuing Medical Education (CME) is required per year (July 1- June 30) for renewal of licensure. CME credits shall not be carried over from the previous licensure year.
- (2) It shall be the responsibility of the individual podiatrist to ascertain in advance that the courses he or she attends have received proper approval of the certifying organizations, and comply with the Standards, Requirements, and Guidelines for Approval of Sponsors of Continuing Education in Podiatric Medicine of the Council on Podiatric Medical Education (<http://www.cpme.org/education/content.cfm?ItemNumber=2440&navItemNumber0=2249>), including updates. The website may be accessed at no charge. The Board shall respond in writing within 45 days of receipt by the Board of all needed documentation with approval or denial to individuals requesting approval of CME courses and credit hours. Decisions by the Board are the final agency decision and may be appealed as set out in G.S. 150B-23.
- (3) Certificates of completion of courses other than those sponsored by the NC Foot and Ankle Society (NCF&AS) shall be submitted to the Board online using a CE Broker account which can be established at www.cebroke.com and that submission shall be on or before the submission of ~~on a form provided by the Board~~ with the podiatrist's annual license renewal documents. Completion certificates shall be typed and contain the following information:
 - (A) Podiatrist's name;
 - (B) Course name, location, and date;
 - (C) Number of hours CME completed;
 - (D) Signature of seminar chairperson; ~~and~~
 - (E) Name of certifying or sponsoring agency; and
 - (F) Confirmation that the Course was either held in person or was synchronous virtual learning.
- (4) A licensed podiatrist participating in the second or third year of a medical residency or fellowship may submit a letter signed by the podiatric residency or fellowship director stating the podiatrist's name and dates of residency. This shall substitute for the 25-credit hour requirement and CME certificate required by this Rule.
- (5) ~~A podiatrist may submit his or her CME certificate(s) to the Board in facsimile, electronic, or hard copy format at any time during the renewal year.~~

(5)(6) The Board shall retain access to the CME documentation with the individual podiatrist's license renewal information.

(c) Category 1: Minimum requirement 20 hours per year, as follows:

- (1) CME credit shall be granted for attendance at educational seminars offered by the NCF&AS. The number of qualifying hours of continuing education shall be determined and approved by the Board in advance based on the standards in 90-202.11. NCF&AS shall submit to the Board a listing of individuals attending its CME events and credits earned.
- (2) CME credit shall be granted for attendance at educational seminars offered by other national, state, and podiatric education providers, as certified by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association (APMA). The number of qualifying hours of continuing education shall be determined and approved by the Board.
- (3) Lecturers shall be granted one hour of credit for each hour of CPME- or APMA- approved lectures given, but such credit shall be limited to one hour for each discrete topic. A brief summary of the content of each lecture shall be submitted to the Board for approval.
- (4) Category 1 is limited to live in person or live synchronous virtual educational seminars either offered by NCF&AS or by sponsors pre-approved by CPME:
http://www.cpme.org (CPME 700: "Approved Sponsors of Continuing Education in Podiatry"). (APMA or CPME-approved online or journal courses are considered Category 2.)
- (5) Since CPME evaluates only CME conducted in the United States, North Carolina-licensed podiatrists practicing outside the United States or participating in a foreign fellowship or other short-term residency abroad may apply to the Board to have their continuing medical education credits from their country of practice considered and evaluated by the Board on an individual basis.

(d) Category 2: A maximum of only 5 of the total 25 CME hours per year shall be allowed as follows:

- (1) CME credit shall be allowed for educational programs approved for Category 1 credit by the American Medical Association (AMA) and the American Osteopathic Association (AOA) or their affiliated organizations.
- (2) CME credit shall be allowed for courses approved by North Carolina Area Health Education Centers (AHEC).
- (3) Online or medical journal courses approved by CPME are permitted.
- (4) For courses not pre-approved by AHEC, AOA, or AMA, all requests for CME approval must

contain a timeline and course description and be submitted to the Board for approval.

(e) Waiver for Certified Illness, Medical Condition, Natural Disaster, or Undue Hardship. The Board may waive the continuing education requirement for license renewal in the following cases that preclude a licensed podiatrist from completing his or her CME requirement within the 18-month timeframe from July 1 of the year of the last license or renewal issuance through December 31 of the following year:

- (1) An unexpected illness or medical condition certified by a letter from a licensed physician, nurse practitioner (NP), or physician assistant (PA) regarding the licensee or the licensee's parents, spouse, children and other persons dependent upon the podiatrist for daily living supports; or
- (2) An undue hardship (such as active military service or natural disaster).

In such cases, the Board shall issue a conditional license predicated on the licensee acquiring all of the required continuing education credits in a mutually-agreeable timeframe, but no later than 24 months after December 31 of the year following the latest year of license or renewal issuance. Requests for CME waiver shall be received by the Board before the end of the grace period deadline for license renewal. The Board may require additional information when necessary to confirm the need for exemption to support the licensee's claim. The Board shall notify the licensee of its decision in writing within 45 days of receipt by the Board of all needed documentation.

Authority G.S. 90-202.4(g); 90-202.11; S.L. 2015-241, s. 12F.16(b) and (c).

CHAPTER 66 - VETERINARY MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Veterinary Medical Board intends to amend the rule cited as 21 NCAC 66 .0206.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncvmb.org

Proposed Effective Date: *September 1, 2023*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): To request a public hearing contact Keith West via email at kwest@ncvmb.org.*

Reason for Proposed Action: *Revise continuing education requirements to allow live online interactive presentations and reduce continuing education hours for veterinarians to 15 hours.*

Comments may be submitted to: *Keith West, 1611 Jones Franklin Road Suite 106, Raleigh, NC 27606; email kwest@ncvmb.org*

Comment period ends: *June 30, 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 .0200 - PRACTICE OF VETERINARY MEDICINE

21 NCAC 66 .0206 MINIMUM STANDARDS FOR CONTINUING EDUCATION

Each person holding a veterinary license, limited license, a faculty certificate, or a zoo veterinary certificate (collectively referred to herein as "veterinarian") or a veterinary technician registration issued by the Board shall comply with the standards in this Rule. The standards shall be a condition precedent to the renewal of a license, certificate, or registration respectively. The standards are as follows:

- ~~(1)~~ Continuing education credit hours shall relate to veterinary medicine.
- ~~(2)~~(1) A veterinarian shall earn ~~20~~ 15 continuing education credit hours for the calendar year license renewal period. A maximum of five hours may be obtained pursuant to courses described in Item (3) of this Rule.
- ~~(3)~~(2) A registered veterinary technician shall earn 12 continuing education credit hours for the two-calendar year registration renewal period. A maximum of four hours may be obtained pursuant to course described in Item (3) of this Rule.
- (3) One continuing education hour may be earned for each hour of independent self-study courses, prerecorded webinars, audio conferences, and non-interactive on-line presentations approved by approved continuing education credit providers.
- (4) One continuing education credit hour may be earned for each hour of in-person attendance or live interactive attendance at courses presented

or approved by approved continuing education credit providers.

- (5) A live interactive presentation shall:
 - (a) include instant or synchronous two-way communication;
 - (b) provide access to both technical personnel and professional faculty, as well as interactivity among participants for the exchange of questions and answers via instant messaging or a moderated teleconference, and
 - (c) document the level of participation by keeping a record of the participant's activity in asking or answering questions during the presentation and the score of any examination administered at the end or the presentation.

~~(4)~~(6) A veterinarian or registered veterinary technician may request and be granted an extension of time, not to exceed six months, to satisfy the continuing education requirement if the veterinarian or registered veterinary technician provides evidence of a ~~debilitating injury or illness~~ or circumstance that prevents the veterinarian or registered veterinary technician from being able to obtain continuing education. The Board shall consider any evidence submitted of a circumstance preventing the veterinarian or registered veterinary technician from being able to obtain continuing education on a case-by-case basis. If the veterinarian or veterinary technician submits evidence of failure to complete continuing education due to debilitating injury or illness or hardship, the Board shall consider the evidence submitted on a case-by-case basis. If the board finds that the debilitating injury or illness or hardship was the basis for non-compliance with the continuing education requirement, the Board shall exempt that individual from completing the unearned portion of the continuing education for that renewal period.

(7) If the Board finds that the circumstance that was the basis for non-compliance with the continuing education requirement justified the non-compliance, the Board may exempt that individual from completing the unearned portion of the continuing education for that renewal period.

- ~~(5)~~(8) Continuing education credits hours may be earned from courses, programs, or materials presented or approved by the following providers:
 - (a) the American Veterinary Medical Association (AVMA);

- (b) the American Animal Hospital Association (AAHA);
- (c) the North Carolina Veterinary Medical Association (NCVMA);
- (d) the United States Department of Agriculture-Animal and Plant Health Inspection Service;
- ~~(d)~~(e) the American Association of Veterinary State Boards' (AAVSB) Registry of Approved Continuing Education (RACE); and
- ~~(e)~~(f) academies, schools, or colleges of veterinary medicine.

These providers are designated herein as "approved continuing education credit providers." The Board shall consider additional courses, presentations, or materials eligible for approval for continuing education credit hours, provided that the individual seeking the credit furnishes the Board with information to establish that the content of the course, presentation, or material are ~~of an education level reflective of the audience (veterinarians or veterinary technicians)~~ sufficiently educational for veterinarians or registered veterinary technicians. Board approval for continuing education credits for such additional courses, presentations, or materials shall be obtained prior to attendance or participation; however, the Board shall waive the requirement of prior approval if illness, injury, or natural disaster prevented the individual from obtaining the prior approval.

- (6) ~~Subject to the limitations in this Rule, continuing education credit hours may be earned by:~~
 - ~~(a) attendance at in-person courses or presentations;~~
 - ~~(b) completion of independent self study courses;~~
 - ~~(c) non-interactive on-line presentations, courses, or materials; or~~
 - ~~(d) completion of live interactive on-line presentations or courses.~~

(7) ~~One continuing education credit hour, up to 100% of the CE requirement for renewal, may be earned for each hour of in-person attendance at courses presented or approved by approved continuing education credit providers. Up to 25% of the CE requirement for renewal may be obtained from independent self study courses, videos, DVDs, CDs, prerecorded webinars, audio conferences, and non-interactive on-line presentations approved by approved continuing education credit providers. Up to 50% of the CE requirement for renewal may be obtained from live interactive on-line presentations or courses approved by approved continuing education credit providers. However, the number of credit~~

~~hours earned from live interactive on-line presentations or courses shall be reduced by the number of credit hours earned from independent self study courses or materials and non-interactive on-line presentations or courses. A live interactive on-line presentation or course shall:~~

- ~~(a) include instant or asynchronous two-way communication;~~
- ~~(b) provide access to both technical personnel and professional faculty, as well as interactivity among participants for the exchange of questions and answers via instant messaging or a moderated teleconference; and~~
- ~~(c) document the level of participation by keeping a record of the participant's activity in asking or answering questions during the presentation and the score of any examination administered at the end of the presentation.~~

- ~~(8)~~(9) Each veterinarian and registered veterinary technician shall keep a ~~record~~ file containing ~~for~~ the three most recent renewal periods of the content of courses submitted to the Board for continuing education credit hours.
- ~~(9)~~(10) A veterinarian licensed in the year of graduation from a veterinary medical college is not required to earn continuing education credit hours to be eligible for license renewal for the next renewal period.
- ~~(10)~~(11) A veterinary technician registered in the year of graduation from a veterinary medical technology program is not required to earn continuing education credit hours to be eligible for registration renewal for the next renewal period.
- ~~(11)~~(12) A veterinarian or veterinary technician serving in the armed forces of the United States and to whom an extension of time to file a tax return is granted pursuant to G.S. 105-249.2 is granted the same extension of time to comply with the continuing education requirement of this Rule.

Authority G.S. 90-185(6); 90-186(1); 93B-15.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Veterinary Medical Board intends to adopt the rules cited as 21 NCAC 66 .0901-.0905 and amend the rule cited as 21 NCAC 66 .0108.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncvmb.org

Proposed Effective Date: November 2, 2023

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): To request a public hearing contact Keith West at kwest@ncvmb.org.*

Reason for Proposed Action: *Session Law 2019-170.*

Comments may be submitted to: *Keith West, 1611 Jones Franklin Road Suite 106, Raleigh, NC 27606; email kwest@ncvmb.org*

Comment period ends: *June 30, 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 - STATUTORY AND ADMINISTRATIVE PROVISIONS

21 NCAC 66 .0108 FEES

The following fees established by the Board shall be paid in advance to the Executive Director of the Board:

- (1) Veterinary License
 - (a) Issuance or Renewal \$170.00
 - (b) North Carolina License Examination \$250.00
 - (c) Late Renewal Fee \$50.00
 - (d) Reinstatement \$100.00
- (2) Veterinary Technician Registration
 - (a) Issuance or Renewal \$50.00
 - (b) North Carolina Veterinary Technician Examination \$50.00
 - (c) Late Renewal Fee \$50.00
 - (d) Reinstatement \$100.00
- (3) Professional Corporation Certificate of Registration
 - (a) Issuance or Renewal \$160.00
 - (b) Late Renewal Fee \$50.00

- (c) Reinstatement \$100.00
- (4) Limited Veterinary License
 - (a) Issuance or Renewal \$170.00
 - (b) Late Renewal Fee \$50.00
 - (c) Reinstatement \$100.00
- (5) Veterinary Faculty Certificate
 - (a) Issuance or Renewal \$170.00
 - (b) Late Renewal Fee \$50.00
 - (c) Reinstatement \$100.00
- (6) Zoo Veterinary Certificate
 - (a) Issuance or Renewal \$170.00
 - (b) Late Renewal Fee \$50.00
 - (c) Reinstatement \$100.00
- (7) Temporary Permit: Issuance \$150.00
- (8) Veterinary Student Intern Registration: Issuance \$25.00
- (9) ~~Veterinary Student Preceptee Registration: Issuance \$25.00~~ Veterinary Facility Permit
 - (a) Issuance or Renewal \$150.00
 - (b) Late Renewal Fee \$50.00
 - (c) Reinstatement \$100.00
- (10) ~~Veterinary Practice Facility Inspection \$125.00~~
- (11) Copies of Board publications, rosters, or other materials available for distribution from the Board shall be free or at a minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.

Authority G.S. 90-185(6); 90-186(6); 90-187(b); 90-187.5; 132-6.2.

SECTION .0900 – VETERINARY FACILITY PERMITS

21 NCAC 66.0901 DEFINITIONS

In addition to the terms set forth in G.S. 90-181, the following definitions apply to this Subchapter:

- (1) "Owner" means the person whose business provides services that constitute the practice of veterinary medicine as defined by G.S. 90-181(6).
- (2) "Facility" means any physical location, including mobile units, in which the practice of veterinary medicine occurs.
- (3) "Veterinary Facility Permit" means a document authorizing an owner to operate a facility which engages in the practice of veterinary medicine.

Authority G.S. 90-185(6); 90-186(8).

21 NCAC 66 .0902 VETERINARY FACILITY PERMITS

(a) Any person who owns a business which operates a facility providing services that constitute the "practice of veterinary medicine" on a full, part-time, or temporary basis shall have a veterinary facility permit issued by the Board prior to offering or delivering any veterinary medical services to the public.

Veterinary or Veterinary Technician teaching programs offering services to the public shall have a veterinary facility permit.

(b) As a condition of any veterinary facility permit issued by the Board, the owner shall designate a supervising veterinarian to oversee practice of veterinary medicine.

(c) The Board shall issue a veterinary facility permit to an owner after the owner submits an application, pays the veterinary facility permit fee, and passes a facility inspection. The Board shall inspect the veterinary facility pursuant to Rule .0207(b)(16) of this Chapter if an inspection has not been performed in the last two years. The facility inspection shall be conducted to ensure compliance with statutes and the rules of this Chapter, particularly Rules .0207 and .0208 of this Chapter. It is the responsibility of the owners to ensure that the veterinary facility meets the minimum veterinary facility standards in Rules .0207 and .0208 of this Chapter.

(d) The application for a veterinary facility permit shall be on a form prescribed by the Board and available on the Board's website. The application shall contain:

- (1) the owner's name, physical address, mailing address, email address, and telephone number;
- (2) proposed or existing name of the facility, as set forth in G.S. 90-181.1, physical address, mailing address, email address, and telephone number; and
- (3) designation of a supervising veterinarian of the facility subject to the provisions of Rules .0903 of this Section.

(e) Each veterinary facility permit shall be renewed yearly. The veterinary facility must have passed an inspection pursuant to Rule .0207(b)(16) of this Chapter within the 24 months prior to renewal.

(f) Each veterinary facility that is identified by a separate physical address or that is located at the same physical address as another veterinary facility but has different owners or supervising veterinarians shall be a separate veterinary facility requiring a separate veterinary facility permit.

(g) The owner shall notify the Board within five business days of any changes in contact information.

(h) The owner shall notify the Board in writing of a planned change in the ownership or in the supervising veterinarian of the veterinary facility at least 20 business days prior to the planned change.

(i) In the event of an owner's inability to maintain the facility's compliance with Chapter 90 of the General Statutes and the rules of this Chapter, the Board shall be notified within 10 business days by one of the following: an owner, the supervising veterinarian, or a member of the veterinary facility's staff.

(j) In the event of a natural or physical event that results in the loss of the safe and effective utilization of the facility, pursuant to the rules of this Chapter, particularly Rules .0207 and .0208 of this Chapter, the Board shall be notified within 10 business days by the owner(s) or the supervising veterinarian.

(k) In the event that the Board is notified that the owner to whom a facility permit is issued is dissolved voluntarily, administratively, or by operation of law, suspended by the NC Department of Revenue, or has its certificate of authority revoked by the NC Secretary of State, the Board shall also suspend the permit issued to the owner. The suspension shall remain in effect

until the suspension has been lifted by NC Department of Revenue, or the person has been reinstated by the NC Secretary of State, or both.

(l) The Board may issue a temporary veterinary facility permit to the owners of a veterinary facility for a period of 35 business days to allow the owners to address and resolve violations of the rules of this Chapter, particularly, Rules .0207 and .0208 of this Chapter, discovered during the veterinary facility inspection. However, the Board shall not issue a temporary veterinary facility permit if the violations present a danger to the health or safety of the public or animals. Upon request of the owner, the Board may extend a temporary permit for an additional period of no more than 35 business days. In the event of the death of an owner, the permit remains valid for 35 business days from the date of the death of the owner, so long as the facility continues to have an active, supervising veterinarian registered with the Board.

(m) The following are exempt from the requirement for a veterinary facility permit:

- (1) those exempted by licensure under G.S. 90-187.10;
- (2) a veterinary facility owned and operated by the State of North Carolina, a political subdivision thereof, or the federal government, so long as the facility does not offer or provide veterinary services to the public; or
- (3) a temporary veterinary facility established as a result of an emergency declared by the Governor of North Carolina.

(n) A person operating without a veterinary facility permit is subject to the provisions of G.S. 90-187.13.

(o) The veterinary facility permit shall be displayed by the owners at the facility at a location viewable by the public. Veterinary facility permits for mobile facilities shall be available upon request.

(p) An owner or supervising veterinarian shall provide a copy of medical records maintained pursuant to Rule .0207 of this Chapter within 10 business days of receipt of a request by a current or former patient's owner. The veterinary facility may charge the patient's owner the actual cost of reproducing the records as a reasonable fee.

(q) Owners shall post on the veterinary facility website home page, the emergency services available at the veterinary facility when the veterinary facility is open and the veterinary facility name, address, and telephone number for the provider of after-hours emergency services.

Authority G.S. 90-185; 90-186(2); 90-186(8); 90-186(9).

21 NCAC 66 .0903 SUPERVISING VETERINARIAN

(a) The owners of a veterinary facility shall designate a supervising veterinarian who shall be responsible for informing the owners as to the instances of non-compliance of Board Rules .0207 and .0208 of this Chapter at the veterinary facility.

(b) The supervising veterinarian shall be currently licensed by and in good standing with the Board.

(c) The owners may designate an interim supervising veterinarian to serve as the supervising veterinarian for a period not to exceed 25 business days.

(d) A veterinarian may be a supervising veterinarian at more than one veterinary facility. The supervising veterinarian shall be physically onsite at each veterinary facility that is open for 159 hours or less per month, for a minimum of 25 percent of the total time a veterinary facility is open. The supervising veterinarian shall be physically onsite at each veterinary facility that is open for 160 hours or more per month, for a minimum of 40 hours per month. Electronic or handwritten documentation stating the dates and times that the supervising veterinarian was present at the veterinary facility shall be maintained by the supervising veterinarian at each individual facility and made available by the owner, supervising veterinarian, or the staff at each facility at the time of inspection or investigation by the Board.

Authority G.S. 90-185(6); 90-186(9).

21 NCAC 66 .0904 DISCIPLINE VETERINARY FACILITY PERMITS

(a) The Board shall investigate any complaint or information within its jurisdiction. Following an investigation and the owner's opportunity to be heard pursuant to the provisions of Sections .0600 and .0700 of this Chapter, the Board may:

- (1) revoke or suspend a veterinary facility permit issued under this Article;
- (2) discipline the owner of a facility permitted under this Article in accordance with the disciplinary measures set forth in Sections .0600 and .0700 of this Chapter;
- (3) deny a veterinary facility permit required by this Article in accordance with the provisions of G.S. 90 Article 11 and the rules of this Chapter based on violations of Board Rules including but not limited to .0207 and .0208 of this Chapter.

References to licensee or registrant in the provisions of Sections .0600 and .0700 of this Chapter are treated as references to owner and permittee. References to license are treated as references to facility permit.

(b) The Board may suspend, revoke, or deny issuance of a veterinary facility permit, without hearing, if:

- (1) A veterinary facility has not had a supervising veterinarian or an interim supervising veterinarian serving in that capacity for more than five business days.
- (2) Per summary emergency order pursuant to the provisions of G.S. 90-186(3).
- (3) The owners of the veterinary facility have failed to notify the Board after 10 business days of a change in ownership of the facility or change in the supervising veterinarian.

(c) An owner shall cease to operate a veterinary facility as of the date the Board notifies the owner of the revocation of his or her veterinary facility permit. Within 24 hours of receiving notification of revocation, an owner shall display the following information at the facility and through any existing medium of communication with the public, such as social media, a telephone answering system, or facility website:

- (1) information that the veterinary facility is closed;

- (2) the means by which clients may obtain their animal's medical records; and
- (3) notice of the Board's revocation of the facility permit.

Authority G.S. 90-185(6); 90-186(8); 90-186(9).

21 NCAC 66 .0905 REINSTATEMENT AFTER REVOCATION OF FACILITY PERMIT

Any person whose facility permit been suspended or revoked pursuant to the provisions of Rule .0904 of this Section may apply for reinstatement subject to any terms and conditions contained in the final agency decision issued by the Board upon revoking or suspending the person's facility permit. The Board may conduct an inspection prior to reinstatement to determine if the terms and conditions stated in the final agency decision have been addressed.

Authority G.S. 90-185(6); 90-186(8); 90-186(9).

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Office of Administrative Hearings intends to amend the rule cited as 26 NCAC 03 .0401.

Link to agency website pursuant to G.S. 150B-19.1(c): oah.nc.gov

Proposed Effective Date: September 1, 2023

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Contact Ashley Snyder via email at ashley.snyder@oah.nc.gov or via mail at 1711 New Hope Church Road, Raleigh, NC 27609.*

Reason for Proposed Action: *OAH separately proposed an amendment to 26 NCAC 03 .0106, requiring agencies to file copies of settlement agreements with OAH. This amendment clarifies that requirement will not apply to contested Medicaid cases commenced by Medicaid applicants or recipients.*

Comments may be submitted to: Ashley Snyder, 1711 New Hope Church Rd., Raleigh, NC 27609

Comment period ends: June 30, 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 03 - HEARINGS DIVISION

SECTION .0400 – SIMPLIFIED PROCEDURES FOR MEDICAID APPLICANT AND RECIPIENT APPEALS

26 NCAC 03 .0401 MEDICAID HEARING PROCEDURES RULES

(a) The rules in 26 NCAC 03 .0100 apply to contested Medicaid cases commenced by Medicaid applicants or recipients under S.L. 2008-107, s. 10.15A.(h1) as rewritten by S.L. 2008-118, s. 3.13 except:

- (1) 26 NCAC 03 .0101(b);
- (2) 26 NCAC 03 .0102(a)(3), (b) – (e);
- (3) 26 NCAC 03 .0103(a);
- (4) 26 NCAC 03 .0104;
- (5) 26 NCAC 03 .0106(b);
- ~~(5)~~(6) 26 NCAC 03 .0107;
- ~~(6)~~(7) 26 NCAC 03 .0108;
- ~~(7)~~(8) 26 NCAC 03 .0112(b), (c), (e), (f), (g);
- ~~(8)~~(9) 26 NCAC 03 .0115;
- ~~(9)~~(10) 26 NCAC 03 .0117;
- ~~(10)~~(11) 26 NCAC 03 .0118;
- ~~(11)~~(12) 26 NCAC 03 .0120(e);
- ~~(12)~~(13) 26 NCAC 03 .0123;
- ~~(13)~~(14) 26 NCAC 03 .0125; and
- ~~(14)~~(15) 26 NCAC 03 .0127(a).

(b) Nothing in this ~~Section~~ Rule affects discretionary powers granted to an administrative law judge as set out in G.S. 150B-33(b).

Authority G.S. 7A-751(a); S.L. 2008-107, s. 10.15A.(h1) as rewritten by S.L. 2008-118, s. 3.13.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on March 16, 2023 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

PUBLIC HEALTH, COMMISSION FOR

<u>Definitions</u>	10A NCAC	41C	.1001	37:11 NCR
<u>Funding</u>	10A NCAC	41C	.1002*	37:11 NCR
<u>Asbestos Inspections and Abatement in North Carolina Publ...</u>	10A NCAC	41C	.1003*	37:11 NCR
<u>Lead-Based Paint Inspections and Abatement in North Carol...</u>	10A NCAC	41C	.1004*	37:11 NCR
<u>Lead Poisoning Hazards in Drinking Water in North Carolin...</u>	10A NCAC	41C	.1005*	37:11 NCR
<u>Certified Risk Assessors</u>	10A NCAC	41C	.1006*	37:11 NCR
<u>Incorporation by Reference</u>	10A NCAC	41C	.1007	37:11 NCR

PUBLIC SAFETY, DEPARTMENT OF

<u>Purpose</u>	14B NCAC	03	.0401*	37:04 NCR
<u>Abbreviations and Definitions</u>	14B NCAC	03	.0402*	37:04 NCR
<u>Dispatch of a Contract Response Team to a Search and Rescue...</u>	14B NCAC	03	.0403*	37:04 NCR
<u>On-site Operations of System Resources</u>	14B NCAC	03	.0404*	37:04 NCR
<u>Standards for Administration of a Contract Response Team,...</u>	14B NCAC	03	.0405*	37:04 NCR
<u>Recovering the Costs of a Search and Rescue Team or Speci...</u>	14B NCAC	03	.0406*	37:04 NCR
<u>Procedures for Bidding and Contracting for Search and Res...</u>	14B NCAC	03	.0407*	37:04 NCR
<u>Criteria for Evaluating Bids for Contract Response Team</u>	14B NCAC	03	.0408*	37:04 NCR
<u>Personnel, Training, and Equipment Standards for Contract...</u>	14B NCAC	03	.0409*	37:04 NCR
<u>Procedures for Auditing Contract Response Teams and Speci...</u>	14B NCAC	03	.0410*	37:04 NCR

ENVIRONMENTAL QUALITY, DEPARTMENT OF

<u>Purpose</u>	15A NCAC	01E	.0101	37:05 NCR
<u>Definitions</u>	15A NCAC	01E	.0102*	37:05 NCR
<u>Oil Refining Facility Permit Required</u>	15A NCAC	01E	.0103*	37:05 NCR
<u>Permit Application Requirements</u>	15A NCAC	01E	.0104*	37:05 NCR
<u>Permit Application Procedure</u>	15A NCAC	01E	.0105*	37:05 NCR
<u>Public Hearing on Permit Application</u>	15A NCAC	01E	.0106*	37:05 NCR
<u>Decision to Issue or Deny Permit</u>	15A NCAC	01E	.0107*	37:05 NCR
<u>Suspension: Revocation: or Amendment of Permits</u>	15A NCAC	01E	.0108*	37:05 NCR
<u>Administrative Hearings: Final Decision by Secretary</u>	15A NCAC	01E	.0109	37:05 NCR
<u>Severability</u>	15A NCAC	01E	.0110*	37:05 NCR
<u>Mailing List</u>	15A NCAC	01E	.0111*	37:05 NCR
<u>Fees</u>	15A NCAC	01E	.0112	37:05 NCR
<u>Extensions of Time Periods</u>	15A NCAC	01E	.0113*	37:05 NCR
<u>Delegations</u>	15A NCAC	01E	.0114*	37:05 NCR
<u>Unauthorized Discharges</u>	15A NCAC	01E	.0115*	37:05 NCR

EDUCATION, STATE BOARD OF

<u>Interscholastic Athletes and Administering Organizations ...</u>	16 NCAC	06E	.0204*	37:02 NCR
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COSMETIC ART EXAMINERS, BOARD OF

<u>Definitions</u>	21 NCAC	14A	.0101	37:11 NCR
<u>Application for Shop License</u>	21 NCAC	14H	.0201*	37:11 NCR
<u>Newly Established Shops</u>	21 NCAC	14H	.0203*	37:11 NCR
<u>Licensees and Students</u>	21 NCAC	14H	.0401*	37:11 NCR
<u>Cosmetic Art Shops and Schools</u>	21 NCAC	14H	.0402*	37:11 NCR
<u>Disinfection Procedures</u>	21 NCAC	14H	.0403*	37:11 NCR
<u>Inspection of Cosmetic Art Shops</u>	21 NCAC	14H	.0501	37:11 NCR
<u>Sanitary Ratings and Posting of Ratings</u>	21 NCAC	14H	.0503*	37:11 NCR
<u>Systems of Grading Beauty Establishments</u>	21 NCAC	14H	.0504*	37:11 NCR
<u>Rule Compliance and Enforcement Measures</u>	21 NCAC	14H	.0505	37:11 NCR
<u>Renewals; Expired License; Licenses Required</u>	21 NCAC	14P	.0105*	37:11 NCR
<u>Licenses Required</u>	21 NCAC	14P	.0106	37:11 NCR
<u>Revocation of Licenses and Other Disciplinary Measures</u>	21 NCAC	14P	.0108	37:11 NCR
<u>Establishment of Cosmetic Art Schools</u>	21 NCAC	14P	.0111	37:11 NCR
<u>Operations of Schools of Cosmetic Art</u>	21 NCAC	14P	.0113	37:11 NCR
<u>Civil Penalty Procedures</u>	21 NCAC	14P	.0116	37:11 NCR
<u>Rule Compliance and Enforcement Measures</u>	21 NCAC	14P	.0117	37:11 NCR
<u>Scope and Definitions</u>	21 NCAC	14T	.0101*	37:11 NCR
<u>New School Applications</u>	21 NCAC	14T	.0102*	37:11 NCR
<u>All Cosmetic Art Schools</u>	21 NCAC	14T	.0201*	37:11 NCR
<u>Cosmetology Schools</u>	21 NCAC	14T	.0202	37:11 NCR
<u>Equipment for All Cosmetic Art Schools</u>	21 NCAC	14T	.0301*	37:11 NCR
<u>Equipment for Cosmetology Schools</u>	21 NCAC	14T	.0302*	37:11 NCR
<u>Equipment for Esthetics Schools</u>	21 NCAC	14T	.0303*	37:11 NCR
<u>Equipment for Manicuring Schools</u>	21 NCAC	14T	.0304*	37:11 NCR
<u>Equipment for Natural Hair Care Styling Schools</u>	21 NCAC	14T	.0305	37:11 NCR
<u>Permanent Records, Forms, and Documentation</u>	21 NCAC	14T	.0502*	37:11 NCR
<u>Cosmetic Art Curricula</u>	21 NCAC	14T	.0601	37:11 NCR
<u>Cosmetology Curriculum</u>	21 NCAC	14T	.0602*	37:11 NCR
<u>Apprentice Cosmetology Curriculum</u>	21 NCAC	14T	.0603*	37:11 NCR
<u>Esthetics Curriculum</u>	21 NCAC	14T	.0604	37:11 NCR
<u>Manicuring Curriculum</u>	21 NCAC	14T	.0605*	37:11 NCR
<u>Natural Hair Care Curriculum</u>	21 NCAC	14T	.0606	37:11 NCR
<u>Cosmetology Teacher Trainee Curriculum</u>	21 NCAC	14T	.0607	37:11 NCR
<u>Esthetic Teacher Trainee Curriculum</u>	21 NCAC	14T	.0608	37:11 NCR
<u>Manicurist Teacher Trainee Curriculum</u>	21 NCAC	14T	.0609	37:11 NCR
<u>Natural Hair Care Teacher Curriculum</u>	21 NCAC	14T	.0610	37:11 NCR
<u>Online Instruction</u>	21 NCAC	14T	.0611	37:11 NCR
<u>Instruction Guidelines</u>	21 NCAC	14T	.0612*	37:11 NCR
<u>Uniforms and Identification</u>	21 NCAC	14T	.0613	37:11 NCR
<u>Internships</u>	21 NCAC	14T	.0614	37:11 NCR
<u>Field Trips</u>	21 NCAC	14T	.0615	37:11 NCR
<u>Additional Hours</u>	21 NCAC	14T	.0616	37:11 NCR
<u>Teacher Trainees</u>	21 NCAC	14T	.0617	37:11 NCR
<u>School Operations/Licensure Maintenance</u>	21 NCAC	14T	.0701*	37:11 NCR
<u>Transfer of Credit</u>	21 NCAC	14T	.0702*	37:11 NCR

APPROVED RULES

<u>School Approval Changes and School Closing</u>	21 NCAC	14T	.0706	37:11 NCR
<u>School Infection Control Grades</u>	21 NCAC	14T	.0802	37:11 NCR
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LANDSCAPE CONTRACTORS' LICENSING BOARD

<u>Continuing Education Units</u>	21 NCAC	28B	.0402*	37:11 NCR
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LOCKSMITH LICENSING BOARD

<u>Obligation of Licensed Locksmiths</u>	21 NCAC	29	.0501*	37:10 NCR
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NURSING, BOARD OF

<u>Clinical Nurse Specialist Practice</u>	21 NCAC	36	.0228*	37:10 NCR
<u>COVID-19 Drug Preservation Rule</u>	21 NCAC	36	.0817	37:10 NCR

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<u>Commencement of Contested Case: Notice and Filing Fee</u>	26 NCAC	03	.0103*	37:12 NCR
<u>Discovery</u>	26 NCAC	03	.0112*	37:12 NCR
<u>Official Record</u>	26 NCAC	03	.0123	37:12 NCR

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 41C .1001 DEFINITIONS

For the purposes of this Section, the following definitions shall apply:

- (1) "Department" means the North Carolina Department of Health and Human Services.
- (2) "Licensed child care facility" means a child care facility as defined at G.S. 110-86(3).
- (3) "Public school" means a public school unit as defined at G.S. 115C-5(7a).
- (4) "Program" means the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Section.
- (5) "Responsible individual" means the superintendent of a public school operated by a local school administrative unit, as defined in G.S. 115C-5(6), or the superintendent's designee(s); the governing body of any charter school or school operated under Article 7A or Article 9C of G.S. 115C or that body's designee(s); or the operator of a licensed child care facility or the operator's designee(s), as applicable.

History Note: Authority S.L. 2021-180, s. 9G.8; Temporary Adoption Eff. April 29, 2022; Eff. April 1, 2023.

10A NCAC 41C .1002 FUNDING

(a) Public schools and licensed child care facilities in North Carolina shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. to fully or

partially offset the cost of conducting testing for lead in water and inspections for asbestos and lead-based paint hazards, when a test for lead in water is conducted by May 1, 2024 or an inspection for lead-based paint or asbestos is conducted by May 1, 2024 and the test or inspection is conducted in accordance with the rules of this Section.

(b) Public schools and licensed child care facilities that are eligible to participate under Paragraph (a) of this Rule shall also be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. to fully or partially offset the cost of conducting remediation of lead in water and abatement of asbestos and lead-based paint hazards identified under this Section when the following requirements are met:

- (1) lead or asbestos is detected that meets the requirements under the rules of this Section for abatement or remediation;
- (2) the abatement or remediation, as applicable, is performed in accordance with the rules of this Section; and
- (3) replacement materials used to abate asbestos hazards do not contain more than 1 percent asbestos and replacement materials used to abate lead-based paint hazards do not contain lead in excess of 90 parts per million as confirmed by a safety data sheet, letter from the manufacturer, or laboratory test results.

(c) Notwithstanding Paragraphs (a) and (b) of this Rule, licensed child care centers conducting testing and remediation of water outlets used for drinking or food preparation pursuant to 15A NCAC 18A .2816 shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. for testing conducted in accordance with that Rule by May 1, 2024 and remediation conducted in accordance with that Rule between May 1, 2020 and the date on which funds are no longer available in accordance with S.L. 2021-180, s. 9G.8.(d).

(d) Notwithstanding Paragraphs (a) and (b) of this Rule, if asbestos or lead-based paint is detected during a capital, renovation, or repair project in a public school or licensed child care facility, the public school or licensed child care facility shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. as follows:

- (1) to fully or partially offset the cost of conducting an inspection in accordance with Rules .1003(b) or .1004(b) of this Section, as applicable, except that the inspection may be limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted; and
- (2) to fully or partially offset the cost of conducting abatement when lead-based paint or asbestos is detected that meets the requirements under the Rules of this Section for abatement and abatement is conducted in accordance with Rules .1003(e) and .1004(e) of this Section and with the limitation on materials set out in Subparagraph (b)(3) of this Rule, except that the abatement may be limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted.

(e) Inspections and abatements described in Paragraph (d) of this Rule that are limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted shall not satisfy the facility-wide inspection requirements for public schools and licensed child care facilities set out in Rules .1003 and .1004 of this Section.

(f) Notwithstanding the foregoing, to be eligible to participate in any funding mechanism under this Rule, responsible individuals shall make all records regarding testing, inspection, abatement, and remediation available to the Department upon request, including, but not limited to, itemized expense reports for activities funded under S.L. 2021-180, s. 9G.8.

(g) Nothing in this Rule shall require the Department to provide funding if the Department determines there are not sufficient funds available in accordance with S.L. 2021-180, s. 9G.8.(d).

History Note: Authority S.L. 2021-180, s. 9G.8; Temporary Adoption Eff. April 29, 2022; Eff. April 1, 2023.

10A NCAC 41C .1003 ASBESTOS INSPECTIONS AND ABATEMENT IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES

(a) For the purposes of this Rule, the following definitions shall apply:

- (1) "Abatement" means as defined at G.S. 130A-444(4), and also includes renovation activities that are carried out to repair, maintain, remove, isolate, enclose, replace, or encapsulate asbestos containing material. Abatement shall not be considered complete until a final clearance inspection of the public school or licensed child care facility is performed by an

air monitor in accordance with 40 C.F.R. 763.90(i).

- (2) "Air monitor" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(3).
- (3) "Asbestos" means as defined at G.S. 130A-444(2).
- (4) "Asbestos containing material" means as defined at G.S. 130A-444(3).
- (5) "Asbestos hazard" means a condition that results in exposure to asbestos in excess of the standards set forth in 10A NCAC 41C .0607(a) or to a category of asbestos containing material defined at 40 C.F.R. 763.88(b)(1)-(4).
- (6) "Inspection" in a licensed child care facility means an examination of the facility for the presence of asbestos hazards that is conducted by an inspector in accordance with the rules of Section .0600 of this Subchapter. "Inspection" in a public school means a reinspection conducted in alignment with G.S. 130A-445, 10A NCAC 41C .0604, and 40 C.F.R.763.85(b).
- (7) "Inspector" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(7).
- (8) "Management Planner" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(9).

(b) Each responsible individual shall ensure that an inspection is conducted for asbestos hazards in each public school or licensed child care facility for which he or she is responsible by May 1, 2024. Inspections for asbestos hazards shall be performed by an inspector and documented in an inspection report in accordance with 40 C.F.R. 763, Subpart E. A management planner shall review the inspection report to determine whether an asbestos hazard has been detected and shall document his or her findings in an asbestos management plan in accordance with Rule 10A NCAC 41C .0604.

(c) If the management planner determines that an asbestos hazard has been detected, then the responsible individual shall restrict access to the identified asbestos hazard until it is abated in accordance with this Rule.

(d) A determination by a management planner that an asbestos hazard is present in a public school or licensed child care facility that is documented in an asbestos management plan in accordance with Paragraph (b) of this Rule shall satisfy the requirement of Rule .1002(b)(1) or (d)(2) of this Section, as applicable, that asbestos is detected that meets the requirements for abatement.

(e) Abatement shall be performed by one or more professionals who are accredited in accordance with 10A NCAC 41C .0602 and shall be performed in accordance with Rules .0605-.0607 of this Subchapter.

(f) The information listed in this Paragraph shall be submitted to the Program by email to ARPA-Reimbursement@dhhs.nc.gov:

- (1) Within 45 calendar days following the date on which an inspection is completed pursuant to this Rule, the management planner shall report the following on a form provided by the Department:

- (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name, address, email address, phone number, and accreditation number of the management planner;
 - (C) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
 - (D) whether the facility for which the responsible individual is submitting the information is a public school or a licensed child care facility;
 - (E) whether the inspection identified the presence of an asbestos hazard;
 - (F) a description of any identified asbestos hazard; and
 - (G) the results of any laboratory testing conducted during the inspection.
- (2) If the public school or licensed child care facility plans to use a previous inspection or documentation under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the inspection report, reinspection report, or management plan associated with the previous inspection or the documentation by May 1, 2024 in lieu of meeting the requirements in Subparagraph (f)(1) of this Rule.
- (3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible individual shall report the following on a form provided by the Department:
- (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility, as applicable;
 - (C) the names and accreditation numbers of the professionals who will conduct the abatement and the email address and phone number of the on-site asbestos supervisor who will oversee the abatement;
 - (D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
 - (E) the dates on which the abatement is scheduled to occur; and
 - (F) a description of the planned abatement that contains information on the type of materials to be abated, the location of the abatement, the quantity of material to be abated, and the method of abatement.
- (4) Within 45 calendar days following the date on which an abatement completed pursuant to this Rule, the responsible individual shall report the following:
- (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
 - (C) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
 - (D) the date on which the abatement was completed; and
 - (E) a report of the results of the final clearance inspection.
- (g) In accordance with 10A NCAC 09 .0601 and 10A NCAC 09 .1719, as applicable, licensed child care facilities shall inspect for asbestos hazards in accordance with this Rule to ensure these facilities are safe and free from hazards that may injure children. The failure of a responsible individual in licensed child care facility to inspect for asbestos hazards or to restrict access to or abate identified asbestos hazards in accordance with this Rule shall be considered a violation of 10A NCAC 09 .0601 and 10A NCAC 09 .1719, as applicable.
- (h) The requirements of Paragraph (b) of this Rule shall be considered met if:
- (1) the public school or licensed child care facility previously completed an inspection of its buildings that meets the requirements of 40 C.F.R. 763, Subpart E, provided that building material that was sampled during a previous inspection and reported as trace asbestos or less than 10 percent asbestos content shall be reinspected in accordance with the process established in Paragraphs (b) - (f) of this Rule;
 - (2) the public school or licensed child care facility produces documentation in accordance with 40 C.F.R. 763.99(a)(7); or
 - (3) the licensed child care facility produces a property tax record that shows the building occupied by the licensed child care facility was built after October 12, 1988.

History Note: Authority S.L. 2021-180, s. 9G.8; Temporary Adoption Eff. April 29, 2022; Eff. April 1, 2023.

10A NCAC 41C .1004 LEAD-BASED PAINT INSPECTIONS AND ABATEMENT IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES

(a) For the purposes of this Rule, the following definitions shall apply:

- (1) "Abatement" means as defined at 40 C.F.R. 745.223, and also includes "interim controls" as defined at 40 C.F.R. 745.83. Abatement shall not be considered complete until a final clearance inspection of the public school or licensed child care facility is performed by a certified risk assessor in accordance with the standards set forth at 40 C.F.R. 745.227.
- (2) "Certified Project Designer" means an individual who meets the requirements for a project designer as set forth in G.S. 130A-453.03 and Rule .0802 of this Subchapter.
- (3) "Certified Supervisor" means an individual who meets the requirements for a supervisor as set forth in G.S. 130A-453.03 and Rule .0802 of this Subchapter.
- (4) "Certified Risk Assessor" means an individual who meets the requirements for a risk assessor as set forth in G.S. 130A-453.03 and Rule .1006 of this Section.
- (5) "Inspection" means a risk assessment conducted in accordance with 40 C.F.R. 745.223.
- (6) "Inspection report" means a summary prepared in accordance with Rule .0807(b) of this Subchapter.
- (7) "Lead-based paint hazard" means as defined at G.S. 130A-131.7(6).
- (8) "Lead poisoning hazard" means as defined at G.S. 130A-131.7(7).
- (9) "Occupant protection plan" means as defined at Rule .0801(a)(6) of this Subchapter.

(b) Each responsible individual shall ensure that an inspection is conducted for lead-based paint hazards in each public school or licensed child care facility for which he or she is responsible by May 1, 2024. Inspections for lead-based paint hazards shall be performed by a certified risk assessor and documented in an inspection report. The certified risk assessor shall determine whether a lead-based paint hazard is present in the public school or licensed child care facility based on the inspection, and document the determination in the inspection report. If the certified risk assessor determines that a lead-based paint hazard exists, then an occupant protection plan shall be written by a certified supervisor or certified project designer in accordance with 40 C.F.R. 745.227(e)(5) and Rule .0801(a)(6) of this Subchapter.

(c) If the certified risk assessor detects a lead-based paint hazard, then the responsible individual shall restrict access to the identified lead-based paint hazard until abated in accordance with this Rule.

(d) A determination by a certified risk assessor that a lead-based paint hazard is present in the public school or licensed child care facility that is documented in the inspection report in accordance with Paragraph (b) of this Rule shall satisfy the requirement of Rule .1002(b)(1) or (d)(2) of this Section, as applicable, that lead is detected that meets the requirements for abatement.

(e) Abatement shall be performed by one or more professionals who are certified in accordance with G.S. 130A-453.03 and Rules .0802 or .0902 of this Subchapter and shall be performed in

accordance with Rules .0807-.0809 and .0906 of this Subchapter, as applicable.

(f) The information listed in this Paragraph shall be submitted to the Program by email to ARPA-Reimbursement@dhhs.nc.gov:

- (1) Within 45 calendar days following the date on which an inspection is completed pursuant to the Rule, the certified risk assessor shall report the following on a form provided by the Department:
 - (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name, address, email address, phone number, and certification number of the certified risk assessor;
 - (C) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
 - (D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
 - (E) whether the inspection identified the presence of a lead-based paint hazard;
 - (F) a description of any identified lead-based paint hazard; and
 - (G) the results of any laboratory testing conducted during the inspection.
- (2) If the public school or licensed child care facility plans to use a previous inspection or a signed attestation under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the inspection report associated with the previous inspection or the signed attestation by May 1, 2024 in lieu of meeting the requirements in Subparagraph (f)(1) of this Rule.
- (3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible individual shall report the following on a form provided by the Department:
 - (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility, as applicable;
 - (C) the names and certification numbers of the professionals who will conduct the abatement and the email address and phone number of the on-site lead supervisor who will oversee the abatement;
 - (D) whether the facility for which the responsible individual is submitting

- (E) the report is a public school or a licensed child care facility;
 - (E) the dates on which the abatement is scheduled to occur; and
 - (F) a description of the planned abatement that contains information on the type of materials to be abated, the location of the abatement, the quantity to be abated, and the method of abatement.
- (4) Within 45 calendar days following the date on which abatement is completed pursuant to this Rule, the responsible individual shall report the following:
- (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
 - (C) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
 - (D) the date on which the abatement was completed; and
 - (E) a report of the results of the final clearance inspection.

(g) In accordance with 15A NCAC 18A .2816(a), 10A NCAC 09 .0601(f), and 10A NCAC 09 .1707(2), as applicable, licensed child care facilities shall inspect for lead-based paint hazards in accordance with this Rule to ensure these facilities are free from lead poisoning hazards. The failure of a responsible individual in licensed child care facility to inspect for lead-based paint hazards or to restrict access to or abate identified lead-based paint hazards in accordance with this Rule shall be considered a violation of 15A NCAC 18A .2816(a), 10A NCAC 09 .0601(f), or 10A NCAC 09 .1707(2), as applicable.

(h) The requirements of Paragraph (b) of this Rule shall be considered met if:

- (1) the public school or licensed child care facility has previously completed a risk assessment of its buildings that meets the requirements of 40 C.F.R. 745.223; or
- (2) the responsible individual of a public school or licensed child care facility located in a building that was built after February 28, 1978 signs a statement attesting that no lead-based paint was used in the building.

History Note: Authority S.L. 2021-180, s. 9G.8; Temporary Adoption Eff. April 29, 2022; Eff. April 1, 2023.

10A NCAC 41C .1005 LEAD POISONING HAZARDS IN DRINKING WATER IN NORTH CAROLINA PUBLIC SCHOOLS

(a) For the purposes of this Rule, the following definitions shall apply:

- (1) "Lead poisoning hazard" means as defined at G.S. 130A-131.7(7)g.
- (2) "Testing" means the process described in Subparagraphs (b)(1)-(4) of this Rule.
- (3) "Remediation" means as defined at G.S. 130A-131.7(15).

(b) The following actions shall be taken to ensure that drinking water in public schools are free of identified lead poisoning hazards:

- (1) Responsible individuals at public schools shall complete a one-time test of all water outlets used for drinking or food preparation. The responsible individual shall provide documentation of testing results for review by the Department during routine sanitation inspections under Rule 15A NCAC 18A .2402(a).
- (2) Initial water samples shall be collected by the responsible individual and tested in accordance with Subparagraph (b)(3) of this Rule by May 1, 2024.
- (3) The responsible individual shall collect samples and submit them for testing in accordance with guidance specified by the United States Environmental Protection Agency in its publication, 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, which is hereby incorporated by reference, including any subsequent editions or amendments, and available free of charge at: <https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water>. Notwithstanding the foregoing guidance, samples may be collected with a stagnation period of up to 72 hours. Samples shall be analyzed by a laboratory certified by the North Carolina State Laboratory of Public Health to analyze for lead in drinking water.
- (4) When a water sample is analyzed for lead content by a laboratory under this Rule, the laboratory shall notify the Department of the test results by electronic submission of the elements set out in G.S. 130A-131.8.
- (5) When a public school receives test results from a laboratory indicating that a water sample collected by the responsible individual contains a lead concentration at or above the lead poisoning hazard level, the responsible individual shall:
 - (A) restrict access to any water outlet(s) used for drinking or food preparation that have lead concentrations at or above the lead poisoning hazard level;
 - (B) ensure that all students and staff have access to water free of cost that does not contain lead concentrations at or above the lead poisoning hazard level for drinking and food preparation; and

- (C) continue to follow Parts (b)(5)(A) - (B) of this Rule until the Department determines in accordance with Subparagraph (b)(10) of this Rule that the water outlet(s) are not producing water lead levels at or above the lead poisoning hazard level and notifies the responsible individual and the Department of Public Instruction in writing of this determination.
- (6) If a water sample collected by the responsible individual reveals a water lead level at or above the lead poisoning hazard level then the requirement of Rule .1002(b)(1) of this Section shall be considered met.
- (7) Within five business days of receiving the test results of a water analysis that shows a water lead level at or above the lead poisoning hazard level, the responsible individual shall provide written notification of the test results to the parents or legal guardians of the children attending the public school and the staff of the public school in accordance with the United States Environmental Protection Agency guidance specified in Subparagraph (b)(3) of this Rule.
- (8) Within five business days of receiving the test results of a water analysis that shows a water lead level at or above the lead poisoning hazard level, the public school shall make the test results available to the public, free of charge. The responsible individual may post test results to the public school's website to satisfy the requirement to make the test results available to the public.
- (9) Remediation of water outlet(s) producing water lead levels at or above the lead poisoning hazard level shall ensure that water produced is below the lead poisoning hazard level and may include replacement of service lines, pipes, and fixtures and the installation of filters at affected faucets. Within 30 business days from the date on which remediation is conducted under this Rule, the responsible individual shall submit the following information to the Program:
- (A) the name and contact information of the responsible individual;
- (B) the name and address, including county, of the public school;
- (C) the steps taken to remediate the lead poisoning hazard; and
- (D) the date on which the remediation was completed.
- (10) Remediation shall not be considered complete until the Department conducts sampling at the water outlet identified to have a water lead level at or above the lead poisoning hazard level to confirm that the remediated water outlet is no

longer producing water lead levels at or above the lead poisoning hazard level.

History Note: Authority S.L. 2021-180, s. 9G.8; Temporary Adoption Eff. April 29, 2022; Eff. April 1, 2023.

10A NCAC 41C .1006 CERTIFIED RISK ASSESSORS

(a) For the purposes of this Section, a certified risk assessor is defined as an individual who meets the requirements of Rule .0802 of this Subchapter, except that the individual shall be required to complete an accredited refresher course for risk assessors every 36 months from the date of completion of initial training or last training instead of every 24 months as set forth in 10A NCAC 41C .0802(b).

(b) A certified risk assessor who is certified under Paragraph (a) of this Rule shall be considered a certified risk assessor solely for the purposes of conducting inspections and determinations about the existence of lead-based paint hazards in public schools and licensed child care facilities under Rule .1004 of this Section.

History Note: G.S. 130A-453.03; 130A-453.05; S.L. 2021-180, s. 9G.8; Temporary Adoption Eff. April 29, 2022; Eff. April 1, 2023.

10A NCAC 41C. 1007 INCORPORATION BY REFERENCE

For the purposes of this Section, 40 C.F.R. 763, Subpart E and 40 C.F.R. 745, Subparts L and E are hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at www.ecfr.gov/.

History Note: Authority S.L. 2021-180, s. 9G.8; Temporary Adoption Eff. April 29, 2022; Eff. April 1, 2023.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 03 .0401 PURPOSE

(a) The purpose of this section is to prescribe requirements pertaining to the North Carolina Department of Public Safety's Division of Emergency Management administered North Carolina Search and Rescue System.

(b) This Section applies to all persons or entities of the North Carolina Search and Rescue Program made parties pursuant to G.S. 166A-66(a)(9).

History Note: Authority G.S. 166A-66; Eff. April 1, 2023.

14B NCAC 03 .0402 ABBREVIATIONS AND DEFINITIONS

As used in this Section the following abbreviations and terms mean:

- (1) "Activation" means the status of a system resource placed at the direction, control, and

- funding of NCEM as part of the NC SAR System.
- (2) "All-hazards Disaster Response Model" means a response methodology where system resources provide all applicable capability to respond to any threat or hazard that is impacting the State or is forecasted to impact the State as determined by the NCEM Director.
- (3) "Authority Having Jurisdiction" (AHJ) means those local, state, or federal entities having a duty to act over a specific aspect of search and rescue in a specific geographic area.
- (4) "Contract Response Team" means a regional all-hazards disaster response team as defined in G.S. 166A-65 capable of conducting urban search and rescue, swiftwater rescue, and wide area search operations with self-sustaining logistical support allowing for responses into disaster areas.
- (5) "County to County Mutual Aid" means public safety resource sharing between local governments under the conditions of the NC Statewide Mutual Aid Agreement or another similar agreement between local governments.
- (6) "Federal Emergency Management Agency" (FEMA) means an agency of the United States Department of Homeland Security with the responsibility to coordinate the federal response to Presidentially-declared disasters that has occurred in the United States.
- (7) "FEMA Public Assistance Program" means a federal reimbursement grant program that provides federal funding to help communities respond to and recover from disasters.
- (8) "Functionally equivalent" means an item or group of items that can be used in the same basic manner as another item or items to perform a task to the same standard.
- (9) "Local Emergency Management Coordinator" (LEMC) means the County Emergency Management Coordinator as defined in G.S. 166A-19.15 who is responsible for all local disaster preparedness, response, and recovery activities in a specific county.
- (10) "NC All-Hazards Incident Management Team" (NCAHIMT) mean the North Carolina Division of Emergency Management's program responsible for supporting local and state incident management during disaster response activities.
- (11) "North Carolina Search and Rescue System" (NC SAR System) means the NC Search and Rescue Program established in Article 6 of Chapter 166A of the North Carolina General Statutes. The NC SAR System includes five individual programs: Urban Search and Rescue, Swiftwater Rescue, Helicopter Rescue, Mountain Rescue, and Wilderness Search and Rescue.
- (12) "North Carolina Search and Rescue Team Advisory Committee" (NC SAR TAC) means an advisory committee established in Article 6 of Chapter 166A of the North Carolina General Statutes to advise the Secretary of the North Carolina Department of Public Safety on the establishment of the North Carolina Search and Rescue System.
- (13) "North Carolina Division of Emergency Management" (NCEM) means a division of the North Carolina Department of Public Safety established in G.S. 143B-1000 with the responsibility to coordinate the mitigation, planning, preparedness, response, and recovery to a disaster or emergency that has or could be forecasted to occur in the State as determined by the NCEM Director.
- (14) "North Carolina Emergency Management Operations Chief" (NCEM OSC) means the Assistant Director of Operations for the North Carolina Division of Emergency Management.
- (15) "North Carolina Emergency Management Director" (NCEM Director) means the Director of the North Carolina Division of Emergency Management.
- (16) "National Incident Management System" (NIMS) means a federal policy that provides a systematic, proactive approach guiding government agencies at all levels, nongovernmental organizations, and the private sector to work to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, to reduce the loss of life or property and harm to the environment.
- (17) "On-duty" means when a person is acting as an agent of their Sponsoring or Participating Agency or of the NC Division of Emergency Management as part of the NC Search and Rescue System.
- (18) "Participating Agency" means an entity that assists a Sponsoring Agency with the formation of a search and rescue team by providing personnel or equipment.
- (19) "Program costs" means training, equipment, personnel, or administrative expenses incurred by a Sponsoring or Participating Agency during activities of the NC SAR System.
- (20) "Resource typing" means a document defining and categorizing, by capability, the system resources requested, deployed, and used in incidents.
- (21) "Responsible Party" means the entity whose actions or inactions caused an event as determined by the authority having jurisdiction requiring system resources to respond and incur costs.
- (22) "Sensitive information" means any information, to include audio recordings,

images, and video recordings, obtained during an activation that has not been released to the public by the AHJ.

- (23) "Specialty Rescue Team" means a group of response personnel who provide technical search and rescue capability as part of the North Carolina Search and Rescue System that is not a contract response team as defined in G.S. 166A-65.
- (24) "Sponsoring Agency" means a local or tribal unit of government or a corporation with an active response agreement with a local unit of government that organizes and coordinates a search and rescue team in the North Carolina Search and Rescue System. This entity serves as the lead agency for teams comprised of multiple agencies.
- (25) "State Emergency Operations Plan" (SEOP) means a document maintained under the authority of G.S. 166A-19.12(2) that details how the State of North Carolina will respond to a disaster or emergency requiring State assistance utilizing an All-Hazards Disaster Response Model.
- (26) "State Mission Assignment" (State Mission) means a NCEM approved request for assistance to deploy system resources at the request of a local unit of government.
- (27) "System agreements" means contracts, memoranda of agreements, or memoranda of understanding between NCEM and Contract Response Teams for the purposes of establishing and maintaining the NC SAR System.
- (28) "System personnel" means human resources from a Contract Response or Specialty Rescue Team or human resources employed by the Division of Emergency Management with a responsibility for search and rescue response.
- (29) "System resource" means personnel or equipment from a or specialty rescue team that is participating in the NC Search and Rescue System with the North Carolina Division of Emergency Management for search and rescue response.

History Note: Authority G.S. 166A-65; 166A-66; 166A-67; 166A-69;
Eff. April 1, 2023.

14B NCAC 03 .0403 DISPATCH OF A CONTRACT RESPONSE TEAM TO A SEARCH AND RESCUE TEAM OR SPECIALTY RESCUE TEAM MISSION

- (a) North Carolina Search and Rescue System's (NC SAR System) system resources shall employ the All-Hazards Disaster Response Model.
- (b) The North Carolina Division of Emergency Management (NCEM) shall maintain direction and control of any deployed system resources that have been deployed through action of

NCEM until a time that they have been demobilized or the system resource is needed by the Sponsoring Agency.

(c) Any resource of the NC SAR System remains a local resource when not deployed by NCEM and may deploy under their local authorities or agreements notwithstanding any action by the State. Participation in the NC SAR System shall not limit or supersede their local authorities, responsibilities, or agreements when the system resource is deploying under those authorities or agreements.

(d) The County Local Emergency Management Coordinator (LEMC) shall have the authority to request system resources. Local law enforcement agencies, fire departments, rescue squads, and any other local AHJ shall route requests for activation of NC SAR System resources to their LEMC who will make the request for support to NCEM.

History Note: Authority G.S. 166A-66;
Eff. April 1, 2023.

14B NCAC 03 .0404 ON-SITE OPERATIONS OF SYSTEM RESOURCES

All search and rescue system resources shall operate in accordance with the following standards of response:

- (1) FEMA National Incident Management System standards which are adopted and are incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and can be found at no cost at: https://www.fema.gov/sites/default/files/2020-07/fema_nims_doctrine-2017.pdf;
- (2) following all direction from NCEM personnel acting pursuant to G.S. 166A-19.12(1) when deploying as a system resource;
- (3) when responding in support of law enforcement operations, system resources shall coordinate activities with the law enforcement authorities to ensure their actions support any potential criminal investigation; and
- (4) system resources shall not release any sensitive information to the public or media during operations without the consent of the local, state, or federal authority having jurisdiction consistent with Chapter 132 of the North Carolina General Statutes.

History Note: Authority G.S. 166A-66;
Eff. April 1, 2023.

14B NCAC 03 .0405 STANDARDS FOR ADMINISTRATION OF A CONTRACT RESPONSE TEAM, INCLUDING PROCEDURES FOR REIMBURSEMENT OF RESPONSE COSTS

(a) Contract Response Teams and Specialty Rescue Teams shall maintain the following personnel records and have them available for audit:

- (1) responder medical history;
- (2) emergency contact information;
- (3) current pay and benefit rates, including overtime rates; and

- (4) policies for overtime pay if deploying paid persons.
- (b) System personnel shall be in an on-duty status as an emergency management worker as defined in G.S. 166A-19.60(e) during all training and responses.
- (c) System resources shall maintain a current team roster.
- (d) System resources shall maintain all system personnel training, certification, and credentials as outlined in Rule .0409 in this Section.
- (e) System resources shall maintain all inventory and maintenance records for deployable equipment.
- (f) Resource records shall be available for review by NCEM officials to ensure compliance.
- (g) Within 90 days of demobilization from a State mission, system resources shall submit receipts, expense reports, and supporting documentation of actual costs to NCEM for reimbursement consistent with the FEMA Public Assistance Program and Policy Guide which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and is available at no cost at: https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf.

History Note: Authority G.S. 166A-19.60; 166A-66; Eff. April 1, 2023.

14B NCAC 03 .0406 RECOVERING THE COSTS OF A SEARCH AND RESCUE TEAM OR SPECIALTY RESCUE TEAM MISSION

- (a) NCEM shall seek reimbursement from the Responsible Party for system response costs in cases of negligence or intentional disaster.
- (b) NCEM shall bill the Responsible Parties costs to include personnel and equipment costs consistent with current protocols established for the recovery of cost of activation of a response team for a hazardous materials emergency response set out in G.S. 166A-27 or civil liability of persons who willfully ignore a warning in an emergency pursuant to G.S. 166A-19.62.
- (c) Responsible Parties shall remit payment to NCEM within 30 days of receipt of invoice.

History Note: Authority G.S. 166A-27; 166A-66; 166A-19.62; Eff. April 1, 2023.

14B NCAC 03 .0407 PROCEDURES FOR BIDDING AND CONTRACTING FOR SEARCH AND RESCUE TEAM AND SPECIALTY RESCUE TEAM MISSION

- (a) Eligibility for participation as a Contract or Specialty Rescue Team:
 - (1) Sponsoring agencies shall:
 - (A) be a local unit of government, State-recognized tribal government, or a corporation with an active response agreement with a local or tribal unit of government;
 - (B) maintain participation in the statewide mutual aid agreement; and

- (C) ensure all personnel possess the qualifications as outlined in Rule .0409 of this Section.
 - (2) Participating agencies shall ensure all personnel possess the qualifications as outlined in Rule .0409 of this Section.
- (b) Eligibility for participation as personnel.
 - (1) Personnel shall be from the NC SAR System, NCEM All-Hazards Incident Management Team Program, or an employee of NCEM. If not an employee of NCEM, each member's Sponsoring Agency shall have an active system agreement that outlines the conditions of their participation.
 - (2) NCEM shall ensure all personnel possess the qualifications as outlined in Rule .0409 of this Section.
- (c) Contract Response Teams – Within 18 months of the first day of the contractual performance, NCEM shall electronically distribute a bid announcement via electronic mail to all system resources and local emergency management coordinators for interested parties to return a letter of interest. NCEM shall distribute an electronic bid package to all interested parties that shall be returned to NCEM.
 - (1) Contract Response Teams shall be limited to seven regionally based all hazard response taskforces. Each taskforce will be assigned a primary response region in the state.
 - (2) The bidding agency and any participating agencies shall be located in that specified response region.
 - (3) A review committee shall be established by the NCEM Director or designee. This committee will open all completed sealed bid packages and evaluate them based on an agreed upon criteria as outlined in Rule .0408 of this Section at a date set by the NCEM Director or designee.
 - (4) The committee shall develop a bid package review summary that includes their recommendations for selections that will be sent to the NCEM Operations Section Chief for concurrence before being reviewed and approved by the NCEM Director.
 - (5) Agencies who are successful in the bid process will be notified and system agreements shall be drafted and executed.
 - (6) NCEM shall draft, execute, and maintain a system agreement with the sponsoring agency for the resource to maintain participation in the NC SAR System.
 - (A) NCEM shall execute and maintain a system agreement with the sponsoring agency that outlines the scope of work that the team shall follow to enable reimbursement of eligible training, equipment, and administrative costs associated with maintaining a Contract Response Team. The system

agreement shall be limited to the contract period.

- (B) Funds reimbursed through this agreement shall go directly to cover program costs and be utilized by the Sponsoring and Participating agencies.
- (C) The Sponsoring Agency shall maintain all records of any NC SAR System spending and shall not comingle funds or use NC SAR System funding for any other purpose.
- (D) Each Sponsoring Agency is responsible to draft, execute, and maintain agreements with each participating agency that is supporting their bid for a Contract Response Team with personnel, equipment, or funding. The Sponsoring Agency may include any participating agency resources in their bid package.
- (E) Resources shall maintain a response agreement with NCEM that outlines the activation process and the reimbursement process for costs of state missions.

(d) Specialty Rescue Teams - NCEM shall enter into response agreements with Sponsoring Agencies to establish specialty rescue teams to ensure statewide response capability in established NC SAR System program areas.

- (1) These program areas shall be:
 - (A) Swiftwater Search and Rescue;
 - (B) Wilderness / Land Search and Rescue;
 - (C) Mountain Search and Rescue; and
 - (D) Helicopter Search and Rescue
- (2) NCEM shall support system resources with training and equipment within the confines of available funding. Participation as a Specialty Rescue Team is considered at will by either party to the extent that agreements can be terminated with or without cause by either party with a 30-day notice.
- (3) Each Sponsoring Agency shall enter into a response agreement specific to each established program area with NCEM. The resource will then enter into a system agreement with NCEM that shall be referred to as a Specialty Rescue Team response agreement.
- (4) Specialty Rescue Teams shall demonstrate their ability to deploy a self-sufficient team outside their jurisdiction to be eligible to participate in the NC SAR System. Specialty Rescue Teams shall provide all support requirements for their deployed personnel and equipment for a period of 72 hours from deployment without outside support.
- (5) Each Sponsoring Agency of a Specialty Rescue Team shall draft, execute, and maintain agreements with each Participating Agency that

is supporting the Sponsoring Agency in maintaining a Specialty Response Team with personnel, equipment, or funding.

History Note: Authority G.S. 166A-65; 166A-66; 166A-67; Eff. April 1, 2023.

14B NCAC 03 .0408 CRITERIA FOR EVALUATING BIDS FOR CONTRACT RESPONSE TEAM

- (a) Bidding agencies shall:
 - (1) submit via courier, United States Mail, or hand deliver a bid package signed by an authorized representative of a local unit of government, State recognized tribal government, or corporation that maintains an active response agreement with a local or tribal unit of government;
 - (2) provide a plan for the bidding entity to deploy the required number of personnel for a period of up to 14 days when not required for a local response. This may be as a single entity or as a collaboration of multiple agencies in the specified response region. If a collaboration of multiple agencies, the sponsoring or the bidding agency shall maintain cooperative agreements with all supporting agencies. For the purposes of the bid submission, the bidding entity shall provide a letter of support from all supporting agencies;
 - (3) provide a plan for the bidding entity to maintain the required number of personnel trained per Rule .0409 of this Section; and
 - (4) ensure all participating members possess the qualifications as outlined in Rule .0409 of this Section.
- (b) Bids shall be evaluated on:
 - (1) geographic location of team base;
 - (2) ability to maintain required number of trained personnel to ensure response readiness;
 - (3) ability to maintain and care for any system provided equipment;
 - (4) availability of local equipment to support response activities;
 - (5) availability to maintain dedicated administrative staff to ensure management of administrative duties, training, and logistical requirements; and
 - (6) consistent with federal procurement rules as outlined in 2 CFR Part 200 which is adopted and incorporated by reference with subsequent changes or amendments pursuant to 150B-21.6 and can be found at no cost at: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>; and
 - (7) consistent with State procurement rules as outlined in Chapter 5 of North Carolina Administrative Code which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-

21.6 and can be found at no cost at:
<http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2001%20-%20Administration\Chapter%2005%20-%20Purchase%20and%20Contract>.

History Note: Authority G.S. 166A-66; 166A-67; Eff. April 1, 2023.

14B NCAC 03 .0409 PERSONNEL, TRAINING, AND EQUIPMENT STANDARDS FOR CONTRACT RESPONSE TEAMS AND SPECIALTY RESCUE TEAMS

(a) Requirements for all system personnel:

- (1) personnel shall be no less than 18 years of age;
- (2) personnel shall be an employee of a Sponsoring Agency, Participating Agency, or an employee of the North Carolina Division of Emergency Management. By participating in this program, system personnel remain employees of their Sponsoring or Participating Agency and at no time become a State employee entitled to State benefits unless they are an employee of NCEM;
- (3) personnel shall maintain no less than 24 hours of search and rescue training annually;
- (4) while participating in any program activity personnel shall be considered emergency management workers, as defined in G.S. 166A-19.60. and
- (5) personnel shall possess the qualifications of character and general fitness requisite for a public servant and be of good moral character and entitled to the high regard and confidence of the public as evidenced by:
 - (A) not having been convicted by a local, state, federal, or military court of a felony;
 - (B) not having been convicted by a local, state, federal, or military court of a Class B Misdemeanor as defined in 12 NCAC 09A .0103(24)(b) which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 in the previous five years or the completion of any corrections supervision imposed by the courts, whichever is later;
 - (C) not having been convicted of an offense by a local, state, federal, or military court that would prohibit the possession of a firearm or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions pursuant to G.S. 150B-21.6 can be found at no cost
<https://www.govinfo.gov/content/pkg/USCODE-2018->

[title18/pdf/USCODE-2018-title18-partI-chap44.pdf](https://www.govinfo.gov/content/pkg/USCODE-2018-title18-partI-chap44.pdf);

- (D) being truthful in providing information to the appointing agency;
 - (E) not having pending or outstanding charges in a local, state, federal, or military court that, if convicted, would exclude eligibility under this Rule.
- (6) make the following notifications:
- (A) within seven days of the qualifying event, notify the Sponsoring Agency in writing of all criminal or traffic offenses for which the individual is charged or arrested;
 - (B) within seven days of the qualifying event, notify the Sponsoring Agency in writing of all criminal offenses for which the individual pleads no contest, pleads guilty, or of which the individual is convicted;
 - (C) within seven days of service, shall notify the Sponsoring Agency that he or she has been served by a judicial official;
 - (D) within seven days of the date the case was disposed of in court, the Sponsoring Agency, provided they have knowledge of system personnel's arrests or criminal charges and final dispositions, shall also notify NCEM of arrests or criminal charges and final disposition of the criminal charges against system personnel; and
 - (E) within seven days of the issuance of all Domestic Violence Protective Orders pursuant to G.S. 50B and Civil No Contact Orders pursuant to G.S. 50C, the sponsoring agency, provided they have knowledge of the order, shall also notify NCEM of these orders.
- (b) Requirements for all system equipment:
- (1) equipment shall be made available for inspections and; inventory by NCEM personnel;
 - (2) system resources shall maintain any State-owned equipment per manufacturer's recommendations and immediately notify NCEM of any damage to State-owned and issued equipment; and
 - (3) upon separation, all system resources shall return all state property in no more than 30 days to NCEM.
- (c) Urban Search and Rescue Team Personnel and Training Requirements:
- (1) A Type I or Type II Urban Search and Rescue Team shall maintain a roster of 116 personnel who have successfully completed the North Carolina Urban Search and Rescue Structural Collapse Rescue Technician Course or the

- (2) Federal Emergency Management Agency Structural Collapse Specialist Course.
- (2) A Type III Urban Search and Rescue Team shall maintain a roster of 58 personnel who have successfully completed the NC USAR Structural Collapse Rescue Technician Course or the Federal Emergency Management Agency Structural Collapse Specialist Course.
- (3) North Carolina Division of Emergency Management shall be responsible for providing qualified structures specialists, medical team managers, and canine search specialists for any urban search and rescue team as part of this program if required for a response.
- (d) Urban Search and Rescue Team Equipment Requirements:
 - (1) Urban Search and Rescue Teams shall maintain a functionally equivalent cache of equipment based on the appropriate team type with the Emergency Management Accreditation Program Urban Search and Rescue Cache List which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 as outlined in the latest published standard by the Emergency Management Accreditation Program located at no cost at <https://emap.org/index.php/root/assessor-resources/87-emap-cache-list>.
 - (2) Equipment shall be maintained in a manner ready to be used and with a means to transport all required equipment.
- (e) Swiftwater Rescue Team Personnel and Training Requirements:
 - (1) Any Type I Swiftwater Rescue Team shall maintain a minimum roster of 32 personnel who have successfully completed Swiftwater Rescue Technician level training that meets requirements of Chapters 5, 11, and 12 of National Fire Protection Associations (NFPA) 1006 which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and can be found at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=1006> at a cost of ninety one dollars (\$91.00). From the complete roster, the team shall maintain the following number of personnel trained in position specific advanced roles:
 - (A) eight personnel who have completed the North Carolina Swiftwater Flood Rescue Boat Operator Course;
 - (B) two personnel who have completed either the North Carolina Swiftwater / Flood Rescue Team Leader Course or North Carolina Urban Search and Rescue Task Force Leader Course; and
 - (C) two personnel who have completed either the North Carolina Swiftwater / Flood Rescue Team Communications Specialist Course or North Carolina Urban Search and Rescue Communications Specialist Course.
 - (2) Any Type II Swiftwater Rescue Team shall maintain a minimum roster of 24 personnel who have successfully completed Swiftwater Rescue Technician level training that meets training requirements of Chapters 5, 11, and 12 of NFPA 1006. From the complete roster, the team shall maintain the following number of personnel trained in position specific advanced roles:
 - (A) four personnel who have completed the North Carolina Swiftwater Flood Rescue Boat Operator Course;
 - (B) two personnel who have completed either the North Carolina Swiftwater Flood Rescue Team Leader Course or North Carolina Urban Search and Rescue Task Force Leader Course; and
 - (C) two personnel who have completed either the North Carolina Swiftwater Flood Rescue Team Communications Specialist Course or North Carolina Urban Search and Rescue Communications Specialist Course.
 - (3) Any Type III Swiftwater Rescue Team shall maintain a minimum roster of 16 personnel who have successfully completed Swiftwater Rescue Technician level training that meets training requirements from Chapters 5, 11, and 12 of NFPA 1006. From the complete roster, the team shall maintain the following number of personnel trained in position specific advanced roles:
 - (A) two personnel who have completed the North Carolina Swiftwater Flood Rescue Boat Operator Course;
 - (B) two personnel who have completed either the North Carolina Swiftwater Flood Rescue Team Leader Course or North Carolina Urban Search and Rescue Task Force Leader Course; and
 - (C) two personnel who have completed either the North Carolina Swiftwater Flood Rescue Team Communications Specialist Course or North Carolina Urban Search and Rescue Communications Specialist Course.
- (f) Swiftwater Rescue Team Equipment Requirements:
 - (1) Any Type I Swiftwater Rescue Team shall maintain an equipment cache of no less than:

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- (A) six 800 MHz portable radios programed with the NC VIPER Radio System template;
 - (B) sixteen portable radios capable for internal team communications;
 - (C) one portable computer with cellular or satellite-based internet access;
 - (D) sixteen each of dry suits with a liner, personal floatation devices with not less than 22lbs of floatation, helmet with headlamp, rescue knife, pealess whistle, boat motor key, water rescue throw bag, and pair of water rescue boots;
 - (E) two each thermal imaging cameras and handheld spotlights;
 - (F) two State of North Carolina road atlases;
 - (G) six global positioning system receivers;
 - (H) two forcible entry kits to include a Halligan, axe, sledgehammer, and bolt cutters per kit;
 - (I) two chain saws;
 - (J) four inflatable ridged boats not less than four meters in length with not less than six total outboard motors;
 - (K) one rope rescue kit to include 20 locking carabiners, four full body harnesses, two knot passing pulleys, 12 tandem prusiks, eight pulleys, two 200 foot life safety rope in a bag, two 300 foot life safety rope in a bag, line thrower, and six sections of each 5 foot, 12 foot, 15 foot, 20 foot nylon tubular webbing;
 - (L) two decontamination kits to include one 2.5 gallon pressure sprayer, one five gallon bucket, one 40 gallon work box, one 110 volt submersible pump, two 25 foot sections of garden hose, garden hose wye adaptor, a 110 volt submersible pump, cleaning solution per dry suit manufacturer recommendations, and one 1.5 inch to .75 inch male garden hose adapter;
 - (M) six non-venting fuel cells with fuel lines;
 - (N) two self-bailing rafts;
 - (O) four boat field repair kits to include a patch and five clamshells per kit;
 - (P) twelve paddles;
 - (Q) shelter system for 16 personnel that can be assembled in under 30 minutes time and does not require power for assembly;
 - (R) sixteen each of a sleeping kit such as a cot, pad, or sleeping bag;
 - (S) two each of two kilowatt or larger generators with portable lights; and
 - (T) two electric air pumps, four manual inflation pumps, and eight compressed air cylinders with fill systems to inflate boats or rafts.
- (2) Any Type II Swiftwater Rescue Team shall maintain an equipment cache of no less than:
- (A) four 800 MHz portable radios programed with the NC VIPER Radio System template;
 - (B) ten portable radios capable for internal team communications;
 - (C) one portable computer with cellular or satellite-based internet access;
 - (D) ten each of dry suits with a liner, personal floatation devices with not less than 22lbs of floatation, helmet with headlamp, rescue knife, pealess whistle, boat motor key, water rescue throw bag, and pair of water rescue boots;
 - (E) two each thermal imaging cameras and handheld spotlights;
 - (F) two State of North Carolina road atlases;
 - (G) four global positioning system receivers;
 - (H) one forcible entry kits to include a Halligan, axe, sledgehammer, and bolt cutters per kit;
 - (I) two chain saws;
 - (J) two inflatable ridged boats not less than 4 meters in length with not less than three total outboard motors;
 - (K) one rope rescue kit to include 20 locking carabiners, four full body harness, two knot passing pulleys, 12 tandem prusiks, eight pulleys, two 200 foot life safety rope in a bag, two 300 foot life safety rope in a bag, line thrower, and six sections of each 5 foot, 12 foot, 15 foot, 20 foot nylon tubular webbing;
 - (L) one decontamination kits to include one 2.5 gallon pressure sprayer, one five gallon bucket, one 40 gallon work box, one 110 volt submersible pump, two 25 foot sections of garden hose, garden hose wye adaptor, a 110 volt submersible pump, cleaning solution per dry suit manufacturer recommendations, and one 1.5 inch to .75 inch male garden hose adapter;
 - (M) four non-venting fuel cells with fuel lines;
 - (N) one self-bailing raft;
 - (O) two boat field repair kits to include a patch and five clamshells per kit;

- (P) six paddles;
 - (Q) shelter system for ten personnel that can be assembled in under 30 minutes time and does not require power for assembly;
 - (R) ten each of a sleeping kit such as a cot, pad, or sleeping bag;
 - (S) two each of two kilowatt or larger generators with portable lights; and
 - (T) two electric air pumps, four manual inflation pumps, and eight compressed air cylinders with fill systems to inflate boats or rafts.
- (3) Any Type III Swiftwater Rescue Team shall maintain an equipment cache of no less than:
- (A) six 800 MHz portable radios programed with the NC VIPER Radio System template;
 - (B) six portable radios capable for internal team communications;
 - (C) one portable computer with cellular or satellite-based internet access;
 - (D) six each of dry suits with a liner, personal floatation devices with not less than 22lbs of floatation, helmet with headlamp, rescue knife, pealess whistle, boat motor key, water rescue throw bag, and pair of water rescue boots;
 - (E) one State of North Carolina road atlas;
 - (F) two global positioning system receivers;
 - (G) one forcible entry to include a Halligan, axe, sledgehammer, and bolt cutters per kit;
 - (H) one chain saw;
 - (I) one inflatable ridged boats not less than 4 meters in length with not less than two total outboard motors;
 - (J) one rope rescue kit to include 20 locking carabiners, two full body harness, two knot passing pulleys, 12 tandem prusiks, four pulleys, 200 foot life safety rope in a bag, 300 foot life safety rope in a bag, line thrower, and three sections of each 5 foot, 12 foot, 15 foot, 20 foot nylon tubular webbing;
 - (K) one decontamination kits to include one 2.5 gallon pressure sprayer, one five gallon bucket, one 40 gallon work box, one 110 volt submersible pump, two 25 foot sections of garden hose, garden hose wye adaptor, a 110 volt submersible pump, cleaning solution per dry suit manufacturer recommendations, and one 1.5 inch to .75 inch male garden hose adapter;
 - (L) two non-venting fuel cells with fuel lines;
 - (M) one self-bailing raft;
 - (N) one boat field repair kits to include a patch and five clamshells per kit;
 - (O) three paddles;
 - (P) shelter system for 16 personnel that can be assembled in under 30 minutes time and does not require power for assembly;
 - (R) sixteen each of a sleeping kit such as a cot, pad, or sleeping bag;
 - (S) one each of two kilowatt or larger generators with portable lights; and
 - (T) one electric air pumps, one manual inflation pumps, and two compressed air cylinders with fill system to inflate boats or rafts.
- (g) Helicopter search and rescue technicians shall:
- (1) be a member of the Urban Search and Rescue, Swiftwater Rescue, Wilderness Search and Rescue, or Mountain Rescue Programs with a letter of support from their sponsoring agency;
 - (2) complete the North Carolina Division of Emergency Management Helicopter Rescue Indoctrination Course; and
 - (3) attend scheduled training on no less than a quarterly basis to maintain their qualification as a helicopter rescue technician.
- (h) Helicopter Rescue Team Equipment Requirements
- (1) Helicopter search and rescue technicians shall maintain all issued equipment in accordance with the manufacturer recommendations.
 - (2) Helicopter search and rescue technicians shall inspect their issued equipment prior to and after each use and report any damage per manufacturer recommendations to the Aviation Life Safety Equipment Officer.
- (i) Wilderness Search and Rescue Team Requirements
- (1) A wilderness search and rescue team shall maintain a roster of no less than eight personnel that have completed the NC Land Search Field Team Member Course or other wilderness search course that meets the current requirements of the American Society for Testing and Materials F2209 standard which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and can be found at: <https://www.astm.org/f2209-20.html> at a cost of fifty seven dollars (\$57.00).
 - (2) A wilderness search and rescue team shall maintain a team equipment cache of no less than eight of the following:
 - (A) field pack able to carry required equipment;
 - (B) multi-purpose knife;
 - (C) water containers sufficient to hold two quarts of potable water;

- (D) safety glasses;
- (E) pealess whistle;
- (F) grid reader for 1:24000 scale;
- (G) compass;
- (H) two light sources with spare batteries;
- (I) set of rain gear to include a jacket with a hood and a pair of pants;
- (J) tracking stick no less than 42 inches long;
- (K) watch;
- (L) equipment needed to start a fire such as waterproof matches or fire starting steel;
- (M) measuring device capable of measuring no less than 18 inches;
- (N) paper and pen or pencil;
- (O) FEMA ICS 214 form which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and can be found at:
[https://training.fema.gov/emiweb/is/icsresource/assets/ics%20forms/ics%20form%20214,%20activity%20log%20\(v3.1\).pdf](https://training.fema.gov/emiweb/is/icsresource/assets/ics%20forms/ics%20form%20214,%20activity%20log%20(v3.1).pdf) at no cost;
- (P) fifty foot of cordage;
- (Q) eight zip ties; and
- (R) signaling mirror.

- (3) A wilderness search and rescue team shall maintain a rescue equipment cache of no less than the following:
- (A) two global positioning system receivers; and
 - (B) two first aid kits to include two tourniquets, eight four inch square gauze pads, two two inch gauze rolls, two rolls of paper tape one inch by ten yards, two rolls of moleskin patches two inch by five yards, two emergency survival blankets, two triangle bandages, one SAM splint 36 inches in length, five pairs of nitrile gloves, one CPR micromask, and one trauma shear scissors.

(j) Mountain Rescue Team Requirements

- (1) A mountain rescue team shall maintain a roster of no less than eight personnel that have completed the NC Mountain Rescue Operations Course. Of those eight personnel, two personnel shall have also completed the NC Mountain Rescue Technician Course.
- (2) A mountain rescue team shall maintain a team equipment cache of no less than eight of following:
 - (A) field pack able to carry required equipment;
 - (B) multi-purpose knife;
 - (C) water containers sufficient to hold two quarts of potable water;

- (D) grid reader for 1:24000 scale;
 - (E) equipment needed to start a fire such as waterproof matches or fire starting steel;
 - (F) compass;
 - (G) two light sources with spare batteries;
 - (H) set of rain gear to include a jacket with a hood and a pair of pants;
 - (I) watch;
 - (J) paper and pen or pencil; and
 - (K) FEMA ICS 214 form;
- (3) A mountain rescue team shall maintain a rescue equipment cache of no less than the following:
- (A) two global positioning system receivers;
 - (B) ten screw gate carabiners;
 - (C) four belay type friction devices;
 - (D) eight pre-sewn runners;
 - (E) eight sets of matching prussik pairs;
 - (F) four 30 foot cords suitable for anchor and litter rigging;
 - (G) eight mountaineering harnesses;
 - (H) two rappel type friction devices;
 - (I) two each of single and double micro pulleys;
 - (J) two 150 foot ropes with a rating equal to or greater than 20 kilonewtons;
 - (K) two 250 foot ropes with a rating equal to or greater than 20 kilonewtons;
 - (L) eight pairs of snow shoes;
 - (M) eight pairs of trekking poles;
 - (N) four ice screws;
 - (O) eight pairs of slip-on boot traction devices;
 - (P) four pairs of crampons;
 - (Q) a patient litter such as a military type stokes basket or sked system; and
 - (R) two 800 MHz portable radios programed with the NC VIPER Radio System template.

History Note: Authority G.S. 166A-66; 166A-67; 166A-68; Eff. April 1, 2023.

14B NCAC 03 .0410 PROCEDURES FOR AUDITING CONTRACT RESPONSE TEAMS AND SPECIALTY RESCUE TEAMS

- (a) Teams shall be audited by NCEM no less than every three years to ensure compliance with program requirements. Teams shall provide the following for review by NCEM personnel within five days upon request:
- (1) administrative records such as internal team plans and procedures, training records, personnel records, equipment maintenance records, and any fiscal records pertaining to the Contract Response or Specialty Rescue Team;
 - (2) equipment cache to include ensuring all required equipment is present, operational, and in a deployment ready condition; and

- (3) access to functional exercises that demonstrate the ability of the resource to muster, deploy, and function.

- (6) "Secretary" means the Secretary of the Department of Environmental Quality.
- (7) "Wildlife" means wild animals and plants.

(b) Within 30 days of the audit, NCEM personnel shall complete, file, and email to the Sponsoring Agency an audit report documenting the audit team's findings.

History Note: Authority G.S. 166A-66; 166A-67; Eff. April 1, 2023.

History Note: Authority G.S. 143-215.77; 143-215.101; Eff. June 16, 1980; Amended Eff. July 1, 1988; October 1, 1984; Readopted Eff. April 1, 2023.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 01E .0101 PURPOSE

The purpose of this Subchapter is to establish procedures and standards under which permits for the construction and operation of oil refining facilities will be issued or denied.

History Note: Authority G.S. 143-215.101; Eff. June 16, 1980; Amended Eff. October 1, 1984; Readopted Eff. April 1, 2023.

15A NCAC 01E .0102 DEFINITIONS

As used in this Subchapter, unless the context otherwise requires:

- (1) "Act" means the Oil Pollution and Hazardous Substances Control Act, Article 21A, Chapter 143, General Statutes.
- (2) "Construction" means:
 - (a) construction and operation of a new oil refining facility;
 - (b) substantial enlargement and operation of an existing oil refining facility; or
 - (c) substantial change in the physical separation or chemical reaction process of an existing oil refining facility and operation of such facility.
- (3) "Department" means the Department of Environmental Quality.
- (4) "Oil refining facility" means any facility of any kind and related appurtenances located in, on, or under the surface of any land, or water, including submerged lands, which is used or capable of being used for the purpose of refining oil. The term "related appurtenances" includes pipelines.
- (5) "Publicly owned parks, forests, or recreation areas" means lands, including beaches, shorelines, and submerged lands, and waters:
 - (a) that are owned or controlled by a governmental body for purposes of conservation of natural resources, public recreation, or general public use; or
 - (b) that the public has a right to use for recreation or as a part of the natural environment.

15A NCAC 01E .0103 OIL REFINING FACILITY PERMIT REQUIRED

No person shall construct or operate an oil refining facility unless and until such person applies for and obtains an oil refining facility permit under this Subchapter.

History Note: Authority G.S. 143-215.100; 143-215.101; 143B-10; Eff. June 16, 1980; Amended Eff. October 1, 1984; Readopted Eff. April 1, 2023.

15A NCAC 01E .0104 PERMIT APPLICATION REQUIREMENTS

(a) An application for a permit shall be in writing and shall be transmitted to the Secretary at the following address:

Secretary's Office
North Carolina Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

(b) An application shall be made by and in the names of all persons who will be owners or operators of a proposed oil refining facility or who are owners or operators of an existing facility.

(c) To apply for an oil refining facility permit, a person or persons shall submit to the Secretary an application which shall contain:

- (1) a cover sheet shall not exceed one page and shall include:
 - (A) the title, APPLICATION FOR PERMIT TO CONSTRUCT OR OPERATE AN OIL REFINING FACILITY;
 - (B) a short statement of the activity for which the permit is sought and the name and location of the oil refining facility involved;
 - (C) the complete name, address, and telephone number of each applicant;
 - (D) the date of the application;
 - (E) the name, address, and telephone number of the employee or agent of the applicant who can supply further information; and
 - (F) an abstract of the assessment of the effects which the construction or operation of the oil refining facility will have on the environment;
- (2) a table of contents;
- (3) a description of the proposed or existing oil refining facility, including a description of the following aspects of the facility's operation:

- (A) kind of refining process;
- (B) refining capacity;
- (C) kind, character, and volume of raw materials, and the source(s) of their supply;
- (D) kind, character, and volume of products;
- (E) kind, character, and volume of by-products;
- (F) kind, character, and volume of effluent discharges to waters or lands of the State;
- (G) kind, character, and volume of emissions to air;
- (H) number of persons in the facility's permanent work force; and
- (I) cost of construction of the facility;
- (4) if construction is involved, a description of the construction process and the applicant's estimate of the timetable for that process;
- (5) an electronic copy or two sets of paper copies of the most current reports, drawings, maps, plans, and specifications describing the location, construction, and operation of the oil refining facility;
- (6) a description of the transfer of oil to and from the oil refining facility, including a statement of the amount and kind of vessel traffic which the facility's operation does or will generate;
- (7) an electronic copy or two sets of paper copies of the most current reports, drawings, maps, plans, specifications, and other information describing the transfer of oil, including vessel characteristics and ownership, vessel navigation to and from the facility, oil loading equipment, and pipelines, in such detail as the Secretary deems necessary to decide to issue or deny the permit;
- (8) upon request of the Secretary, a listing of the environmental or health impacts which interested or affected persons or their representatives have indicated are of concern to them. To prepare such a listing, the applicant shall:
 - (A) inform about the facility those persons whom the facility will or may interest or affect, including those living within one mile of any part of the facility; and
 - (B) ascertain the nature of their concerns about the effects of the facility and their suggestions for meeting those concerns. The applicant may coordinate efforts in this regard with similar efforts required by other statutes or regulations, federal or state, so as to reduce duplication of effort;
- (9) a list of all federal, state, and local permits or approvals related to protection of the environment or environmental resources that
 - (10) the applicant shall obtain for construction or operation of the oil refining facility, the date on which each application was submitted, a copy of each filed application, and a copy of each permit or approval showing that it has been issued;
 - (11) an analysis of the effects that construction or operation of the facility, including the transfer of oil to and from the facility, will or may have on the environment;
 - (12) the applicant's proposals for avoiding or minimizing the adverse effects of the construction and operation of the oil refining facility and the transfer of oil to and from the facility on the environment. The applicant's proposals shall include:
 - (A) a description of the procedures, methods, means, and equipment, including those relating to vessel navigation and design, which the applicant will use to prevent any discharges to the waters or lands of the State;
 - (B) a description of the procedures, methods, means, and equipment by which the applicant will detect and report discharges;
 - (C) a description of the procedures, methods, means, and equipment which the applicant will use in the containment, removal, and cleaning up of discharges and in the restoration of any lands or waters affected by a discharge; and
 - (D) a description and copies of any spill prevention and emergency response plans required under federal, State, or local laws and regulations;
 - (13) a list of the names of the persons who were primarily responsible for preparing the application or any part thereof, together with their qualifications, including their expertise, experience, professional disciplines, and licenses. The persons who were responsible for a particular analysis shall be identified;
 - (14) a statement and explanation by the applicant whether the proposed construction or operation of the oil refining facility is subject to Article 1 of G.S. Chapter 113A, the North Carolina Environmental Policy Act.
- (d) The Secretary shall determine the adequacy and completeness of the submitted application based on compliance with the requirements in Paragraph (c) and Paragraph (e) of this Rule.
- (e) The applicant shall supply such other information as the Secretary deems necessary to impose appropriate terms and conditions in the permit and to determine appropriate protective measures to prevent oil discharges to the lands and waters of the State according to the schedule provided by the Secretary.

History Note: Authority G.S. 143-215.101; Eff. June 16, 1980; Amended Eff. March 1, 1990; August 1, 1988; October 1, 1984; Readopted Eff. April 1, 2023.

15A NCAC 01E .0105 PERMIT APPLICATION PROCEDURE

(a) If the Secretary determines the application is incomplete under Rule .0104(d) of this Section, the Secretary shall within 60 days of its receipt describe in writing to the applicant how the application is incomplete. The applicant shall, within 60 days, submit such additional information relating to the oil refining facility for the application to be complete. If the application is complete, the Secretary shall so advise the applicant in writing within 60 days of its receipt.

(b) Within 30 days of giving notice to the applicant of a completed application, in accordance with Paragraph (a) of this Rule, the Secretary shall give notice of the application and of a public hearing to be held pursuant to Rule .0106 of this Subchapter to all of the following state agencies and other persons:

- (1) the North Carolina Coastal Resources Commission;
- (2) the North Carolina Department of Commerce;
- (3) the North Carolina Department of Natural and Cultural Resources;
- (4) the North Carolina Environmental Management Commission;
- (5) the North Carolina Forest Service;
- (6) the North Carolina Department of Health and Human Services;
- (7) the North Carolina Marine Fisheries Commission;
- (8) the North Carolina Department of Transportation;
- (9) the North Carolina State Ports Authority;
- (10) the North Carolina Wildlife Resources Commission;
- (11) the Boards of County Commissioners for the county in which the oil refining facility is located or is proposed to be located and for contiguous counties;
- (12) the governing body of any incorporated municipality within 50 miles of the oil refining facility;
- (13) any person whose name is on the mailing list required in Rule .0111 of this Section;
- (14) any owner of real property which is contiguous to the site of the oil refining facility; and
- (15) the applicant.

(c) The notice Paragraph (b) of this Rule requires shall contain the following information:

- (1) The title "Notice of Application for Oil Refining Facility Permit," and a statement that the purpose of the notice is to obtain information or comments to assist the Secretary in assessing the effects of the oil refining facility on the environment.

- (2) The name and address of the applicants and a brief description of the name, character, location, and capacity of the oil refining facility for which the permit is sought.
 - (3) A summary of the analysis of effects submitted in the application under Rule .0104(c) of this Section.
 - (4) An invitation to persons who may be interested or affected by the facility to present, either in writing or at the public hearing held pursuant to Rule .0106 of this Section, their information or comments concerning the impacts of the construction and operation of the oil refining facility, including the effects of the transfer of oil to and from the facility, on the environment.
 - (5) A statement that written information or comments may be submitted to the Secretary at a specified address at any time until 30 days after the close of the public hearing on the application.
 - (6) An announcement of the date, time, and place of the public hearing held pursuant to Rule .0106 of this Section.
 - (7) A list of the state agencies that may review and comment on the application pursuant to Paragraph (b) of this Rule and the date by which the agencies' comments shall be submitted to the Secretary, which shall be within 45 days of the date the notice is issued.
 - (8) The address on the Department's website at which anyone may review the complete application.
 - (9) A reference to the particular sections of the North Carolina General Statutes and the North Carolina Administrative Code applicable to the issuance or denial of oil refining facility permits.
 - (10) A description of the nature of the hearing and the rules that shall govern its conduct.
 - (11) The name, email address, and telephone number of a department official from whom additional information may be obtained.
- (d) The Secretary shall arrange for the publication of the notice in a regularly published newspaper of general circulation:
- (1) in the county containing the site of the oil refining facility; and
 - (2) in contiguous counties.

History Note: Authority G.S. 143-215.101; Eff. June 16, 1980; Amended Eff. March 1, 1990; July 1, 1988; October 1, 1984; Readopted Eff. April 1, 2023.

15A NCAC 01E .0106 PUBLIC HEARING ON PERMIT APPLICATION

(a) The Secretary shall hold a public hearing at which any person will be given a reasonable opportunity to present information or comments concerning the contents of the application and the effects of the construction and operation of the oil refining

facility, including the effects of the transfer of oil to and from the facility on the environment.

(b) The hearing shall be held between 60 and 90 days after the date of the notice required by Rule .0105(b) of this Section. The Secretary may arrange for the sending or publication of a second, abbreviated notice shortly before the hearing.

(c) The state agencies listed in Rule .0105(b) of this Section may comment on the effects that construction or operation of an oil refining facility will or may have on the environment and in so doing should address matters within their jurisdiction, authority, or expertise. An agency may reply that it has no comment. Agencies shall submit any comments within the time period specified for comment in the notice.

(d) The hearing shall be held in the county where the oil refining facility for which the applicant seeks a permit is located or is proposed to be located, unless the Secretary finds and directs that, for reasons of public convenience, safety, or health, it should be held in a different location or through a virtual application.

(e) The hearing shall be informational in nature and shall not be a contested case as defined in G.S. 150B-2. The Secretary shall hold the hearing or appoint a hearing officer to do so. The person holding the hearing has the authority to set reasonable guidelines for the hearing, including the length of the hearing and the length of time a person may speak.

(f) The record of the hearing shall be open for written submissions until 30 days after the close of hearing. Any oral or written information or comments offered at the hearing and any further written information or comments submitted within 30 days after the close of the hearing shall be made part of the record of the hearing.

History Note: Authority G.S. 143-215.100; 143-215.101; Eff. June 16, 1980; Amended Eff. October 1, 1984; Readopted Eff. April 1, 2023.

15A NCAC 01E .0107 DECISION TO ISSUE OR DENY PERMIT

(a) Within 60 days of the last day for submitting public comments about the permit application, or the last day on which the applicant provides additional information requested by the Secretary to respond to public comments, the Secretary shall issue or deny the permit for the oil refining facility.

(b) In deciding to issue or deny the permit, the Secretary shall consider:

- (1) the permit application;
- (2) the data, information, and comments which have been submitted during the permit process; and
- (3) other facts, information, or analyses within the specialized knowledge of the Department.

The Secretary shall base the decision on the effects which the construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will or may have on the environment.

(c) The Secretary shall deny the permit upon a finding that:

- (1) The construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will have substantial adverse effects

on wildlife or on freshwater, estuarine, or marine fisheries;

- (2) The construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will violate standards of air or water quality promulgated or administered by the Environmental Management Commission; or
- (3) The construction or operation of the oil refining facility, including the transfer of oil to and from the facility, will have a substantial adverse effect on a publicly owned park, forest, or recreation area.

(d) In the absence of a finding described in Paragraph (c) of this Rule, the Secretary shall issue the permit.

(1) The Secretary shall impose on any permit he issues the following terms and conditions:

(A) The permit shall not be effective until the applicant has obtained all necessary environmental permits, including without limitation, those permits required by Articles 21, 21A, and 21B of G.S. Chapter 143, Article 9 of G.S. Chapter 130A, and Articles 4 and 7 of G.S. Chapter 113A. When the necessary permits have been obtained by the applicant, the Secretary upon the applicant's request shall confirm the effective date of the oil refining facility permit.

(B) The applicant, on February 1 of each year following the year in which the applicant's permit became effective, shall submit to the Secretary a description of the following aspects of the facility's operation as of that date:

- (i) as they are listed in Rule .0104(c)(3)(A), (B), (C), (D), (E), (F), (G), and (H) of this Section; and
- (ii) transfer of oil to and from the facility, including a statement of the amount and kind of vessel traffic which the facility's operation does or will generate.

History Note: Authority G.S. 143-215.101; Eff. June 16, 1980; Amended Eff. October 1, 1984; Readopted Eff. April 1, 2023.

15A NCAC 01E .0108 SUSPENSION: REVOCATION: OR AMENDMENT OF PERMITS

15A NCAC 01E .0109 ADMINISTRATIVE HEARINGS: FINAL DECISION BY SECRETARY

15A NCAC 01E .0110 SEVERABILITY

15A NCAC 01E .0111 MAILING LIST

15A NCAC 01E .0112 FEES

History Note: Authority G.S. 7A-308(12); 132-6; 143-215.101; 150B-3; 150B-23 through 150B-37; Eff. June 16, 1980; Amended Eff. July 1, 1988; October 1, 1984; Repealed Eff. April 1, 2023.

15A NCAC 01E .0113 EXTENSIONS OF TIME PERIODS

The Secretary may extend any of the time periods prescribed by this Subchapter. Such an extension shall not exceed 15 days.

History Note: Authority G.S. 143-215.100; 143-215.101; Eff. June 16, 1980; Amended Eff. October 1, 1984; Readopted Eff. April 1, 2023.

15A NCAC 01E .0114 DELEGATIONS

History Note: Authority G.S. 143-215.100; 143-215.101; 143B-10; 150B-2(2); Eff. October 1, 1984; Repealed Eff. April 1, 2023.

15A NCAC 01E .0115 UNAUTHORIZED DISCHARGES

(a) In addition to any other reporting obligation under State, local, or federal law, the operator of any oil refining facility shall report in writing via electronic mail, facsimile, or first class mail to the Secretary any unauthorized discharge of oil of 500 gallons or more or other occurrence prohibited by the Act. Such reporting shall occur as soon as practicable, but no later than 24 hours after the owner or operator becomes aware of the discharge or occurrence. The report shall include an estimated volume of the discharge.

(b) After an unauthorized discharge of oil, the owner or operator shall submit a report to the Secretary describing the actions taken to respond to and contain the release. In the event that a release cannot be contained within 24 hours after the owner or operator becomes aware, the owner or operator shall submit daily reports on the status of the response as directed by the Department until the discharge is contained.

History Note: Authority G.S. 143-215.101; Eff. April 1, 2023.

TITLE 16 – STATE BOARD OF EDUCATION

16 NCAC 06E .0204 INTERSCHOLASTIC ATHLETICS AND ADMINISTERING ORGANIZATIONS FOR HIGH SCHOOL ATHLETICS

(a) Definitions:

- (1) "Administering organization" is defined in G.S. 115C-407.50(1).
- (2) "Participating school" is defined in G.S. 115C-407.50(7).
- (3) "Public school unit" (PSU) is defined in G.S. 115C-5(7a).

(b) PSUs are authorized to determine whether and to what extent students in grades 6 through 12 may participate in interscholastic

athletics, provided students in grade 6 are not eligible to participate in tackle football. This Rule shall not apply to charter school athletic programs in kindergarten through grade 8.

(c) To participate in public school interscholastic athletics, a student shall meet the following requirements:

(1) A student who attends a school supervised by a local board of education shall only participate in the school to which the student is assigned under G.S. 115C-366. A student enrolled in a charter, regional, statewide public school, or school operated by the University of North Carolina, shall meet all the enrollment criteria for that school and attend that school. If a student is over the age requirements for the school the student attends, the student may participate at the school to which the student would be assigned or attend at the next higher grade level.

(2) A student shall meet the age requirements at each grade level to participate. PSUs shall determine the age of participating students based on a preponderance of the evidence known to them. A student ineligible to participate at one grade level due to age shall be eligible to participate at the next higher grade level only, provided no student shall be eligible to participate at the middle school level for a period lasting longer than six consecutive semesters, beginning with the student's entry into grade 6, and no student shall be eligible to participate at the high school level for more than eight consecutive semesters, beginning with the student's first entry into grade 9 or participation on a high school team, whichever occurs first.

(A) A student shall not participate on a grade 6, 7, or 8 team if the student becomes 15 years of age on or before August 31 of that school year.

(B) A student shall not participate on a grade 9 through 12 team if the student becomes 19 years of age on or before August 31 of that school year.

(d) To be eligible to participate during any semester in grades 6, 7, or 8, the student shall have passed at least one less course than the number of required core courses the prior semester and meet promotion standards established by the PSU, provided a student who is promoted from grade 5 to grade 6 shall be deemed to have satisfied the requirement set forth in this Paragraph to participate in the first semester of grade 6. To be eligible to compete during any semester in grades 9 through 12, the student shall have passed at least five courses (or the equivalent for non-traditional school schedules) the prior semester and meet promotion standards established by the PSU, provided a student who is promoted from grade 8 to grade 9 shall be deemed to have satisfied the requirement set forth in this Paragraph to participate in the first semester of grade 9.

(e) To be eligible to participate, a student shall receive a medical examination every 395 days by a licensed physician, nurse

practitioner, or physician assistant, subject to the provisions of G.S. 90-9.1, G.S. 90-9.2, G.S. 90-9.3, G.S. 90-18.1, and G.S. 90-18.2.

(f) A student shall not participate in interscholastic athletics after any of the following:

- (1) graduation, except that the student may continue to participate in playoff and state championship contests in spring sports after graduation;
- (2) signing a professional athletic contract, except that the student may continue to participate in any sport for which the student has not signed a professional contract;
- (3) receiving remuneration as a participant in an athletic contest, except that the student may accept a gift, merchandise, trophy, or other thing of value, provided:
 - (A) the value does not exceed two hundred fifty dollars (\$250.00) per student per sports season;
 - (B) the item is totally consumable and nontransferable, or labeled in a permanent manner, for example, monogrammed or engraved items; and
 - (C) the item is approved by the student's principal and superintendent; or
- (4) participating on an all-star team or in an all-star game that is not sanctioned by the administering organization of which the student's school is a member, provided the student shall be ineligible only for the specific sport involved.

(g) Each PSU shall require the principal of a school that participates in interscholastic athletics to sign and date a list of eligible students for each sport. The PSU shall maintain copy of the most current list in the principal's office and the office of the superintendent.

(h) A PSU shall impose at least the following penalties on a student, coach, or school official in grades 6 through 12 who is ejected from an interscholastic athletic contest:

- (1) for the first offense, the person shall be reprimanded and suspended from participating in the next game at that level of play (varsity or junior varsity);
- (2) for a second offense, the person shall be placed on probation and suspended from participating in for the next two games at that level of play (varsity or junior varsity);
- (3) for a third offense, the person shall be suspended for one calendar year; and
- (4) a coach who is suspended shall not coach any team for any grade level during the period of suspension.

Penalties are cumulative from sport to sport and from sport season to sport season. If no member of the school's coaching staff is present to assume an ejected coach's duties, the contest shall be terminated by a forfeit.

(i) PSUs may allow their schools to belong to an administering organization designated by the State Board of Education.

(j) An administering organization that has entered into a memorandum of understanding with the State Board of Education for the purpose of administering interscholastic athletics under this Rule shall apply and enforce all of the requirements of this Rule.

(k) The State Board of Education shall delegate to an administering organization its authority over participating schools to:

- (1) waive any student eligibility requirement contained in this Rule, if it finds in a particular case that the requirement fails to promote academic progress, health, safety, and fair play, or it works an undue hardship on a student who has lost eligibility due to circumstances that made participation impossible such as prolonged illness or injury or if a waiver is necessary to reasonably accommodate a student's disability, as required under the Americans with Disabilities Act, U.S.C. 1201 et seq.;
- (2) adopt, apply, and enforce penalty rules as defined in G.S. 115C-407.55(3) that establish a system of demerits that includes reprimands, probations, suspensions, forfeitures of contests, forfeitures of titles, and disqualifications;
- (3) adopt, apply, and enforce administrative rules, as defined in G.S. 115C-407.55(5);
- (4) adopt, apply, and enforce gameplay rules, as defined in G.S. 115C-407.55(6); and
- (5) establish and collect from all its members a uniform membership fee of either:
 - (A) one thousand dollars (\$1,000) for each participating school, or
 - (B) one dollar (\$1.00) for each student enrolled in a participating school.

(l) An administering organization shall:

- (1) enter into a memorandum of understanding with the State Board of Education no later than March 15 prior to the academic year in which it is to begin administering interscholastic athletics and no later than the March 15 before the expiration of an existing memorandum of understanding;
- (2) submit an audit report signed by an independent certified public accountant or accounting firm in good standing with the North Carolina State Board of Certified Public Accountant Examiners to the State Board of Education no later than March 15 each year;
- (3) broadcast the meetings of its membership and board of directors in a manner that is announced on its website and which may be viewed electronically by any member of the public;
- (4) provide to the State Board of Education within 30 days any requested organizational records, such as, financial information, annual audit reports, and any matters related to or impacting participating schools;

- (5) enter into written agreements with PSUs that allow their eligible schools to participate in interscholastic sports, which agreements shall include an explanation of the fees to be charged, the obligations of the PSU and participating schools, penalties for the violation of this Rule at the high school level that may be imposed, and an explanation of the process to contest or appeal adverse decisions; and
- (6) publish the organization's rules through a link on the home page of its website.

(m) The State Board of Education will appoint an appeals board to hear and act upon appeals from final decisions of an administering organization, or from the Department of Public Instruction if necessary pursuant to G.S. 115C-407.60(b), regarding student eligibility, penalties, fees imposed, retaliation, or discrimination. Panels of no fewer than three members of the appeals board may hear and decide matters on behalf of the board. A PSU aggrieved by a final decision of the administering organization may file an appeal with the State Board of Education's Office of General Counsel within five days after receipt of the administering organization's final decision. The final decision shall be mailed to the Superintendent or board of trustees of the PSU.

- (1) The administering organization's final decision shall contain:
 - (A) findings of fact;
 - (B) conclusions of law, including citation to any rules related to the decision;
 - (C) a description of any penalties; and
 - (D) a statement that the PSU may file a notice of appeal within five days of receipt of the administering organization's decision by mailing the notice to the State Board of Education's Office of General Counsel, 301 S. Wilmington Street, Raleigh, N.C. 27601, and emailing a copy of the notice of appeal to Office of General for the State Board of Education.
- (2) The PSU's appeal shall:
 - (A) be in writing;
 - (B) include a description of the facts of the dispute;
 - (C) include any evidence submitted to the administering organization; and
 - (D) present an argument explaining why the PSU believes the administering organization's final decision was not based on substantial evidence as defined in G.S. 150B-2(8c) or is affected by an error of law.
- (3) The administering organization may file a response to the PSU's submissions within five days. The panel may shorten the time for filing the administering organization's response if the decision affects a student's or coach's eligibility to participate in an intervening athletic contest.

- (4) All documents filed in the appeal shall be simultaneously served on all parties in the manner prescribed in G.S. 1A-1, Rule 5 of the North Carolina Rules of Civil Procedure.
- (5) Any hearing shall be recorded.
- (6) No later than 30 days after the State Board of Education's receipt of the appeal, a panel of the appeals board shall issue its decision. The panel shall affirm the administering organization's final decision unless a majority of the panel determines that the final decision is not supported by substantial evidence or is affected by an error of law.
- (7) The panel's decision shall be final.
- (n) The PSU that has jurisdiction over a school may impose penalties in addition to those required by an administering organization.

*History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50, 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Emergency Adoption Eff. August 20, 2019;
Eff. March 1, 2021;
Temporary Amendment Eff. July 1, 2022;
Amended Eff. July 1, 2023.*

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS

21 NCAC 14A .0101 DEFINITIONS

In addition to the definitions set forth in G.S. 88B-2, the following definitions apply in this Chapter:

- (1) "Beauty Establishment" refers to both cosmetic art schools and cosmetic art shops.
- (2) "Clean" is the removal of visible and surface debris, washing with soap and water, detergent or chemical cleaner that prepares non-porous items for disinfection and reduces the number and slows the growth of pathogens on both porous and non-porous surfaces. Cleaning does not make multi-use items safe for use.
- (3) "Cosmetology School" is any cosmetic art school that teaches cosmetic art as defined by G.S. 88B-2(5), but is not solely a manicurist or an esthetics school.
- (4) "Cosmetology Student" is a student in any cosmetic art school whose study is the full curriculum.
- (5) "Esthetician School" is any cosmetic art school that teaches only the cosmetic art of skin care.
- (6) "Esthetician Student" is a student in any cosmetic art school whose study is limited to the esthetician curriculum set forth in 21 NCAC 14T .0604.
- (7) "Licensing cycle" shall be as follows:

- (a) for cosmetologists, the licensing cycle is a three-year period beginning on the first day of October and ending on the third following first day of October and continuing thereafter in three year intervals;
 - (b) for estheticians, natural hair care specialists and manicurists, the licensing cycle is one year in length beginning on the first day of October and ending on the next first day of October;
 - (c) for teachers, the licensing cycle is a two-year period beginning on the first day of October of an even-numbered year and ending on the next first day of October of the next even-numbered year.
- (8) "Manicurist School" is a cosmetic art school that teaches only the cosmetic art of manicuring.
 - (9) "Manicurist Student" is a student in any cosmetic art school whose study is limited to the manicurist curriculum set forth in 21 NCAC 14T .0605.
 - (10) "Natural hair care school" is a cosmetic art school that teaches only the cosmetic art of natural hair care.
 - (11) "Natural hair care student" is a student in any cosmetic art school whose study is limited to the natural hair care curriculum set forth in 21 NCAC 14T .0606.
 - (12) "Porous" is a material that has minute spaces or holes through which liquid or air may pass such as paper, foam, and wood. Porous may also be called permeable, penetrable, or cellular.

History Note: Authority G.S. 88B-2; 88B-4; Eff. February 1, 1976; Amended Eff. June 1, 1993; October 1, 1991; May 1, 1991; January 1, 1989; Temporary Amendment Eff. January 1, 1999; Amended Eff. October 1, 2012; July 1, 2010; December 1, 2008; May 1, 2005; December 1, 2004; May 1, 2004; February 1, 2004; April 1, 2001; August 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023; March 1, 2022; September 1, 2018; March 1, 2018.

21 NCAC 14H .0201 APPLICATION FOR SHOP LICENSE

- (a) Rules in this Subchapter apply to all cosmetic art shops making initial application to operate a cosmetic art shop.
- (b) Shops licensed prior to March 1, 2012 may choose to comply with Rules .0202, .0203(c), .0204 and .0301 of this Subchapter.
- (c) Shops licensed prior to March 1, 2012 must comply with Rules .0201, .0203(a)-(b), .0302-.0304 and Sections .0400 and .0500 of this Subchapter.

- (d) Shops licensed prior to March 1, 2012 that make any structural changes that change the physical layout or square footage must comply with all rules in this Subchapter.
- (e) Persons desiring to open a cosmetic art shop, to change ownership of a cosmetic art shop, relocate or reopen a shop shall make application to the North Carolina State Board of Cosmetic Art Examiner on the Board's application form.

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-22; Eff. April 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023.

21 NCAC 14H .0203 NEWLY ESTABLISHED SHOPS

- (a) All cosmetic art shops shall be separate and apart from any building or room used for any other business or purpose, separated by a solid wall of at least seven feet in height and must have a separate outside entrance.
- (b) A newly established cosmetic art shop, shall be separate and apart from any building or room used for living, dining or sleeping and shall be separate and apart from any other room used for any other purpose by a solid wall of ceiling height, making separate and apart rooms used for a cosmetic art shop. All entrances to the cosmetic art shop shall be through solid, full length doors installed in solid walls of ceiling height.
- (c) A residential cosmetic art shop shall furnish bathroom facilities separate and apart from the residence.
- (d) An entrance to a cosmetic art shop from a passageway, walkway, or mall area used only for access to the shop, or to the shop and other businesses, may be open.

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; Eff. April 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023.

21 NCAC 14H .0401 LICENSEES AND STUDENTS

- (a) For purposes of this Section, sanitation, as described in G.S. 88B, is defined as "infection control."
- (b) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to licensees and students in practice in cosmetic art schools and shops.
- (c) Each licensee and student shall wash his or her hands with soap and water immediately after using the restroom. Each licensee and student shall wash his or her hands with soap and water or use of a 62 percent to 70 percent alcohol-based hand sanitizer immediately before and after serving each client and at any point that the student or licensees hands become contaminated.
- (d) Each licensee and student shall wear clean garments and shoes while serving patrons.
- (e) Licensees or students shall not use or possess in a cosmetic art school or shop any of the following:
 - (1) Methyl Methacrylate Liquid Monomer, a.k.a. MMA;
 - (2) razor-type callus shavers, hollow needles, or blades;

- (3) carbolic acid (phenol) over two percent strength;
 - (4) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform any service; or
 - (5) a variable speed electrical nail file unless it has been designed for use on a natural nail.
- (f) A licensee or student shall not:
- (1) use any product, implement, or piece of equipment in any manner other than the product's, implement's, or equipment's intended use as described or detailed by the manufacturer;
 - (2) treat any medical condition unless referred by a physician;
 - (3) provide any service unless it falls within the license definition listed in G.S. 88B-2 and unless trained prior to performing the service;
 - (4) perform services on a client if the licensee has reason to believe the client has any of the following:
 - (A) fungus, lice, or nits;
 - (B) an inflamed, infected, broken, raised, or swollen skin or nail tissue in the area to be worked on; or
 - (C) an open wound or sore in the area to be worked on;
 - (5) alter or duplicate a license issued by the Board;
 - (6) advertise or solicit clients in any form of communication in a manner that is false or misleading. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation is set forth in 21 NCAC 14P .0108;
 - (7) cut or remove growths of skin including freckles, moles, warts, skin tags, corns, and calluses;
 - (8) use any product or device that will penetrate the dermis;
 - (9) make any statement to a member of the public, either verbally or in writing, stating or implying any action is required or forbidden by Board rules when such action is not required or forbidden by Board rules. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation is set forth in 21 NCAC 14P .0108;
 - (10) Make any statement to a member of the public either verbally or in writing, stating or implying the licensee or student has completed training, licensure, or certification that the licensee/student does not hold or has not completed or not recognized by the Board or NC General Statutes. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation as set forth in 21 NCAC 14P .0108;

- (11) use or possess any product banned by the FDA. A list of banned products is available at www.fda.gov; or
 - (12) use or possess any machine for a cosmetic art service that is not classified by the FDA. Machines that do not require classification by the FDA are exempt from this regulation.
- (g) In using a disinfectant, the user shall wear any personal protective equipment, such as gloves, recommended by the manufacturer in the Safety Data Sheet.
- (h) Licensees may only perform services specifically designated within their licensure field as defined by G.S. 88B-2.

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-24; Eff. April 1, 2012;
Amended Eff. August 1, 2014; March 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023; September 1, 2020; October 1, 2019; March 1, 2019; March 1, 2018.

21 NCAC 14H .0402 COSMETIC ART SHOPS AND SCHOOLS

- (a) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to all cosmetic art schools and shops. A cosmetic art school or shop shall be kept clean.
- (b) Waste material shall be kept in receptacles with a disposable liner. The area surrounding the waste receptacles shall be maintained in a sanitary manner.
- (c) All doors and windows shall be kept clean.
- (d) Furniture, equipment, floors, walls, ceilings, and fixtures must be clean and in good repair.
- (e) Work surfaces used for resting dirty implements during service performances must be disinfected, before and after each service or be protected by a discardable or disinfectable barrier. Any barrier used for this purpose must be discarded, disinfected or laundered before and after each service.
- (f) Animals or birds shall not be in a cosmetic art shop or school. Fish in an enclosure and animals trained for the purpose of accompanying disabled persons are exempt from the prohibition in this Paragraph.
- (g) Cosmetic art shops and schools shall display the name of the shop or school and the suite number at the entrance by a sign or lettering.
- (h) The owner of a cosmetic art shop or school shall not post any sign that states or implies that some action is required or forbidden by Board rules when such action is not required or forbidden by Board rules. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation.

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-24; Eff. April 1, 2012;
Amended Eff. March 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023.

21 NCAC 14H .0403 DISINFECTION PROCEDURES

(a) Disinfectant, as applicable in this Subchapter, is defined as a disinfectant that is EPA registered as effective against:

- (1) bacteria including *Staphylococcus aureus*, MRSA, and *Pseudomonas aeruginosa*;
- (2) viruses including HIV, Hepatitis B and C;
- (3) fungi including *Trichophyton mentagrophytes*; and
- (4) human coronavirus.

(b) Disinfectants that meet the requirements of Subparagraph (a)(1), (2), and (3) of this Rule may be used if they are listed on EPA list N as effective against pathogen SARS-CoV-2.

(c) Infection Control rules that apply to towels and cloths are as follows:

- (1) clean protective capes, drapes, linens, and towels shall be used for each patron;
- (2) after a protective cape has been in contact with a patron's neck it shall be placed in a clean, closed container until laundered with soap and hot water and dried in a heated dryer. Capes that cannot be laundered and dried in a heater dryer may be disinfected in accordance with the manufacturer directions; and
- (3) after a drape, linen, or towel has been in contact with a patron's skin it shall be placed in a clean, container until laundered with soap and hot water and dried in a heated dryer.

(d) Any paper or nonwoven protective drape or covering shall be discarded after one use.

(e) There shall be a supply of clean protective drapes, linens, and towels at all times. Wet towels used in services must be prepared fresh each day. Unused, prepared wet towels must be laundered daily.

(f) Clean drapes, capes, linens, towels and all other supplies shall be stored in a clean area.

(g) Bathroom facilities must be kept clean.

(h) All implements shall be cleaned and disinfected after each use in the following manner:

- (1) They shall be washed with warm water and a cleaning solution and scrubbed to remove debris and dried.
- (2) They shall be disinfected with disinfectant that is mixed and used according to the manufacturer's directions and manufacturer's contact time. They shall be rinsed with hot tap water and dried with a clean towel before their next use. They shall be stored in a clean, closed cabinet or container until they are needed.
- (3) If the implement is shears, a razor, or not immersible, it shall be cleaned by wiping it with a clean cloth moistened or sprayed with a disinfectant used in accordance with the manufacturer's directions.

(i) All disinfected non-electrical implements shall be stored in a clean, closed cabinet or clean, closed container.

(j) All disinfected electrical implements shall be stored in a clean area separate from other clean implements.

(k) Disposable and porous implements and supplies must be discarded after use or upon completion of the service.

(l) Product that comes into contact with the patron must be discarded upon completion of the service.

(m) Containers with open faces may be covered or closed with plastic wrapping. Disinfected implements must not be stored with any implement or item that has not been disinfected. Implements that have not been disinfected must be stored in a container and labeled as soiled.

(n) Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.

(o) All creams, lotions, wax, cosmetics, and other products dispensed to come in contact with patron's skin must be kept in clean, closed containers and must conform in all respects to the requirements of the Federal Food, Drug, and Cosmetic Act as set forth in PL 75-717.52 accessible at www.fda.gov. Any product apportioned for use and removed from original containers must be distributed in a sanitary manner that prevents contamination of product or container. Any product dispensed in portions into another container must be dispensed into a clean container and applied to patrons by means of a disinfected or disposable implement or other clean methods. Any product dispensed in portions not dispensed into another container must be used immediately and applied to patrons by means of a disinfected or disposable implement or other clean methods. No product dispensed in portions may be returned to the original container.

(p) As used in this Rule, "whirlpool" or "footspa" means any basin using circulating water.

(q) After use by each patron each whirlpool or footspa must be cleaned and disinfected as follows:

- (1) all water must be drained and all debris removed from the basin;
- (2) the basin must be disinfected by filling the basin with water and circulating a surfactant or enzymatic soap with a disinfectant used according to manufacturer's instructions through the unit for 10 minutes;
- (3) the basin must be drained and rinsed with clean water; and
- (4) the basin must be wiped dry with a clean towel.

(r) At the end of the day each whirlpool or footspa must be cleaned and disinfected as follows:

- (1) the screen must be removed and all debris trapped behind the screen removed;
- (2) the screen and the inlet must be washed with surfactant, enzymatic soap, or detergent and rinsed with clean water;
- (3) before replacing the screen it must be totally immersed in disinfectant in accordance to the manufacturer's instructions;
- (4) the inlet and area behind the screen must be cleaned with a brush and surfactant soap and water to remove all visible debris and residue; and
- (5) the spa system must be flushed with low sudsing surfactant, enzymatic soap, and warm water for at least 10 minutes and then rinsed and drained.

(s) A record must be made of the date and time of each cleaning and disinfecting as required by this Rule including the date, time, reason, and name of the staff member who performed the

cleaning. This record must be made for each whirlpool or footspa and must be kept and made available for at least 90 days upon request by either a patron or inspector.

- (t) The water in a vaporizer machine must be emptied daily and the unit disinfected daily after emptying.
- (u) The area where services are performed that come in contact with the patron's skin including treatment chairs, treatment tables, and beds shall be disinfected between patrons.
- (v) A manufacturers label for all products, cleaners, and disinfectant concentrate must be available at all times. If a concentrate bottle is emptied, it must remain available until a new bottle is available.
- (w) When mixed disinfectant concentrate is placed in a secondary container such as a spray bottle, tub, or jar, that container must be labeled to indicate what chemical is in the container. SDS sheets must be available for all disinfectants in use at all times.
- (x) Disinfectants must be stored and disposed of in accordance with all local, State, and federal requirements.
- (y) The cabinet and supplies of a towel warmer machine must be emptied daily and the unit dried daily after emptying.

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; Eff. April 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023; September 1, 2021; September 1, 2020; October 1, 2019; March 1, 2018.

21 NCAC 14H .0501 INSPECTION OF COSMETIC ART SHOPS

- (a) A newly established cosmetic art shop, or a shop which has changed ownership must file an application for licensure with the Board prior to opening. A newly established cosmetic art shop, a shop which has changed ownership or a shop which has been operating without a license shall be inspected before a license will be issued.
- (b) Each cosmetic art shop must pass inspection by an agent of the Board pursuant to this Subchapter. Inspections shall be conducted annually and may be conducted without notice.
- (c) Mobile cosmetic art shops and schools are prohibited.

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-27; Eff. April 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023.

21 NCAC 14H .0504 SYSTEMS OF GRADING BEAUTY ESTABLISHMENTS

The system of grading the sanitary rating of cosmetic art schools and shops based on the rules set out in this subchapter shall be as follows, setting out areas to be inspected and considered, and the maximum points given for compliance:

Sanitation	Point Value
Each licensee and student shall wash his or her hands with soap and water or hand sanitizer with the active ingredient of 70 percent alcohol or higher before and after serving each client.	2

21 NCAC 14H .0503 SANITARY RATINGS AND POSTING OF RATINGS

(a) The sanitary rating of a beauty establishment shall be based on a system of grading outlined in this Subchapter. The Board's agent or inspector shall rate all beauty establishments based on the following grading scale:

- (1) all establishments receiving a rating of at least 90 percent or more shall be awarded a grade A;
- (2) all establishments receiving a rating of at least 80 percent, and less than 90 percent, shall be awarded grade B;
- (3) all establishments receiving a rating of at least 70 percent and less than 80 percent shall be awarded grade C; and
- (4) any cosmetic art shop or school with a sanitation grade of below 70 percent shall be awarded a failed inspection notice.

(b) Every beauty establishment shall be inspected and graded by the Board's agent or inspector and given a sanitary rating. A cosmetic art school shall be graded no less than three times a year, and a cosmetic art shop shall be graded once a year.

(c) The sanitary rating or failed inspection notice given to a beauty establishment by the Board's agent or inspector shall be posted by the owner in plain sight near the front entryway at all times.

(d) All new establishments must be graded by the Board's agent or inspector and receive a rating of at least 90 percent before a license will be issued.

(e) The operation of a cosmetic art shop or school which fails to receive a sanitary rating of at least 70 percent (grade C) shall be sufficient cause for revoking or suspending the license.

(f) A re-inspection by the Board's agent or inspector for the purpose of raising the sanitary rating of a beauty establishment shall not be given within 30 days of the last inspection unless the rating at the last inspection was less than 80 percent.

(g) All cosmetic art shops and schools with a failed inspection report shall be sufficient cause for the immediate suspension of licensure. All cosmetic art shops and schools with a failed inspection report must close until the Board's agent or inspector has reinspected and the sanitation conditions have improved to be awarded a passing grade.

(h) A copy of the itemized and graded inspection report must be provided to the operator at the time of the inspection.

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-26; 88B-27; Eff. April 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023.

APPROVED RULES

Each licensee and student shall wear clean garments and shoes while serving patrons.	2
The cosmetic art facility shall be kept clean.	3
Waste material shall be kept in receptacles with a disposable liner.	4
All doors and windows shall be kept clean.	2
Furniture, equipment, floors, walls, ceilings and fixtures shall be clean and in good repair.	3
Clean protective capes, drapes, linens, and towels shall be used for each patron.	3
After a cape, drape, linen, or towel has been in contact with a patron's skin, it shall be placed in a clean container until laundered with soap and hot water and dried in a heated dryer.	5
Any paper or nonwoven protective drape or covering shall be discarded after one use.	2
There shall be a supply of clean protective drapes, linens and towels at all times.	2
Clean drapes, capes, linens, and towels shall be stored in a clean area.	5
Bathroom facilities shall be kept clean.	3
All implements shall be washed with warm water and a cleaning solution and scrubbed to remove debris and dried.	2
All implements shall be disinfected per Rule .0403 of this Subchapter.	10
All disinfected electrical implements shall be stored in a clean area.	2
Disposable and porous implements and supplies shall be discarded after use or upon completion of the service.	10
Any product that comes into contact with the patron shall be discarded upon completion of the service.	3
Disinfected implements shall be kept in a clean closed cabinet or clean closed container and shall not be stored with any implement or item that has not been disinfected.	10
Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.	1
The presence of animals or birds shall be prohibited as set forth in Rule .0402 of this Subchapter. Fish in an enclosure and animals trained for the purpose of accompanying disabled persons are exempt.	1
All creams, lotions, wax, cosmetics, and other products dispensed to come in contact with patron's skin shall be kept in clean, closed containers and dispensed with a clean implement. No product dispensed in portions shall be returned to the container.	10
After each patron's use each whirlpool or footspa shall be cleaned and disinfected.	10
The water in a vaporizer machine shall be emptied daily and the unit disinfected daily.	2
The area where services are performed that come in contact with the patron's skin including chairs, tables, and beds shall be disinfected between patrons.	3

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-26;
 Eff. April 1, 2012;
 Amended Eff. August 1, 2014;
 Readopted Eff. January 1, 2016;
 Amended Eff. April 1, 2023; September 1, 2018.

21 NCAC 14H .0505 RULE COMPLIANCE AND ENFORCEMENT MEASURES

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-24; 88B-26; 88B-27; 88B-29;
 Eff. April 1, 2012;
 Amended Eff. August 1, 2014;
 Readopted Eff. January 1, 2016;
 Amended Eff. March 1, 2019; March 1, 2018;
 Repealed Eff. April 1, 2023.

21 NCAC 14P .0105 RENEWALS; EXPIRED LICENSES; LICENSES REQUIRED

- (a) The presumptive civil penalty for operating a cosmetic art shop/school with an expired license or temporary permit is:
- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$250.00 |
| (3) | 3rd offense | \$500.00 |

- (b) The presumptive civil penalty for practicing cosmetology, manicuring, esthetics, or natural hair care with an expired license is:

(1)	1st offense	\$ 50.00
(2)	2nd offense	\$100.00
(3)	3rd offense	\$250.00

- (c) The presumptive civil penalty for allowing an apprentice or someone with a temporary permit to practice cosmetic art without direct supervision is:

(1)	1st offense	\$100.00
(2)	2nd offense	\$300.00
(3)	3rd offense	\$500.00

- (d) The presumptive civil penalty for practicing in a cosmetic art shop with an apprentice license or a temporary permit without direct supervision is:

(1)	1st offense	\$100.00
(2)	2nd offense	\$300.00
(3)	3rd offense	\$500.00

- (e) The presumptive civil penalty for teaching with an expired license is:

- (1) 1st offense \$100.00
- (2) 2nd offense \$250.00
- (3) 3rd offense \$500.00

(f) The presumptive civil penalty for allowing a North Carolina cosmetic art graduate without a temporary permit to practice cosmetic art without direct supervision is:

- (1) 1st offense \$100.00
- (2) 2nd offense \$300.00
- (3) 3rd offense \$500.00

(g) The presumptive civil penalty for practicing in a cosmetic art shop with as a North Carolina cosmetic art graduate without a temporary permit is:

- (1) 1st offense \$100.00
- (2) 2nd offense \$300.00
- (3) 3rd offense \$500.00

History Note: Authority G.S. 88B-4; 88B-7; 88B-11; 88B-12; 88B-14; 88B-21; 88B-22; 88B- 23(a); 88B-24: 88B-29;

Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff. September 1, 2011; December 1, 2008; September 1, 2006; February 1, 2004; August 1, 2002; April 1, 2001;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. April 1, 2023; December 1, 2016.

21 NCAC 14P .0106 LICENSES REQUIRED

(a) The presumptive civil penalty for practicing cosmetic art without a license is:

- (1) 1st offense \$200.00
- (2) 2nd offense \$250.00
- (3) 3rd offense \$500.00

(b) The presumptive civil penalty for performing services which the practitioner is not licensed to perform is:

- (1) 1st offense \$100.00
- (2) 2nd offense \$250.00
- (3) 3rd offense \$500.00

(c) The presumptive civil penalty for practicing cosmetic art teaching without a license is:

- (1) 1st offense \$250.00
- (2) 2nd offense \$350.00
- (3) 3rd offense \$500.00

(d) The presumptive civil penalty for allowing an individual to perform services which the practitioner is not licensed to perform is:

- (1) 1st offense \$100.00
- (2) 2nd offense \$250.00
- (3) 3rd offense \$500.00

History Note: Authority G.S. 88B-4; 88B-29;

Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff. April 1, 2011; July 1, 2010; December 1, 2008; August 1, 2002;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. April 1, 2023.

21 NCAC 14P .0108 REVOCATION OF LICENSES AND OTHER DISCIPLINARY MEASURES

(a) The presumptive civil penalty for allowing unlicensed practitioners to practice in a licensed cosmetic art shop is:

- (1) 1st offense \$500.00 per unlicensed practitioner
- (2) 2nd offense \$750.00 per unlicensed practitioner
- (3) 3rd offense \$1000.00 per unlicensed practitioner

(b) The presumptive civil penalty for practicing cosmetology, natural hair care, manicuring or esthetics with a license issued to another person is:

- (1) 1st offense \$500.00
- (2) 2nd offense \$800.00
- (3) 3rd offense \$1,000.00

(c) The presumptive civil penalty for altering a license, permit or authorization issued by the Board is:

- (1) 1st offense \$500.00
- (2) 2nd offense \$800.00
- (3) 3rd offense \$1000.00

(d) The presumptive civil penalty for submitting false or fraudulent documents is:

- (1) 1st offense \$500.00
- (2) 2nd offense \$800.00
- (3) 3rd offense \$1,000.00

(e) The presumptive civil penalty for refusing to present photographic identification is:

- (1) 1st offense \$100.00
- (2) 2nd offense \$250.00
- (3) 3rd offense \$500.00

(f) The presumptive civil penalty for permitting an individual to practice cosmetic art with an expired license is:

- (1) 1st offense \$ 50.00
- (2) 2nd offense \$100.00
- (3) 3rd offense \$250.00

(g) The presumptive civil penalty for practicing or attempting to practice by fraudulent misrepresentation is:

- (1) 1st offense \$500.00
- (2) 2nd offense \$800.00
- (3) 3rd offense \$1000.00

(h) The presumptive civil penalty for the illegal use or possession of equipment in a cosmetic art shop or school is:

- (1) 1st offense \$300.00
- (2) 2nd offense \$500.00
- (3) 3rd offense \$1000.00

History Note: Authority G.S. 88B-4; 88B-24; 88B-29;

Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff. June 1, 2013; September 1, 2012; September 1, 2011; July 1, 2010; December 1, 2008; January 1, 2006; April 1, 2004; August 1, 2002; April 1, 2001;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. April 1, 2023.

21 NCAC 14P .0111 ESTABLISHMENT OF COSMETIC ART SCHOOLS

(a) The presumptive civil penalty for failure to provide minimum floor space or equipment and supplies as required by Subchapter 14T is:

- (1) 1st offense \$200.00
- (2) 2nd offense \$350.00
- (3) 3rd offense \$500.00

(b) The presumptive civil penalty for failure to provide instruction at a ratio required in 21 NCAC 14T .0701 is:

- (1) 1st offense warning (\$100.00)
- (2) 2nd offense \$250.00
- (3) 3rd offense \$500.00

(c) The presumptive civil penalty for failure to report a change in the teaching staff as required in 21 NCAC 14T .0701 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(d) The presumptive civil penalty for failure to submit an application for the approval of a school in the case of a change of location or ownership as required in in 21 NCAC 14T .0706 is:

- (1) 1st offense \$500.00
- (2) 2nd offense \$750.00
- (3) 3rd offense \$1000.00

History Note: Authority G.S. 88B-4(2); 88B-16; 88B-29; Temporary Adoption Eff. January 1, 1999; Eff. August 1, 2000; Amended Eff. September 1, 2012; July 1, 2010; February 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023; December 1, 2016.

21 NCAC 14P .0113 OPERATIONS OF SCHOOLS OF COSMETIC ART

(a) The presumptive civil penalty for failure to record student's hours of daily attendance per 21 NCAC 14T .0502 is:

- (1) 1st offense warning (\$100.00)
- (2) 2nd offense \$200.00
- (3) 3rd offense \$300.00

(b) The presumptive civil penalty for failure to report withdrawal or graduation of a student per 21 NCAC 14T .0502 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(c) The presumptive civil penalty for failure to submit student enrollments per 21 NCAC 14T .0502 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(d) The presumptive civil penalty for failure to display a copy of the Infection Control rules is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00

(3) 3rd offense \$200.00
 (e) The presumptive civil penalty for failure to post consumer sign "Cosmetic Art School - Work Done Exclusively by Students" per 21 NCAC 14T .0201 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(f) The presumptive civil penalty for allowing a cosmetic art shop to operate within a cosmetic art school per 21 NCAC 14T .0201 is:

- (1) 1st offense \$200.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$600.00

(g) The presumptive civil penalty for a cosmetic art school that is not separated from a cosmetic art shop or other business by a solid wall, floor to ceiling, with a separate entrance and a door that stays closed at all times per 21 NCAC 14T .0201 is:

- (1) 1st offense \$200.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$600.00

(h) The presumptive civil penalty for failure to have any student wear the required school uniform or identification per 21 NCAC 14T .0613 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(i) The presumptive civil penalty for failure to renew or file school bond or bond alternative per G.S. 88B-17 is:

- (1) 1st offense \$200.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$600.00

(j) The presumptive civil penalty for failure to maintain the student permanent file with required documents per 21 NCAC 14T .0502 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(k) The presumptive civil penalty for failure to maintain records of daily hours of attendance documents per 21 NCAC 14T .0502 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(l) The presumptive civil penalty for failure to maintain records of performances documents per 21 NCAC 14T .0502 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(m) The presumptive civil penalty for allowing an unlicensed individual to instruct cosmetic art per 21 NCAC 14T .0701 is:

- (1) 1st offense \$500.00
- (2) 2nd offense \$750.00
- (3) 3rd offense \$1000.00

(n) The presumptive civil penalty for failure to track and record the student progression in an online education course per 21 NCAC 14T .0502 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(o) The presumptive civil penalty for allowing more than 50 percent for teachers and 30 percent of all other courses to be done through online education per 21 NCAC 14T .0502 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(p) The presumptive civil penalty for failure to administer education as required in 21 NCAC 14T .0612(c) is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(q) The presumptive civil penalty altering the format, school name or school code on a Board form per 21 NCAC 14T .0502 is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

History Note: Authority G.S. 88B-4; 88B-16; 88B-17; 88B-29;

Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff August 1, 2014; September 1, 2012; July 1, 2010; December 1, 2008; April 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. April 1, 2023; October 1, 2019; December 1, 2016.

21 NCAC 14P .0116 CIVIL PENALTY PROCEDURES

(a) Citations. The Board, through its duly authorized representatives, shall issue a citation with respect to any violation for which a civil penalty may be assessed. Each citation shall be in writing and shall describe the nature of the violation, including a reference to the specific provision alleged to have been violated. The civil penalty, if any, shall attach at the time the citation is written. The citation shall include an order to correct any condition or violation which lends itself to corrections, as determined by the Board.

(b) Correction of Violation. Any licensee who has been issued a warning citation must present written proof satisfactory to the Board, or its executive director, that the violation has been corrected. This provision applies only to a licensee's first violation in any one year period for a violation with a first offense warning penalty. Proof of correction shall be presented to the Board, through its executive director, within 30 days of the date the warning citation was issued. The Board may extend for a reasonable period, the time within which to correct the warning citation in case of a death or hospitalization. Notices of correction filed after the prescribed date shall not be acceptable and the civil penalty shall be paid.

(c) Contested Case. Persons to whom a notice of violation or a citation is issued and a civil penalty assessed, may contest the civil penalty by filing written notice with the Board. The Board shall institute a contested case by sending a notice of hearing pursuant to G.S. 150B, Article 3A. The issuance of notice of hearing shall stay the civil penalty until the Board renders a final agency decision in the contested case.

(d) Final Agency Decision. The Board, after the hearing has been concluded, may affirm, reduce, or dismiss the charges filed in the notice of hearing or any penalties assessed. In no event shall the civil penalty be increased.

(e) Failure to File. If no written notice contesting the civil penalty is filed as set forth in Paragraph (c), the civil penalty becomes a final agency decision.

(f) Any offender who has not committed a previously cited offense for which a civil penalty has been assessed for a three year period after the last penalty payment is complete shall have his record of the specific offense cleared. The next subsequent violation shall be treated as a first offense.

History Note: Authority G.S. 88B-4; 88B-29;

Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff. August 1, 2002;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. April 1, 2023.

21 NCAC 14P .0117 RULE COMPLIANCE AND ENFORCEMENT MEASURES

(a) The use of or possession of the following products or equipment in a school or shop shall result in civil penalty in the amount of three hundred dollars (\$300.00) per container of product or piece of equipment:

- (1) Methyl Methacrylate Liquid Monomer a.k.a. MMA; or
- (2) razor-type callus shavers, hollow needles or blades.

(b) The use of or possession of the following in a school or shop shall result in civil penalty in the amount of one hundred dollars (\$100.00) per use or possession:

- (1) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform any service; or
- (2) variable speed electrical nail file unless it has been designed for use on the natural nail.

(c) The action of any student or licensee to violate the Board rules in the following manner shall result in civil penalty in the amount of one hundred dollars (\$100.00) per instance of each action:

- (1) use of any product, implement, or piece of equipment in any manner other than the product's, implement's, or equipment's intended use as described or detailed by the manufacturer;
- (2) treatment of any medical condition unless referred by a physician;
- (3) use of any product or device that will penetrate the dermis;
- (4) provision of any service unless trained prior to performing the service;
- (5) performance of services on a client if the licensee has reason to believe the client has any of the following:
 - (A) fungus, lice, or nits;

- (B) inflamed infected, broken, raised, or swollen skin or nail tissue in the area to be worked on; or
 - (C) an open wound or sore in the area to be worked on;
 - (6) alteration of or duplication of a license issued by the Board;
 - (7) advertisement or solicitation of clients in any form of communication in a manner that is false or misleading; or
 - (8) cut growths of skin including skin tags, corns, and calluses.
- (d) The failure to record the date and time of each cleaning and disinfecting of a footspa in a cosmetic art school or shop as required by this Subchapter including the date, time, reason, and name of the staff member who performed the cleaning or the failure to keep or make such record available for at least 90 days upon request by either a patron or inspector shall result in civil penalty in the amount of twenty-five dollars (\$25.00) per footspa.
- (e) The failure to clean and disinfect a footspa in a cosmetic art shop or school as required by this Subchapter shall result in civil penalty in the amount of one hundred dollars (\$100.00) per footspa.
- (f) The failure to maintain in a cosmetic art shop and school antiseptics, gloves or finger guards, and sterile bandages available to provide first aid shall result in civil penalty in the amount of twenty-five dollars (\$25.00) per item.
- (g) The failure to maintain in a cosmetic art shop or school a sink with hot and cold running water separate from restrooms shall result in civil penalty in the amount of one hundred dollars (\$100.00).
- (h) The failure to provide ventilation at all times in the areas where patrons are serviced in cosmetic art shops and schools shall result in civil penalty in the amount of twenty-five dollars (\$25.00).
- (i) The failure to maintain equipment and supplies necessary to perform any cosmetic art service offered in the shop or school shall result in civil penalty in the amount of one hundred dollars (\$100.00).
- (j) The failure to maintain a sanitation grade of 80 percent or higher shall result in a civil penalty in the amount of two hundred dollars (\$200.00).
- (k) Repeated violations of the rules in this Rule exceeding three written notifications of any one rule documented to any one individual, shop, or school shall result in a mandatory disciplinary hearing in accordance with 21 NCAC 14C.

History Note: Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-24; 88B-26; 88B-27; 88B-29; Eff. April 1, 2023.

21 NCAC 14T .0101 SCOPE AND DEFINITIONS

- (a) These Rules apply to existing and new schools as follows:
- (1) Rules in this Subchapter apply to all cosmetic art schools making initial application to operate a cosmetic art school after the effective date of these Rules.

- (2) Schools with a letter of approval dated prior to the effective date of the rules in this Subchapter may choose to comply with Section .0100 and .0200, Rules .0302-.0305 of this Subchapter.
 - (3) Schools with a letter of approval dated prior to the effective date of the rules in this Subchapter must comply with Rule .0301, Section .0400, Rules .0602-.0610, .0614, and .0615 of this Subchapter upon the enrollment of students after the effective date of these Rules.
 - (4) Schools with a letter of approval dated prior to the effective date of the rules in this Subchapter must comply with Rules .0501, .0502, .0601, .0611-.0613, .0616, .0901 upon the effective date of the rules in this Subchapter.
- (b) The following definitions apply to this Subchapter:
- (1) "Client consultation" is the review and discussion of client needs and preferences, assessment of client skin, hair, and nails, and assessment of product reactions.
 - (2) "Clinic" is the area for performance of all cosmetic art services. The clinic may also be used for practice.
 - (3) "Conceptual Education" consists of lectures, research, reading, online learning, videos, instructional clips, and other non-tactile forms of instruction.
 - (4) "Demonstration" is when a teacher shows the hands-on systematic completion of the steps for a safe and effective cosmetic art service.
 - (5) "Evaluation" is the assessment of a student's independent completion of a practice or performance evaluation plan by a teacher.
 - (6) "Evaluation plan" is a document that outlines the infection control, tool safety, draping, safe application, and steps for systematic completion of a cosmetic art service.
 - (7) "Guided practice" is when a teacher and student work together on systematic completion of the steps for a safe and effective cosmetic art service.
 - (8) "Guided theory" is when a teacher lectures, instructs, and coaches the factual basis for mechanical operations performed in cosmetic art services.
 - (9) "Hands-on Education" is the repeated physical completion of practice and performances, to provide students with the tactile interaction of different hair, skin, nail types and shapes for the purpose of providing experience to safe and effective cosmetic art services despite variable circumstances.
 - (10) "Independent Theory" is the student study of the factual basis for mechanical operations performed in cosmetic art services.

- (11) "Online instruction" is off-site conceptual education.
- (12) "Performance" is the hands-on execution of the systematic completion of the steps for a safe and effective cosmetic art service on a live individual by a student. Performance is monitored during the execution and checked by a teacher upon completion for the purpose of pointing out errors in order that the errors may be corrected.
- (13) "Performance station" for each cosmetic art discipline consists of:
 - (A) cosmetology – hydraulic styling chair, mirror, and work space for supplies;
 - (B) manicuring – manicuring table, client chair, and student chair;
 - (C) esthetics – reclining facial treatment table with leg support and student stool, work space for supplies; and
 - (D) natural hair care - hydraulic styling chair, mirror, and work space for supplies.
- (14) "Practice" is the independent hands-on execution of the systematic completion of the steps for a safe and effective cosmetic art service on a mannequin by a student. Practice is monitored during the execution and checked by a teacher upon completion for the purpose of pointing out errors in order that the errors may be corrected.
- (15) "Practice station" is a minimum of 24 inches deep by 36 inches wide of workspace surface in an area with hot and cold running water.
- (16) "Required Evaluations" are mannequin practice evaluations that must be passed prior to student performances on a live model. The list of required evaluations is specific to each discipline and established in rules 21 NCAC 14T .0602-.0606.
- (17) "Safe and effective" is the completion of the systematic steps for a cosmetic art service following infection control regulations, manufacturer's instructions, and equipment handling.
- (18) "Service" is the action of hands-on systematic steps for the safe and effective completion of a cosmetic art procedure that alters the hair, skin, or nails.
- (19) "Theory" is the factual basis for mechanical operations performed in cosmetic art services.
- (20) "Tool safety" is the factual basis for the safe handling and operation of any tool or device used in a cosmetic art service.

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023.

21 NCAC 14T .0102 NEW SCHOOL APPLICATIONS

(a) Persons desiring to operate a cosmetic art school in the state of North Carolina shall make application for licensure by submitting to the Board the Board's School Application. The Board's School Application shall include:

- (1) School name;
- (2) Cosmetic Art discipline(s) to be taught;
- (3) Physical address and mailing address;
- (4) Phone number;
- (5) Email address;
- (6) Ownership type;
- (7) Reason for application;
- (8) Owner name;
- (9) School contact person with phone number and email address; and
- (10) List of teachers with cosmetic art license number.

(b) School application forms must be submitted along with supporting documents as follows:

- (1) Proof of bond as required by G.S. 88B-17;
- (2) Diagram with location of equipment placement and marking square footage of all areas including classrooms, dispensary, water supplies, stations, locker room or dressing room, office areas, reception areas, and restroom facilities;
- (3) Course curriculum and required evaluation plans for each cosmetic art discipline and teacher trainee program to be taught in the school;
- (4) Plans for record keeping for compliance with 21 NCAC 14T .0502;
- (5) The qualifications for passing required evaluations and techniques for grading of performances;
- (6) Handbook for students containing student policies on attendance, leave of absence policy, performance assignment, and a plan for instruction of students to achieve the required minimum hours, practice, and performances per 21 NCAC 14T .0602 through .0610 and any additional academic requirements established by the school;
- (7) A raised seal identifying the school name and physical location to be used on all Board forms, reports, and other official papers;
- (8) Documentation of local municipality fire, mechanical code, occupancy, electrical and plumbing approval;
- (9) School operation schedule including days, hours, and observed holidays; and
- (10) Signed statement that the school owner has read and understands the Board's rules in this Subchapter.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012;

(c) The Board shall not approve an application for a license until all plans, furniture, supplies and equipment as prescribed by the rules in this Subchapter have been installed.

(d) The Board shall issue a license to any cosmetic art school that meets the requirements of this Subchapter.

History Note: Authority G.S. 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023; March 1, 2022; October 1, 2019; December 1, 2016.

21 NCAC 14T .0201 ALL COSMETIC ART SCHOOLS

(a) Cosmetology schools must have the following physical departments:

- (1) Practice Department – a minimum of 200 square feet with practice stations to accommodate at least 10 students.
- (2) Clinic Department – a minimum of 1200 square feet of clinic floor with performance stations for performance of all cosmetic art services. Within the clinic area each school shall have:
 - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
 - (B) 24 inches from the center of the chair forward;
 - (C) 48 inches from the backrest behind the chair to any other styling chair, reclining or flat facial treatment table with leg support or manicuring table; and
 - (D) at least 30 inches of space from the back of each styling chair, reclining or flat facial treatment table to the wall of the school.
- (3) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a plumbed sink with hot and cold running water. All cosmetic art schools must have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
- (4) Theory classroom – classroom with a minimum of 300 square feet including desks and chairs for each student.
- (5) Office – administrative office with a locking door for the secure and locked facilitation of student records and files. This office shall be outfitted with a locking cabinet, electronic office equipment suitable for scanning, printing and secure document storage and a minimum of one desk and one chair;
- (6) Reception area – a reception area for clients to wait prior to receiving services;
- (7) Break room for student use;

- (8) Restrooms for student, school personnel, and school customer use;
- (9) Locker or room for students to secure and lock personal belongings throughout the day; and
- (10) All stations as defined in Rule .0302 of this Subchapter must be numbered numerically.

(b) Manicuring, esthetics and natural hair care schools must have the following physical departments:

- (1) Clinic Department – the clinic floor with performance stations for performance of all cosmetic art services. Within the clinic area each school shall have:
 - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
 - (B) 24 inches from the center of the chair forward;
 - (C) 48 inches from the backrest behind the chair to any other styling chair, reclining or flat facial treatment table with leg support or manicuring table; and
 - (D) at least 30 inches of space from the back of each styling chair or reclining or flat facial treatment table with leg support to the wall of the school.
- (2) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements, and a plumbed sink with hot and cold running water. All cosmetic art schools shall have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
- (3) Theory/practice classroom – a room or area with equipment for theory training appropriate to both practical and theory learning including practice stations and chairs.
- (4) Office – administrative office with a locking door for the secure and locked facilitation of student records and files. This office shall be outfitted with a locking cabinet, electronic office equipment suitable for scanning, printing and secure document storage and a minimum of one desk and one chair;
- (5) Reception area – a reception area for clients to wait prior to receiving services;
- (6) Break room for student use;
- (7) Restrooms for student, school personnel, and school customer use;
- (8) Locker or room for students to secure and lock personal belongings throughout the day; and
- (9) All stations as defined in Rule .0304 of this Subchapter must be numbered numerically.

(c) Each cosmetic art school must display a sign in the reception area meeting the requirements of this Paragraph. The

sign cannot be smaller than 12 inches by 18 inches, with lettering at least one and one half inches in size and must read as follows: "Cosmetic Art School Work Done Exclusively by Students."

(d) Each of the requirements listed within this Rule must be located within the same building with the exception of the theory classroom, which may be located in an adjacent building or another building within 500 feet of the main cosmetic art building and a proctored examination center, which may be located on the school campus. Theory classrooms located in an adjacent building or another building within 500 feet of the main cosmetic art building shall not be used for student practice.

(e) All Cosmetic Art schools must post hours of operation per cosmetic art discipline and submit this information to the Board. Any changes to the hours of operation must be posted and submitted to the Board. A school shall be considered open by the Board when cosmetic art instruction, services, or performances are provided.

(f) Cosmetic art schools may not offer student hours, practice, or performances unless they are in compliance with Paragraph (a) or (b) of this Rule.

(g) All cosmetic art schools must adhere to any federal, state and local government regulation or ordinance regarding fire safety codes, mechanical codes, plumbing, and electrical work.

(h) All cosmetic art schools must maintain a ventilation system with temperature control. During school operating hours the temperature must be maintained between 60 and 85 degrees Fahrenheit.

(i) All equipment in cosmetic art schools shall be in working order; kept in repair; and installed in such a manner as to facilitate usage.

(j) All cosmetic art school buildings shall be maintained. Maintenance includes the safe and working condition of the physical building, furniture, equipment and supplies.

(k) All cosmetic art schools must maintain a bulletin board in sight of the clinic floor. The bulletin board shall be used to display at all times the Board Infection Control rules in 21 NCAC 14H .0200, .0300, .0400, and .0500 and the sanitation grade card issued to the school.

(l) All cosmetic art schools must post together the school letter of approval, the school license, and all cosmetic art licenses issued to the teachers on staff.

(m) Each room in a cosmetic art school must be labeled according to its assigned purpose.

(n) If a school and shop are located in the same building, they must be separated by a solid wall of at least seven feet in height; separate restrooms, separate entrances and visitor reception areas shall be maintained. If a school and another business are located in the same building, they must be separated by a solid wall of at least seven feet in height; separate entrances and visitor reception areas shall be maintained. If the restroom is in a common area of the building a separate restroom need not be provided.

(o) All schools and shops shall have separate public information releases, advertisements, names, and advertising signs.

(p) A cosmetic art school must maintain space and equipment appropriate to both practical and theory learning, including

desks, chairs, and station requirements so that each student in attendance has a location within which to complete assigned tasks. Each station or desk space shall be designated for only one student at a time.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. April 1, 2023; March 1, 2022; September 1, 2021; October 1, 2019; January 1, 2016.

21 NCAC 14T .0202 COSMETOLOGY SCHOOLS

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Repealed Eff. April 1, 2023.

21 NCAC 14T .0301 EQUIPMENT FOR ALL COSMETIC ART SCHOOLS

(a) All cosmetic art schools shall maintain for student use, in a dispensary, supplies for all cosmetic art services in the school. Simulated products may be used for demonstrations and practice. Simulated products may not be used for required evaluation plan assessments with the exception of sodium hydroxide relaxers.

(b) All cosmetic art schools shall maintain equipment for student use for all cosmetic art services offered and for all required evaluations in the school.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. April 1, 2023; March 1, 2022.

21 NCAC 14T .0302 EQUIPMENT FOR COSMETOLOGY SCHOOLS

(a) The practice department in a cosmetology school shall be equipped with the following equipment:

- (1) One shampoo bowl with hot and cold running water and chair;
- (2) Visual aids; and
- (3) One practice station to accommodate each student in the practice department.

(b) The clinic department in a cosmetology school shall be equipped with the following for up to 40 students in the department:

- (1) 20 stations. Each station shall include one mirror, one electrical outlet, and one hydraulic chair;
- (2) Four hooded floor type dryers and chairs;
- (3) Four shampoo bowls with hot and cold running water and chairs.

- (A) each side approach shampoo bowl shall be at least 40 inches apart, center of bowl to center of bowl;
- (B) each free standing shampoo bowl shall be at least 31 inches apart, center of bowl to center of bowl;
- (C) all other types of shampoo bowls shall be at least 31 inches apart, center of bowl to center of bowl;
- (4) Two manicure tables and stools;
- (5) One pedicure station that shall include a chair, a foot bath, and a stool; and
- (6) One reclining or flat facial treatment table with leg support and a stool; and
- (7) One facial vaporizer.

(c) The clinic department in a cosmetology school shall be equipped with the following equipment if there are more than 40 enrolled advanced students:

- (1) One station for each additional two students;
- (2) One shampoo bowl with hot and cold running water for each additional 20 students; and
- (3) One reclining or flat facial treatment table with leg support or chair for each additional 60 students.

(d) Cosmetology schools that also offer the disciplines of esthetics, and manicuring shall be equipped with one additional station (as defined in this section per discipline) per two students and the equipment requirements specific to the discipline.

(e) The theory department in a cosmetology school shall be equipped with desks and chairs.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023; January 1, 2016.

21 NCAC 14T .0303 EQUIPMENT FOR ESTHETICS SCHOOLS

(a) The practice department in an esthetics school shall be equipped with one mannequin practice table or stand to accommodate each student in the practice department. If the practice department is separate from the clinic, in another room with a door, the practice department must also have one hand washing sink with hot and cold running water, separate from restrooms.

(b) The clinic department in an esthetics school shall be equipped with the following for up to 20 students:

- (1) Ten stations: a station shall include a reclining facial treatment table with leg support and one stool;
- (2) a waste container at each station;
- (3) One facial vaporizer;
- (4) One galvanic current apparatus;
- (5) One infra-red lamp;
- (6) One woods lamp or skin scope;
- (7) One magnifying lamp;

- (8) One hard wax hair removal system;
- (9) One soft wax system;
- (10) One pore vacuum machine;
- (11) Two stations with electrical outlet;
- (12) One exfoliation machine with brushes; and
- (13) One plumbed hand washing sink with hot and cold running water, separate from restrooms.

(c) The clinic department in an esthetics school shall be equipped with the following if there are more than 20 enrolled students:

- (1) One station for each additional two students: a station shall include one reclining facial treatment table with leg support and one stool; and
- (2) Two plumbed hand washing sinks with hot and cold running water, separate from restrooms.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Amended Eff. October 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023; January 1, 2016.

21 NCAC 14T .0304 EQUIPMENT FOR MANICURING SCHOOLS

(a) The practice department in a manicuring school shall be equipped with one mannequin practice table or stand to accommodate each student enrolled in the practice department. If the practice department is separate from the clinic, in another room with a door, the practice department must also have one hand washing sink with hot and cold running water, separate from restrooms.

(b) The clinic department in a manicuring school shall be equipped with the following for up to 20 students:

- (1) Two plumbed hand washing sinks with hot and cold running water, separate from restrooms, located in or adjacent to the clinic area;
- (2) Ten manicuring tables with two chairs per table;
- (3) Ten pedicure chairs and basins;
- (4) Two stations with electrical outlet;
- (5) A waste container at each station; and
- (6) A covered container for soiled or disposable towels located in the clinic area.

(c) The clinic department in a manicuring school shall be equipped with the following if there are more than 20 enrolled students:

- (1) One station for each additional two students, a station shall include one manicuring table and two chairs; and
- (2) Two plumbed hand washing sinks with hot and cold running water, separate from restrooms.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. January 1, 2012;
Amended Eff. October 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023; January 1, 2016.*

21 NCAC 14T .0305 EQUIPMENT FOR NATURAL HAIR CARE STYLING SCHOOLS

- (a) The practice department in a natural hair care styling school shall be equipped with the following:
 - (1) Styling equipment for the purpose of natural hair care;
 - (2) Visual aids; and
 - (3) Practice station to accommodate each student.
 - (4) If the practice department is separate from the clinic, in another room with a door, the practice department must also have one hand washing sink with hot and cold running water, separate from restrooms.
- (b) The clinic department in a natural hair care styling school shall be equipped with the following for up to 16 students:
 - (1) Two shampoo bowls and chairs as follows:
 - (A) each side approach shampoo bowl shall be 40 inches apart center of bowl to center of bowl; and
 - (B) each free standing shampoo bowl shall be 31 inches apart center of bowl to center of bowl;
 - (2) Eight stations. A station shall include one mirror and one hydraulic chair;
 - (3) One station with electrical outlet;
 - (4) One hooded floor type dryer; and
 - (5) Styling equipment for the purpose of natural hair care.
- (c) The clinic department in a natural hair care styling school shall be equipped with an additional station for every two students if there are more than 16 enrolled students.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. January 1, 2012;
Amended Eff. October 1, 2012;
Readopted Eff. January 1, 2016;
Amended Eff. April 1, 2023.*

21 NCAC 14T .0502 PERMANENT RECORDS, FORMS, AND DOCUMENTATION

- (a) Cosmetic art schools must maintain locked storage for the permanent files of all enrolled students and students who have withdrawn or graduated together in one room within the approved square footage of the cosmetic art school. Withdrawal and graduation forms reviewed by the Board or an agent of the Board may be removed from this and stored in accordance with Paragraph (i) of this Rule. The permanent file shall include a copy of:

- (1) All Board Enrollment Forms with student original signature;
- (2) Documentation of student receipt of evaluation plans, school policies, school handbook, school and student contract; the Board Infection Control rules as set forth in 21 NCAC 14H .0200, .0300, .0400, and .0500 and 21 NCAC 14I .0401, and 21 NCAC 14T .0612 and .0703.
- (3) Social security card for any individual who has a social security number or tax ID card or Department of Homeland Security ID;
- (4) Government issued photo ID and proof of date of birth;
- (5) Documentation of field trip hours, grades for all required evaluation plans with date of completion and teacher signature.
- (6) Documentation for any leave of absence over 30 days. Documentation shall include an anticipated return date and updated notes every 30 days if the return date exceeds the anticipated return date;
- (7) Transfer of hours form documenting hours earned in other schools for hours accepted by current school;
- (8) All Board Withdrawal Forms;
- (9) Internship Form; and
- (10) Graduation Form.
- (b) The school shall keep onsite, records for all enrolled students:
 - (1) daily attendance in school;
 - (2) daily online hours;
 - (3) daily field trip hours;
 - (4) weekly guided theory and demonstration;
 - (5) weekly subtotal of attendance in school;
 - (6) weekly subtotal of online hours;
 - (7) running grand total of all earned hours through the prior week; and
 - (8) performances;
- (c) Upon withdrawal or graduation the daily records, weekly subtotals, and grand total shall be placed in the student's permanent file.
- (d) When a student enrolled in a cosmetic art school withdraws from the school, the cosmetic art school shall report the withdrawal to the Board.
- (e) If a student withdraws from a cosmetic art discipline within the first five days, the school need not submit the enrollment to the Board. The unsubmitted enrollment must be maintained in the student file until reviewed by the Board or an agent of the Board after which, it may be removed.
- (f) The graduation form documentation must be signed by on site school staff or on site school administrators and must have the seal of the school affixed. The original graduation form documentation must be prepared on the Board form and shall indicate that the applicable requirement of this Chapter have been met. The cosmetic art school shall securely submit the graduation form to the Board at the Board's address set forth in Rule 14A .0104 or submit the graduation form via the Board's

school documents portal at www.nccosmeticarts.com within 30 days of the student's graduation date.

(g) All forms submitted to the Board must be sealed originals or a digital scan of sealed originals and a copy shall be maintained in the school permanent file storage. Except for student signatures, all forms submitted to the Board must be completed by on site school staff or on site school administrators. Board forms shall be used for the sole purpose of documenting to the Board student records and shall not be used to notify students of enrollment, transfer of hours, withdrawal, or graduation.

(h) Changes or corrections made by the school to any Board form must be submitted to the Board with supporting documentation.

(i) All cosmetic art schools must maintain on file at the school an original daily record of enrolled students' hours and performances. This record must be kept in a secured location under lock and key but made available for review by the Board or its agent at any time.

(j) All records kept by a cosmetic art school on a student who has withdrawn or graduated must be kept in the school's locked files for future reference until the date the student is accepted for the Board examination or five years after the date the student first enrolled in the school, whichever occurs earlier. Forms reviewed by the Board or an agent of the Board may be removed from this room.

(k) The record of all hours and performance evaluation plans must be documented in writing. Credit issued to students that cannot be verified shall be eliminated from the student record by an agent of the Board.

(l) Access to student records must be limited to agents of the Board, teachers, and administrators of the school. Electronic versions of student records must be kept secure and may only be accessed through school authorized equipment. Personal devices may not be used to access student records. Records shall not be altered offsite. Records that are altered must be altered onsite and must have documentation supporting the change attached. The format, school name, and school code on Board forms cannot be altered.

(m) All individuals in a cosmetic art school receiving cosmetic art education, earning hours, or performing or practicing cosmetic art services must be enrolled in the school.

(n) Only teachers reported to the Board as employees of a cosmetic art school may grade evaluation plans. Only on site teachers, on site school administrators, or on site school staff shall record student hours grade examinations, and determine completion and record credit.

(o) Minimum scores required for examinations and the successful completion of practice or performances as determined through the school's evaluation plan that is approved by the Board at the time of application shall be disclosed to students at the time of enrollment. Teachers must use the evaluation plan approved by the Board to assess student competency. Passing grades and performances shall not be credited to students who fail to meet the requirements of the evaluation plan.

(p) The names of students with unsatisfied academic obligations shall not be submitted to the Board as graduates but may be submitted as withdrawn.

(q) Cosmetic art schools shall not prevent the graduation of students who have met the Board minimum requirements and passed all school academic requirements.

(r) Records of hours must be rounded to no more than the nearest quarter hour. Cosmetic art schools shall not give or deduct hours or performances as rewards or penalties.

(s) An applicant shall receive credit for instruction taken in another state if the applicant's record is certified by the state agency or department that issues licenses to practice in the cosmetic arts. If this agency or department does not maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified by any state department or state agency that does maintain such records and is willing to certify their accuracy. If no state department or board will certify the accuracy of the student's records, then the Board shall review the student's records for validity on a case-by-case basis using the documentation provided by the out-of-state school and submitted to the Board by the accepting NC school.

(t) Hours transferred between open North Carolina schools must be obtained by the submission of the Board transfer form mailed directly from the school in which the hours are earned with the school seal affixed, with grades for examinations and performances to the new school in which a student enrolls. Such original documentation shall be submitted to the Board with enrollment. Schools must submit transfer forms for any student that requests a transfer and has no outstanding financial obligations. Transfer forms shall include the following:

- (1) Student name and social security number;
- (2) School code;
- (3) Course type and required evaluations;
- (4) Enrollment date and last date of attendance;
- (5) Number of hours and minutes completed;
- (6) School owner name or on-site official and signature; and
- (7) School seal.

(u) A student must pass an entrance examination including required evaluations given by the school to which the student is transferring for the hours to be transferred from one cosmetic art school to another.

(v) Certification of completion of a curriculum established in 21 NCAC 14T .0602 through .0610 shall be required on the graduation form and application for the Board examination. Graduation forms shall include the following:

- (1) Student name and social security number;
- (2) School code;
- (3) Course type completed;
- (4) Date of course completion;
- (5) Number of hours and minutes completed;
- (6) School owner or on-site official name and signature; and
- (7) School seal.

History Note: Authority G.S. 88B-4; 88B-16;

Eff. January 1, 2012;

Amended Eff. January 1, 2014; June 1, 2013;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. April 1, 2023; September 1, 2021; September 1, 2020; October 1, 2019; December 1, 2016.

21 NCAC 14T .0601 COSMETIC ART CURRICULA

(a) Cosmetic art schools shall develop and submit to the Board a curriculum of each discipline to be taught at the school. The curriculum, once approved by the Board's standards listed in Rules .0602-.0610, of this Section shall be adhered to and lessons developed from the approved curriculum.

(b) Blood exposure and infection control evaluations must be passed with a score of 100 percent before a student may practice or execute a performance for a cosmetic art service. Before a student may execute a performance the student shall pass the respective mannequin practice evaluation plan.

(c) All cosmetic art students shall receive training on Board laws, Board rules, website, licensure scope of practice, Safety Data Sheets prepared by the manufacturer on all products used by the school's students in performances.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;

Amended Eff. April 1, 2023; October 1, 2019; January 1, 2016.

21 NCAC 14T .0602 COSMETOLOGY CURRICULUM

(a) To meet the approval of the Board, a cosmetologist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 1500 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must receive guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

- (1) Blow drying and hot iron;
- (2) Hair cut with shears, a razor and clipper;
- (3) Color application including virgin and retouch;
- (4) Relaxer application including virgin and retouch;
- (5) Permanent waving;
- (6) Basic manicure
- (7) Basic pedicure;
- (8) Basic facial including steam; and
- (9) Waxing.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety,

client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

- (1) Shampooing;
- (2) Roller sets;
- (3) Pin curls;
- (4) Ridge curls with C shaping;
- (5) Fingerwaves;
- (6) Artificial hair;
- (7) Up-styles;
- (8) Pressing or thermal;
- (9) Blow drying;
- (10) Hot iron;
- (11) Styles that apply tension (twists, braiding, locs, or knots);
- (12) Solid form cut;
- (13) Elevated cut;
- (14) Cut with tapered or thinning shears;
- (15) Razor cut;
- (16) Clipper cut;
- (17) Shears over comb cut;
- (18) Clippers over comb cut;
- (19) Virgin darker;
- (20) Virgin lightener;
- (21) Retouch;
- (22) Foil;
- (23) Freehand painting;
- (24) Relaxer;
- (25) Permanent waving rod placement rectangle, or contour or bricklay-overlap or spiral;
- (26) Basic manicure or pedicure;
- (27) Artificial nails;
- (28) Basic facial;
- (29) Waxing including face and body;
- (30) Hair removal with tweezers;
- (31) Hair removal with razor;
- (32) Makeup application;
- (33) Lash lift and brow lamination;
- (34) Artificial lashes; and
- (35) Lash and brow tint.

History Note: Authority G.S. 88B-4; 88B-16;

Eff. January 1, 2012;

Amended Eff. January 1, 2015; June 1, 2013; October 1, 2012;

Readopted Eff. January 1, 2016;

Amended Eff. April 1, 2023; September 1, 2020; October 1, 2019.

21 NCAC 14T .0603 APPRENTICE COSMETOLOGY CURRICULUM

(a) To meet the approval of the Board, a cosmetologist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 1200 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must receive guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

- (1) Blow drying and hot iron;
- (2) Hair cut with shears, a razor and clipper;
- (3) Color application including virgin and retouch;
- (4) Relaxer application including virgin and retouch;
- (5) Permanent waving;
- (6) Basic manicure
- (7) Basic pedicure;
- (8) Basic facial including steam; and
- (9) Waxing.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

- (1) Shampooing;
- (2) Roller sets;
- (3) Pin curls;
- (4) Ridge curls with C shaping;
- (5) Fingerwaves;
- (6) Artificial hair;
- (7) Up-styles;
- (8) Pressing or thermal;
- (9) Blow drying;
- (10) Hot iron;
- (11) Styles that apply tension (twists, braiding, locs, or knots);
- (12) Solid form cut;
- (13) Elevated cut;
- (14) Cut with tapered or thinning shears;
- (15) Razor cut;
- (16) Clipper cut;
- (17) Shears over comb cut;
- (18) Clippers over comb cut;
- (19) Virgin darker;
- (20) Virgin lightener;
- (21) Retouch;
- (22) Foil;
- (23) Freehand painting;
- (24) Relaxer;
- (25) Permanent waving rod placement rectangle, or contour or bricklay-overlap or spiral;
- (26) Basic manicure or pedicure;
- (27) Artificial nails;
- (28) Basic facial;

- (29) Waxing including face and body;
- (30) Hair removal with tweezers;
- (31) Hair removal with razor;
- (32) Makeup application;
- (33) Lash lift and brow lamination;
- (34) Artificial lashes; and
- (35) Lash and brow tint.

History Note: Authority G.S. 88B-4; 88B-16;

Eff. January 1, 2012;

Amended Eff. January 1, 2015; June 1, 2013; September 1, 2012;

Readopted Eff. January 1, 2016;

Amended Eff. April 1, 2023; September 1, 2020; October 1, 2019.

21 NCAC 14T .0604 ESTHETICS CURRICULUM

(a) To meet the approval of the Board, an esthetician training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 600 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must receive guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

- (1) Basic facial, including steam;
- (2) Waxing;
- (3) Lash lift and brow lamination;
- (4) Artificial lashes; and
- (5) Lash and brow tint.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

- (1) Draping;
- (2) Basic facials;
- (3) Waxing including underarm, lip, eyebrow, leg and bikini;
- (4) Hair removal with depilatory and tweezers;
- (5) Makeup application;
- (6) Facials with machines including Woods lamp, magnifier, galvanic current, LED light, high frequency (direct and indirect), infrared light, vaporizer, microderm abrasion, suction, exfoliating;

- (7) Manual Exfoliation including products and devices;
- (8) Manual extraction;
- (9) artificial lashes including single eyelash extensions;
- (10) Facial or body treatment (cleansing, manipulations, masks, and chemical peels);
- (11) Aromatherapy;
- (12) Make-up application;
- (13) Lash lift and brow lamination;
- (14) Microneedling;
- (15) Dermaplaning; and
- (16) Lash and brow tint.

- (5) Sculptured nails (application, repair, fill, and removal);
- (6) Gel overlay (application, repair, fill, and removal);
- (7) Trimming;
- (8) Filing;
- (9) Shaping;
- (10) Decorating;
- (11) Arm and hand manipulation; and
- (12) Electric file.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;

Amended Eff. January 1, 2015; August 1, 2014;

Readopted Eff. January 1, 2016;

Amended Eff. April 1, 2023; September 1, 2020; October 1, 2019.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;

Amended Eff. January 1, 2015; August 1, 2014;

Readopted Eff. January 1, 2016;

Amended Eff. April 1, 2023; September 1, 2020; October 1, 2019.

21 NCAC 14T .0605 MANICURING CURRICULUM

(a) To meet the approval of the Board, a manicurist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 300 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must receive guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

- (1) Basic manicure;
- (2) Basic pedicure with rasp;
- (3) Sculptured nails including application, fill, and removal; and
- (4) Electric file.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

- (1) Basic manicure;
- (2) Basic pedicure;
- (3) Nail tips;
- (4) Acrylic overlay (application, repair, fill, and removal);

21 NCAC 14T .0606 NATURAL HAIR CARE CURRICULUM

(a) To meet the approval of the Board, a natural hair care specialist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 300 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must receive guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

- (1) Three strand overbraid and underbraid;
- (2) Track and sew weft; and
- (3) Blow drying and hot iron.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

- (1) Twists;
- (2) Knots;
- (3) Locs;
- (4) two strand overlap;
- (5) three strand overbraid;
- (6) three strand underbraid;
- (7) On the scalp three strand braid;
- (8) Track and sew weft;
- (9) Adding hair extensions;
- (10) Shampooing;

- (11) Draping;
- (12) Wrapping; and
- (13) Blowdry and thermal iron.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; Eff. January 1, 2012; Amended Eff. January 1, 2015; August 1, 2014; June 1, 2013; Readopted Eff. January 1, 2016; Amended Eff. April 1, 2023; September 1, 2020; October 1, 2019.

21 NCAC 14T .0607 COSMETOLOGY TEACHER TRAINEE CURRICULUM

(a) To meet the approval of the Board, a cosmetologist teacher training course shall consist of at least 800 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Guided and independent Theory: observation, motivation, student relations, teaching techniques, preparing lesson plans, preparing class lectures and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board	400
Practical Application: Conducting guided theory classes from prepared lessons, preparing and giving examinations, and giving demonstrations	400

(b) Trainees shall receive a minimum of 150 hours of guided theory prior to providing any instruction in a cosmetic art classroom.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Readopted Eff. January 1, 2016; Amended Eff. April 1, 2023; October, 1, 2019.

21 NCAC 14T .0608 ESTHETIC TEACHER TRAINEE CURRICULUM

(a) To meet the approval of the Board under the standards set out in these Rules, an esthetician teacher training course shall consist of at least 650 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Guided and independent Theory: observation, motivation, student relations, teaching techniques, preparing lesson plans, preparing class lectures and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board	325
Practical Application: Conducting guided theory classes from prepared lessons, preparing and giving examinations, and giving demonstrations	325

(b) Trainees shall receive a minimum of 120 hours of guided theory prior to providing any instruction in a cosmetic art classroom.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Readopted Eff. January 1, 2016; Amended Eff. April 1, 2023; October 1, 2019.

21 NCAC 14T .0609 MANICURIST TEACHER TRAINEE CURRICULUM

(a) To meet the approval of the Board under the standards set out in these Rules, a manicurist teacher training course shall consist of at least 320 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Guided and independent Theory: observation, motivation, student relations, teaching techniques, preparing lesson plans, preparing class lectures and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board	160
Practical Application: Conducting guided theory classes from prepared lessons, preparing and giving examinations, and giving demonstrations	160

(b) Trainees shall receive a minimum of 115 hours of guided theory prior to providing any instruction in a cosmetic art classroom.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Readopted Eff. January 1, 2016; Amended Eff. April, 1, 2023; October 1, 2019.

21 NCAC 14T .0610 NATURAL HAIR CARE TEACHER CURRICULUM

(a) To meet the approval of the Board under the standards set out in these Rules, natural hair care teacher training course shall consist of at least 320 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Guided and independent Theory: observation, motivation, student relations, teaching techniques, preparing lesson plans, preparing class lectures and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board	160
Practical Application: Conducting guided theory classes from prepared lessons, preparing and giving examinations, and giving demonstrations	160

(b) Trainees shall receive a minimum of 115 hours of guided theory prior to providing any instruction in a cosmetic art classroom.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012;

*Readopted Eff. January 1, 2016;
Amended Eff. April 1, 2023; October 1, 2019.*

21 NCAC 14T .0611 ONLINE INSTRUCTION

- (a) Online instruction and course hours are accepted by the Board for any cosmetic art curriculum.
- (b) The school shall determine if a student possesses the skills and comprehension necessary to succeed in an online instruction environment and maintain in each student's record documentation of the method used to determine the student's skill and comprehension.
- (c) The school shall track and record the student's hours by minute and educational achievements in the online instruction and shall provide electronic reports generated by the tracking system to an agent of the Board or its inspector upon request.
- (d) The school shall document the student demonstrates participation in the online education course(s).
- (e) Online instruction shall be limited to the independent or guided theory portion only and no more than 50 percent for teacher trainees and 30 percent of the total statutorily required hours for the respective cosmetic art discipline.
- (f) The school shall provide access to technical support for the online educational course or program to students and instructors.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023; October 1, 2019.*

21 NCAC 14T .0612 INSTRUCTION GUIDELINES

- (a) The hours earned in the clinic department must be devoted to safe and effective practice and performance completions.
- (b) Work in the clinic department may be done on the public.
- (c) All instruction in a cosmetic art school shall be in this order:
 - (1) Guided theory;
 - (2) Demonstration;
 - (3) Guided practice;
 - (4) Independent theory;
 - (5) Practice;
 - (6) Evaluation and passage of evaluation; and
 - (7) Performance.
- (d) Infection control and blood exposure required evaluations shall be taught in this order:
 - (1) Hand washing;
 - (2) Implement disinfection;
 - (3) Beginning and end of day infection control;
 - (4) Blood exposure (self cut); and
 - (5) Blood exposure (client).
- (e) A minimum of 10 percent of scheduled attendance time each week shall be dedicated to guided theory, demonstration, and guided practice.
- (f) All assignments shall be graded and returned to the students.
- (g) Cosmetic art students shall receive training and practice only in the discipline in which they are enrolled.
- (h) Performances on other students may be performed in the clinic or in a room within the school with a cosmetic art station.

- (i) Textbooks shall not be used more than five years if a newer version is available.
- (j) Schools shall provide textbooks and supplementary educational materials and equipment to students.
- (k) A cosmetic art teacher shall not perform clinical services on a client at the cosmetic art school.
- (l) Exams administered in a proctored exam site need not be attended by a cosmetic art teacher.
- (m) Cosmetic art teachers shall use the respective evaluation plan to verify student competency prior to assigning a performance.
- (n) The school shall provide students and teachers with access to current reference materials that may include, but are not limited to, such formats as books, periodicals and other written matter, audio-visual equipment and materials, digital media, and online education platforms to support the educational course. Equipment for producing digital and paper copies of supplementary instructional materials shall be available.
- (o) Schools must develop lesson plans for conceptual education, guided theory, hands-on education, and demonstrations that integrate Board infection control rules as established in 21 NCAC 14H with the steps to complete each service as listed in 21 NCAC 14T .0602-.0606.
- (p) School owners, teachers, and school administrators shall not make any statement to a member of the public or students either verbally or in writing, stating or implying Board mandated consequences that are not established by the Board rules or NC General Statutes. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation as set forth in 21 NCAC 14P .0108

*History Note: Authority G.S. 88B-4; 88B-16;
Eff. January 1, 2012;
Amended Eff. June 1, 2013; October 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023; March 1, 2022; October 1, 2019;
January 1, 2016.*

21 NCAC 14T .0613 UNIFORMS AND IDENTIFICATION

- (a) Each cosmetic arts school must define what constitutes a uniform for students and acceptable attire for teachers. Students and teachers shall wear the uniform or acceptable attire as defined by the school so that Board members or agents of the Board can identify by sight students and teachers.
- (b) Each school's definition of acceptable attire cannot change more than once per year.
- (c) Students must wear a name tag identifying student name, cosmetic art discipline. At no time shall a student fail to wear a name tag.
- (d) Each cosmetic art school may permit students to be out of uniform a maximum of four days per year. Notice to the Board must be submitted prior to any day uniforms will not be worn.
- (e) Teachers, guest lecturers, and substitute teachers must wear a name tag with name and position title.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;

Eff. January 1, 2012;
Amended Eff. October 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023.

21 NCAC 14T .0614 INTERNSHIPS

Schools and cosmetic art shops desiring to implement an internship program shall follow these requirements:

- (1) Schools wishing to participate in an internship program must notify the Board of intent to implement a program before credit for an internship may be granted.
- (2) Schools shall report to the Board all cosmetic art shops contracted and students selected to participate in the program.
- (3) Internships may be arranged in various time frames but shall never exceed five percent of a student's training period.
- (4) Credit for an internship shall be granted upon submission of student hours verification based on a daily attendance record. Hours must be recorded on a form approved by the school.
- (5) Students may be assigned a variety of duties, but client services are restricted. Cosmetology and natural hair care students may provide only shampoo services, manicurist students may only remove nail polish and esthetician students may only drape clients.
- (6) Students must follow all Board rules and regulations.
- (7) A licensed teacher need not be in attendance during this internship.
- (8) Students participating in the program shall not receive compensation for duties performed in the cosmetic art shop.
- (9) Prior to a student participating in an internship the student must have passed the infection control and blood exposure evaluations.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. February 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023.

21 NCAC 14T .0615 FIELD TRIPS

(a) Cosmetic art schools shall notify the Board prior to any field trip and record the field trip hours of each student. Cosmetic art educational field trips include the following locations or activities:

- (1) cosmetic art shops;
- (2) cosmetic art conventions;
- (3) competition training;
- (4) other schools;

- (5) professional cosmetic art supply store;
- (6) college or Career Day at school;
- (7) fashion Shows;
- (8) rest homes or nursing homes;
- (9) hospitals; and
- (10) funeral homes.

(b) An instructor shall be present during the educational field trips listed in Paragraph (a) of this Rule for credit to be given to students, with a ratio of one instructor per 25 students present.

(c) The maximum number of hours a student may earn for field trips is 40 hours for cosmetology students, 20 hours for esthetician students, and 10 hours for manicurist or natural hair care students.

(d) Students may earn up to four additional hours of credit for curriculum requirements for interviews for employment at a licensed cosmetic art shop.

(e) Students may not perform any service outside of the school. Students may perform services as part of the school participation in a cosmetic art competition.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. January 1, 2012;
Amended Eff. August 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023; September 1, 2020.

21 NCAC 14T .0616 ADDITIONAL HOURS

(a) Notwithstanding any other rule in this Subchapter, pursuant to G.S. 88B-18(d) a cosmetologist, apprentice, esthetician, manicurist, natural hair care specialist, or teacher candidate who has failed the practical section of the examination three times, shall complete the following amounts of study at an approved cosmetic art school before an applicant may reapply:

- (1) Cosmetologist 40 hours;
- (2) Apprentice 40 hours;
- (3) Esthetician 40 hours;
- (4) Manicurist 40 hours;
- (5) Natural Hair Care Specialist 40 hours; and
- (6) Teacher:
 - (A) cosmetology 40 hours;
 - (B) esthetician 40 hours; and
 - (C) manicurist 40 hours.

(b) Schools shall evaluate students returning to complete additional hours in accordance with Paragraph (a) of this Rule and shall provide remedial assistance or training in the areas of deficiency.

(c) Additional hours as required in Paragraph (a) of this Rule may be completed as online instruction through enrollment in a licensed cosmetic art school.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; 88B-18;
Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023; September 1, 2021; August 1, 2014.

21 NCAC 14T .0617 TEACHER TRAINEES

- (a) A cosmetic art teacher trainee may not perform clinical services on a client at the cosmetic art school.
- (b) A cosmetic art teacher trainee shall be supervised by a cosmetology teacher at all times when the trainee is at a cosmetic art school except as set out in Paragraph (c) of this Rule.
- (c) A manicurist, natural hair care, or esthetician teacher may supervise a cosmetic art teacher trainee with regard to manicuring, natural hair care, or esthetics.
- (d) A cosmetic art teacher trainee program may be a full time program or a part time program. A cosmetic art teacher trainee, however, shall not receive credit for more than 10 hours per day.
- (e) Teacher trainees may present lessons as long as the supervising teacher is present in the classroom.
- (f) Persons receiving teacher training in a cosmetic art school shall be furnished a teacher's manual and shall spend all of their training time under the direct supervision of a licensed cosmetic art teacher and shall not be left in charge of students or the school at any time. Direct supervision is considered as in-person interactive guidance and advising on teacher training topics by a licensed cosmetic art teacher.
- (g) Teacher trainees must be taught how to assess cosmetic art performances using evaluation plans.
- (h) Cosmetic art teacher trainees must be enrolled in school to earn hours.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Amended Eff. August 1, 2014; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023; March 1, 2022.

21 NCAC 14T .0701 SCHOOL OPERATIONS/LICENSURE MAINTENANCE

- (a) No individual shall be given credit for any hours earned in a cosmetic art school before the date the school is granted a license, before the student is enrolled, or after graduation or withdrawal of the student without a new enrollment.
- (b) All Cosmetic Art schools shall submit hours of operation per cosmetic art discipline to the Board. Any changes to the hours of operation shall be submitted to the Board. A school shall be considered open by the Board when cosmetic art instruction, services, or performances are provided.
- (c) Students may be required to clean and disinfect work areas, reception areas, implements, and the dispensary. Students shall not be required to perform maintenance.
- (d) All cosmetic art schools shall adhere to all Board Infection Control Rules located in 21 NCAC 14H Infection Control.
- (e) Cosmetic art schools may permit students to leave the cosmetic art school during instructional time to visit on campus libraries and other educational resource rooms such as computer labs for research and study under the supervision of a cosmetic art instructor.

- (f) Cosmetic art schools shall use the following grading scale for minimum passing grades:

Grade A	100-90
Grade B	80-89
Grade C	70-79
Grade F (Fail)	0-69

- (g) Cosmetic art schools may adopt a higher grading scale.
- (h) In order to graduate, all students shall meet the minimum school and Board requirements as set forth in Rules .0602-.0610 of this Subchapter.
- (i) Written examination shall be administered in the cosmetic art curriculum.
- (j) Students present at school shall be supervised by a cosmetic art teacher at all times. If a guest lecturer is leading a class, at least one cosmetic art teacher must be present in the lecture.
- (k) All cosmetic art schools shall provide:
 - (1) One teacher for every 25 students enrolled in the practice department;
 - (2) One teacher for every 20 students during practical work on live models in the clinic department; and
 - (3) Each Cosmetic art teacher may have up to five teacher trainees, in addition to the ratios set forth in Subparagraph (k)(1) and (2) of this Rule.
- (l) In theory classes, the teacher student ratio may exceed the ratios established in this Rule. A teacher may administer instruction to up to 10 students in practice and clinic departments at the same time. A teacher shall not administer instruction to more than 10 students in practice and clinic departments at the same time.
- (m) At no time can any one teacher be simultaneously responsible for teaching students in a theory class and monitoring students in practice or on the clinic floor.
- (n) In cases of change in teaching staff, the school shall notify the Board of the change in writing prior to beginning instruction. A change in teaching staff includes any substitution for the regularly scheduled teacher and any change, scheduled or otherwise, in the list of teachers last given to the Board.
 - (1) All courses in a cosmetic art school shall be taught by an onsite licensed cosmetology teacher, and student performances completed on the clinic floor must be supervised by an onsite cosmetology teacher, except as follows:
 - (A) manicuring courses, theory, and performances shall be taught by either an onsite licensed cosmetology teacher or an onsite licensed manicurist teacher;
 - (B) natural hair care courses, theory, and performances shall be taught by either an onsite licensed cosmetology teacher or an onsite licensed natural hair care teacher;
 - (C) esthetics courses, theory, and performances shall be taught by

either an onsite licensed cosmetology teacher or an onsite licensed esthetician teacher.

- (2) A licensed cosmetologist not licensed as a cosmetology teacher may substitute for a cosmetology, esthetician, natural hair care or manicurist teacher; a licensed manicurist not licensed as a manicurist teacher may substitute for a manicurist teacher; a licensed natural hair care specialist not licensed as a natural hair care teacher may substitute for a natural hair care teacher; and a licensed esthetician not licensed as an esthetician teacher may substitute for an esthetician teacher.

(o) In no event may any cosmetic art licensee substitution last for more than 15 consecutive working days per year per teacher. If any teacher substitution is 16 consecutive days or longer, the school shall provide a new cosmetic art teacher.

(p) Enrolled students may earn a maximum of 10 hours per day per discipline of cosmetic art and a maximum of 48 hours per week per discipline. Online education can be earned in addition to the maximum daily and weekly hours. A student enrolled in more than one cosmetic art discipline may not earn hours or complete performances concurrently.

(q) The Board shall certify student hours for any North Carolina cosmetic art school that is closed. The Board shall not certify student hours between any North Carolina open cosmetic art schools. The Board shall certify student hours earned at North Carolina cosmetic art schools to other state boards and schools open outside of the state of North Carolina as set forth in Rule .0502 of this Subchapter.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; Eff. February 1, 2012; Amended Eff. August 1, 2014; June 1, 2013; October 1, 2012; Readopted Eff. January 1, 2016; Amended Eff. April 1, 2023; March 1, 2022; October 1, 2019; December 1, 2016.

21 NCAC 14T .0702 TRANSFER OF CREDIT

(a) A student who transfers from one cosmetic art discipline to another cosmetic art discipline shall not receive credit for hours received in the initial curriculum.

(b) Up to 50 percent of all credit earned in an approved esthetician, manicurist or natural hair care teacher training program may be transferred to a cosmetology teacher training program.

(c) A maximum of 160 hours earned in either an esthetician, natural hair care or manicurist teacher training program may be transferred between programs once.

(d) Licensed estheticians, manicurists and natural hair care stylists may request the school to apply up to 50 percent of hours required for licensure by G.S. 88B earned toward the cosmetology curriculum.

(e) Licensed cosmetologists may request the school apply up to 50 percent of the hours required for licensure as an esthetician, manicurist, or natural hair care specialist by G.S.

88B toward the esthetician, manicurist, or natural hair care specialist curriculum.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023.

21 NCAC 14T .0706 SCHOOL APPROVAL CHANGES AND SCHOOL CLOSING

(a) If the location of a cosmetic art school changes or if there is a transfer of majority ownership of a cosmetic art school, whether by sale, lease, or otherwise, the school owner shall submit a new application for approval in accordance with Rule .0102 of this Subchapter.

(b) License and letters of approval issued to cosmetic art schools are not transferrable, and are valid only for the location, square footage, and enrollment capacity for which issued, and to the owner to whom issued. The letter of approval shall contain the school name, school owner name, school location, date of approval, the signature of the Board members, the amount of approved square footage, and the maximum number of enrollments for which the school has been approved.

(c) Schools intending to close must notify the Board not less than 30 days in advance.

(d) Schools must make provisions for the long term storage of school documents as set forth in Rule .0502 of this Subchapter, and facilitate the retrieval of any school documents upon the request of a student or the Board. Schools shall notify the Board of the contact information for retrieval of any school information.

(e) Schools must facilitate and cooperate in the final inspection and processing of student hours.

(f) If the square footage or instructional layout of a cosmetic art school changes, the school shall notify the Board of the change and submit a diagram of the new instructional layout. Following receipt of the notification of the change in the instructional layout or square footage, a Board inspector shall verify the change. If there is an educational change such as adding an educational program the full curriculum must be submitted to the Board for approval. Schools must verify compliance with mechanical codes when changing or moving equipment.

History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015; Amended Eff. April 1, 2023; March 1, 2022; September 1, 2021.

21 NCAC 14T .0802 SCHOOL INFECTION CONTROL GRADES

Schools shall follow all Board infection control regulations. Schools shall be issued a grade at each inspection on a grade card provided by the Board.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023.*

21 NCAC 14T .0803 SCHOOL INSPECTIONS

- (a) Schools must facilitate and cooperate by providing access to the school facility, students, and records during all school inspections.
- (b) Schools are subject to reevaluation and re-inspection at any time.
- (c) Failure to comply with the G.S. 88B and rules of the Board is cause to revoke or suspend the school's license/letter of approval.
- (d) In addition to such other reports as may be required by the Board, cosmetic art schools shall report to the Board or its authorized agent, upon inspection of the cosmetic art school and at other times upon specific request, the names of all students currently enrolled and the hours and evaluation plans completed by each.
- (e) The owner of the cosmetic art school or owner's representative shall read each inspection report made of the school by an authorized agent of the Board to determine that the information on the inspection report is correct, and shall sign and retain a copy of all inspection reports.
- (f) If any part of the information on the report is incorrect, it shall be corrected by the authorized agent of the Board.
- (g) A school may submit an exception to any inspection report. Such exceptions shall be prepared and signed by the owner and submitted to the Board and shall be attached to the report.
- (h) All present student equipment and records shall be made available to inspectors during school inspection.
- (i) Cosmetic art schools must maintain copies of lesson plans and evaluation plans and make such copies available to an agent of the Board upon request.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;
Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 13, 2015;
Amended Eff. April 1, 2023.*

**CHAPTER 28 - LANDSCAPE CONTRACTORS'
LICENSING BOARD**

21 NCAC 28B .0402 CONTINUING EDUCATION UNITS

(a) A licensee shall complete in-person seven continuing education units (CEUs) during the year preceding renewal. At least three of the seven CEUs must be technical credits and at least two of the seven CEUs must be business credits. If the information provided by the licensee or continuing education provider to the Board as required by this Section is unclear, the Board may request additional information from a licensee or

continuing education provider in order to assure compliance with continuing education requirements.

(b) For the purposes of this Rule:

- (1) "technical credits" are defined as credits relating to the subject matter of landscape contracting as described in G.S. 89D-11(3) and Rules .0502 through .0511 in this Subchapter. The rules shall be grouped as follows:
 - (A) Group A: topics covered in Rules .0502, .0503, .0510, and .0511 in this Subchapter;
 - (B) Group B: topics covered in Rules .0504 and .0506 in this Subchapter;
 - (C) Group C: topics covered in Rules .0507 through .0509 in this Subchapter;
 - (D) Group D: topics covered in Rule .0505; and
- (2) "business credits" are defined as credits relating to general business practices, including business planning, contracts, liability exposure, human resources, basic accounting, financial statements, and safety.

(c) CEUs shall be determined as follows:

Type of Qualifying Activity	Minimum time required for 1 CEU
Live course	50 minutes
Online course	50 minutes
Trade Shows, Field Days, and Tours	4 hours
Green Industry Board Member Service	1 hour
Teaching or instructing	1 hour
In-house or Green Industry training	1 hour
NC Landscape Contractors Licensing Board Service	1 hour

Green Industry Board members and NC Landscape Contractors Licensing Board members may earn no more than five hours per CE year (three technical credits and two business credits) for Green Industry or Landscape Licensing board service.

- (d) No more than two CEU credits shall be given for qualifying teaching or instructing in one year.
- (e) Credit shall not be given in increments of less than .5 CEUs. Breaks in courses shall not be counted towards CEU credit.
- (f) Requests for pre-approval as set forth in Rule .0405 of this Subchapter shall be submitted at least 45 days prior to the first day of the course or event.
- (g) All continuing education shall be taken in-person by the individual receiving credit.
- (h) A licensee shall not take the same CEU course within two consecutive licensing years.
- (i) A licensee licensed less than 12 months shall not be subject to continuing education requirements for the initial renewal date as set forth in this Rule.

History Note: Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b); Temporary Adoption Eff. January 1, 2016; Eff. September 1, 2016; Amended Eff. April 1, 2023; July 1, 2021; June 1, 2019.

CHAPTER 29 - LOCKSMITH LICENSING BOARD

21 NCAC 29 .0501 OBLIGATION OF LICENSED LOCKSMITHS

- (a) By applying for and accepting a license issued by the Board, all licensees become obligated to comply with the provisions of this Section. Failure to comply may result in disciplinary action by the Board.
(b) The obligations of this Chapter extend to all employees of licensed individuals and licensed individuals shall be responsible for the actions of their employees. The term "employee" shall mean every person engaged in employment under a contract of hire or apprenticeship, express or implied, oral or written, including non-citizens, and also minors, whether lawfully or unlawfully employed.

History Note: Authority G.S. 74F-3; 74F-6; Temporary Adoption Eff. August 13, 2002; Eff. August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016; Amended Eff. April 1, 2023.

CHAPTER 36 – BOARD OF NURSING

21 NCAC 36 .0228 CLINICAL NURSE SPECIALIST PRACTICE

- (a) Only a registered nurse who meets the qualifications outlined in Paragraph (b) of this Rule shall be approved by the Board as a clinical nurse specialist to perform advanced practice registered nursing activities listed in Paragraph (f) of this Rule.
(b) The Board shall approve an applicant who:
(1) has an active, unencumbered license to practice as a registered nurse in North Carolina or a state that has adopted the Nurse Licensure Compact;
(2) has an unrestricted previous approval, registration, or license as a clinical nurse specialist if previously approved, registered, or licensed as a clinical nurse specialist in another state, territory, or possession of the United States;
(3) has successfully completed a master's or higher-level degree program that is accredited by a nursing accrediting body approved by the United States Secretary of Education or the Council for Higher Education Accreditation and meets the qualifications for clinical nurse specialist

- certification by an approved national credentialing body under Subparagraph (b)(4) of this Rule; and
(4) has current certification as a clinical nurse specialist from a national credentialing body approved by the Board, as defined in Paragraph (h) of this Rule and 21 NCAC 36 .0120(33).

(c) An applicant certified as a clinical nurse specialist by a national credentialing body prior to January 1, 2007 who has maintained that certification and active clinical nurse specialist practice and holds a master's or higher degree in nursing or a related field shall be approved by the Board as a clinical nurse specialist.

(d) New graduates seeking first-time clinical nurse specialist approval in North Carolina shall hold a master's or higher-level degree or a post-graduate certificate from a clinical nurse specialist program accredited by a nursing accrediting body approved by the United States Secretary of Education or the Council for Higher Education Accreditation and shall meet all requirements in Subparagraph (b)(1) and Part (g)(3)(A) of this Rule.

(e) A certified clinical nurse specialist seeking Board approval who has never practiced as a clinical nurse specialist or has not practiced in more than two years shall complete a clinical nurse specialist refresher course approved by the Board in accordance with 21 NCAC 36 .0220(o) and (p), consisting of common conditions and their management related to the clinical nurse specialist's area of education and certification. A clinical nurse specialist refresher course participant shall be granted limited clinical nurse specialist recognition that is specific to clinical activities taught in the refresher course.

(f) The scope of practice of a clinical nurse specialist shall incorporate the basic components of nursing practice as defined in Rule .0224 of this Section as well as the understanding and application of nursing principles at an advanced practice registered nurse level in the area of clinical nursing specialization in which the clinical nurse specialist is educationally prepared and for which competency is maintained, including:

- (1) assessing clients' health status, synthesizing and analyzing multiple sources of data, and identifying alternative possibilities as to the nature of a healthcare problem;
(2) diagnosing and managing clients' acute and chronic health problems within the essential core competencies for professional nursing education;
(3) assessing for and monitoring the usage and effect of pharmacologic agents within the essential core competencies for professional nursing education;
(4) formulating strategies to promote wellness and prevent illness;
(5) prescribing and implementing therapeutic and corrective non-pharmacologic nursing interventions;
(6) planning for situations beyond the clinical nurse specialist's expertise and consulting

- with or referring clients to other health care providers as appropriate;
- (7) promoting and practicing in collegial and collaborative relationships with clients, families, other health care professionals, and individuals whose decisions influence the health of individual clients, families, and communities;
 - (8) initiating, establishing, and using measures to evaluate health care outcomes and modify nursing practice decisions;
 - (9) assuming leadership for the application of research findings for the improvement of health care outcomes; and
 - (10) integrating education, consultation, management, leadership, and research into the clinical nurse specialist role.
- (g) A registered nurse seeking approval by the Board as a clinical nurse specialist shall:
- (1) submit a completed application that includes the following:
 - (A) evidence of a master's or higher-level degree or a post-graduate certificate, as set out in Subparagraph (b)(3) or Paragraph (d) of this Rule; and
 - (B) evidence of current certification in a clinical nursing specialty from a national credentialing body, set out in Subparagraph (b)(4) of this Rule.
 - (2) renew the approval every two years at the time of registered nurse renewal; and
 - (3) submit evidence of the following:
 - (A) initial certification and re-certification by a national credentialing body at the time such occurs in order to maintain Board recognition, consistent with Paragraphs (b) and (h) of this Rule; or
 - (B) if recognized by the Board as a clinical nurse specialist without national certification prior to April 1, 2023, at least 1,000 hours of practice and 75 contact hours of continuing education with 25 contact hours of pharmacotherapeutics as a portion of the mandatory 75 contact hours every five years; or
 - (C) if recognized by the Board as a clinical nurse specialist without national certification prior to April 1, 2021, 150 contact hours of continuing education with 50 contact hours of pharmacotherapeutics as a portion of the 150 contact hours every five years.

- Part (B) and (C) of this Subparagraph does not apply to first time CNS' renewing their application for the first time.
- (4) maintain documentation of clinical practice hours and continuing education for the previous five years and made available upon request of the Board.
- (h) The Board shall approve those national credentialing bodies offering certification and recertification in a clinical nursing specialty that have established the following minimum requirements for applicants:
- (1) active unencumbered licensure as a registered nurse; and
 - (2) certification as a clinical nurse specialist that is limited to applicant prepared with a master's or higher-level degree or a post-graduate certificate.

History Note: Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21(d)(4); 90-171.23(b); 90-171.42(b); Eff. April 1, 1996; Amended Eff. January 1, 2015; April 1, 2008; January 1, 2007; November 1, 2005; August 1, 2005; April 1, 2003; Readopted Eff. January 1, 2019; Amended Eff. April 1, 2023; November 1, 2020.

21 NCAC 36 .0817 COVID-19 DRUG PRESERVATION RULE

History Note: Authority G.S. 90-8.2; 90-171.23(b)(14); Emergency Adoption Eff. April 21, 2020; Temporary Adoption Eff. June 26, 2020; Temporary Adoption Expired Eff. June 26, 2020; Eff. June 1, 2021; Repealed Eff. April 1, 2023.

TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS

26 NCAC 03 .0103 COMMENCEMENT OF CONTESTED CASE: NOTICE AND FILING FEE

- (a) Within five days of filing a petition to commence a contested case, the Chief Administrative Law Judge shall assign an administrative law judge to the case. Within ten days of the filing of a petition commencing a contested case, the Chief Hearings Clerk of the Office of Administrative Hearings shall serve a Notice of Contested Case Filing and Assignment upon all who are parties to the dispute. The notice shall contain the following:
- (1) name of case and date of filing;
 - (2) name, address, and telephone number of the assigned administrative law judge; and
 - (3) a request that the party send within 30 days a copy of the document constituting the agency action that caused the filing of the petition or a written explanation of why the petitioner is a party or person aggrieved if a document constituting the agency action does not exist.

(b) In contested cases commenced by a person aggrieved involving the following causes of action, the petitioner shall pay a filing fee of one hundred twenty-five dollars (\$125.00):

- (1) contested cases challenging certificate of need filed pursuant to G.S. 131E-188;
- (2) contested cases challenging permit actions under G.S. 143-215.1, G.S. 143-215.10C, G.S. 143-215.15, and G.S. 143-215.108; and
- (3) contested cases where the amount in controversy is fifty thousand dollars (\$50,000) or greater.

(c) In contested cases commenced by a person aggrieved that do not involve the causes of action listed in Paragraph (b) of this Rule, the petitioner shall pay a fee of twenty dollars (\$20.00).

(d) The filing fee shall be waived in a contested case involving a mandated federal cause of action. Examples of federal causes of action include cases involving Medicaid, foster care, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), Special Education/IDEA, the Health Care Personnel Registry, and the Supplemental Nutrition Assistance Program (SNAP).

(e) When filing a petition for a contested case, the petitioner shall simultaneously submit the filing fee or a request to proceed in forma pauperis.

- (1) If the filing fee is not paid or is paid in an incorrect amount at the time of filing, the Office of Administrative Hearings shall notify the petitioner in writing and permit a late payment of the filing fee to be made within 60 days of the date the petition was filed. If the filing fee is not paid within 60 days of the date of filing, the petition may be dismissed pursuant to G.S. 150B-33(b)(10).
- (2) To proceed in forma pauperis, a petitioner shall submit an affidavit on a form provided by OAH containing the substantive requirements listed in G.S. 1-110(a). Late forms shall be accepted within the timeframe set in Subparagraph (e)(1) of this Rule.

(h) The filing fee shall be refunded when Rule .0105(7) of this Section applies.

(i) The method of payment of the filing fee shall be:

- (1) cash;
- (2) money order;
- (3) certified check;
- (4) check drawn on an attorney's trust or operating account; or
- (5) credit or debit card if the petition is filed electronically.

History Note: Authority G.S. 150B-23; 150B-23.2; 150B-33; Eff. August 1, 1986; Amended Eff. October 1, 1991; November 1, 1987; September 1, 1986; Emergency Amendment Eff. October 1, 2009; Temporary Amendment Eff. December 1, 2009; Amended Eff. June 1, 2014; October 1, 2010;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2023.

26 NCAC 03 .0112 DISCOVERY

(a) Any means of discovery available pursuant to the North Carolina Rules of Civil Procedure, G.S. 1A-1, is allowed. If the party from whom discovery is sought objects to the discovery, the party seeking the discovery may file a motion with the administrative law judge to obtain an order compelling discovery. In the disposition of the motion, the party seeking discovery shall have the burden of showing that the discovery is needed for the proper presentation of the party's case, is not for purposes of delay, and that the issues in controversy are significant enough to warrant the discovery.

(b) When a party serves another party with a Request for Discovery, that request need not be filed with the Office of Administrative Hearings but shall be served upon all parties.

(c) The parties in any contested case shall voluntarily exchange information upon filing the contested case, seek access as provided by law to public documents, and exhaust other informal means of obtaining discoverable material within the timeframe set in the scheduling order.

All discovery shall be completed no later than the first day of the contested case hearing.

(d) No later than 15 days from receipt of a notice requesting discovery, the receiving party shall:

- (1) move for relief from the request;
- (2) provide the requested information, material or access; or
- (3) offer a schedule for reasonable compliance with the request.

(e) Sanctions for failure of a party to comply with an order of the administrative law judge made pursuant to the discovery rules of this Chapter shall be as provided for by G.S. 1A-1, Rule 37 and Rule .0114 of this Section.

History Note: Authority G.S. 1A-1, Rule 5; 150B-28; 150B-33(b)(3)(4); Eff. August 1, 1986; Amended Eff. February 1, 1994; November 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. April 1, 2023.

26 NCAC 03 .0123 OFFICIAL RECORD

(a) The official record of a contested case shall be available for public inspection upon request. An administrative law judge may, consistent with law, order all or part of an official record sealed.

(b) The official record shall be prepared in accordance with G.S. 150B-37(a).

(c) Contested case hearings shall be recorded either by a hearing assistant provided by the Office of Administrative Hearings or a court reporter listed by the North Carolina Administrative Office of the Courts as authorized and approved to prepare transcripts of proceedings held in the courts of all counties procured directly by one or more parties to the contested case.

(d) If a contested case hearing is cancelled, the party responsible for the cancellation shall provide a 24-hour cancellation notice to the other parties in all cases in which a hearing assistant is provided by the Office of Administrative Hearings.

(e) Transcripts of proceedings held in the Office of Administrative Hearings shall be made only upon request of a party. When proceedings are recorded by a court reporter, transcript requests shall be made directly to the court reporter. When proceedings are recorded by a hearing assistant, transcript requests shall be made directly to a transcriptionist listed by the North Carolina Administrative Office of the Courts as authorized and approved to prepare transcripts of proceedings held in the courts of all counties.

(f) A party who orders a transcript shall use an Office of Administrative Hearings transcript form to order the transcript, which shall include the following information:

- (1) case name and number;
- (2) requestor information; and
- (3) transcriptionist information.

That form is available on the Office of Administrative Hearings website at <https://www.oah.nc.gov> and may be obtained from the Chief Hearings Clerk upon request. The party ordering the

transcript shall file the transcript form with the Office of Administrative Hearings and shall serve the transcript form on all other parties and the transcriptionist.

(g) The transcriptionist shall deliver the transcript to the party or parties that requested the transcript and file the transcript with the Office of Administrative Hearings by email to oah.clerks@oah.nc.gov in PDF format no later than 30 days after having been served with the transcript contract.

(g) Copies of recordings made by a hearing assistant are available upon written request at a cost set out in 26 NCAC 01 .0103.

History Note: Authority G.S. 7A-751; 150B-37;

Eff. August 1, 1986;

Amended Eff. August 1, 1998; April 1, 1990; February 1, 1989;

November 1, 1987;

September 1, 1986;

Recodified from Rule .0122 Eff. August 1, 2000;

Amended Eff. April 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. April 1, 2023; August 1, 2021.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission April 27, 2023 and May 18, 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

May 18, 2023	July 20, 2023
June 15, 2023	August 17, 2023

AGENDA

**RULES REVIEW COMMISSION SPECIAL MEETING
THURSDAY, APRIL 27, 2023 11:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 163A-159(e)
- II. Follow-up matters
Board of Barber and Electrolysis Examiners - 21 NCAC 06L .0116; 06N .0102, .0104, .0116; 06O .0105, .0112, .0114, .0119 (Peaslee)
- III. Commission Business
 - Next meeting: Thursday, May 18, 2023

AGENDA

**RULES REVIEW COMMISSION
Thursday, May 18, 2023, 9:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Medical Care Commission - 10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, .5411 (Liebman)
 - B. Criminal Justice Education and Training Standards Commission – 12 NCAC 09E .0107 (Ascher)
 - C. Environmental Management Commission - 15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 (Liebman)
 - D. Environmental Management Commission - 15A NCAC 02B .0315; 02D .0516 (Duke)

RULES REVIEW COMMISSION

- E. Marine Fisheries Commission - 15A NCAC 03M .0101; 18A .0911 (Duke)
 - F. 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, .0312 (Liebman)
 - G. Coastal Resources Commission - 15A NCAC 07H .2305 (Duke)
 - H. Coastal Resources Commission - 15A NCAC 07M .0201, .0202, .0401, .0402, .0403, .0701, .0703, .0704, .1001, .1002, .1101 (Peaslee)
 - I. Commission for Public Health - 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, .2836 (Ascher)
 - J. Board of Barber and Electrolysis Examiners – 21 NCAC 06N .0102, .0104, .0116; .0105, .0112, 0114; 06L .0116; 06O .0119 (Peaslee) will most likely be removed after special meeting
 - K. State Board of Education – 16 NCAC 06G .0601 (Ascher)
 - L. Board of Nursing – 21 NCAC 36 .0807 (Peaslee)
- IV. Review of Filings (Permanent Rules) for rules filed between March 21, 2023 through April 20, 2023
- Department of Insurance (Liebman)
 - Wildlife Resources Commission (Duke)
 - Board of Examiners of Electrical Contractors (Liebman)
 - Medical Board (Peaslee)
 - Real Estate Commission (Ascher)
 - Building Code Council (Liebman)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- VII. Commission Business
- Review of Amendments to the Periodic Review Report Schedule
 - Consideration and adoption of proposed changes to 26 NCAC 05 .0100 - .0200
 - Next meeting: June 15, 2023

**Commission Review
Log of Permanent Rule Filings
March 21, 2023 through April 20, 2023**

INSURANCE, DEPARTMENT OF

The rules in Chapter 5 concern the fire and rescue services division.

The rules in Subchapter 5A include general provisions (.0100); state volunteer fire department (.0200); firemen's relief fund (.0300); volunteer fire department fund (.0600); volunteer rescue/EMS fund (.0700); cigarette fire-safety standards (.0800); public protection classifications for fire districts (.0900).

<u>Incident Reporting</u>	11	NCAC	05A	.0910
Amend*				
<u>Records</u>	11	NCAC	05A	.0911
Amend*				

WILDLIFE RESOURCES COMMISSION

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish in inland fishing waters (.0300); nongame fish in inland fishing waters (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600); game fish in coastal fishing waters (.0700).

<u>Public Mountain Trout Waters</u>	15A	NCAC	10C	.0205
Amend*				

<u>Trotlines, Jug Hooks and Set Hooks</u> Amend*	15A NCAC 10C .0206
<u>Manner of Taking Inland Game Fishes</u> Amend*	15A NCAC 10C .0302
<u>Crappie</u> Amend*	15A NCAC 10C .0306
<u>Striped Bass</u> Amend*	15A NCAC 10C .0314
<u>Manner of Taking Nongame Fishes</u> Amend*	15A NCAC 10C .0401

The rules in Subchapter 10D concern game lands.

<u>General Regulations Regarding Use</u> Amend*	15A NCAC 10D .0102
<u>Hunting on Game Lands</u> Readopt with Changes*	15A NCAC 10D .0103
<u>Fishing on Game Lands</u> Readopt with Changes*	15A NCAC 10D .0104
<u>Possession and Removal of Animals, Plants and Materials</u> Readopt with Changes*	15A NCAC 10D .0105
<u>Butner-Falls of Neuse Game Land in Durham, Granville, and...</u> Amend*	15A NCAC 10D .0211
<u>Wayne Bailey-Caswell Game Land in Caswell County</u> Amend*	15A NCAC 10D .0215
<u>Gull Rock Game Land in Hyde County</u> Amend*	15A NCAC 10D .0232
<u>Johns River Game Land in Burke County</u> Amend*	15A NCAC 10D .0239
<u>Jordan Game Land in Chatham, Durham, Orange, and Wake Cou...</u> Adopt*	15A NCAC 10D .0240
<u>Pee Dee River Game Land in Anson, Montgomery, Richmond, a...</u> Amend*	15A NCAC 10D .0258
<u>Rocky Run Game Land in Onslow County</u> Amend*	15A NCAC 10D .0269
<u>Sandhills Game Land in Hoke, Moore, Richmond, and Scotland...</u> Amend*	15A NCAC 10D .0271

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

<u>Clay County</u> Amend*	15A NCAC 10F .0308
<u>Forsyth: Rockingham and Stokes Counties</u> Amend*	15A NCAC 10F .0316
<u>Mecklenburg and Gaston Counties</u> Amend*	15A NCAC 10F .0333
<u>Perquimans County</u> Amend*	15A NCAC 10F .0355
<u>City of Roxboro</u> Adopt*	15A NCAC 10F .0379

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS OF

The rules in Chapter 18B concern the board's rules for the implementation of the electrical contracting licensing act including general provisions (.0100); examinations (.0200); definitions and explanations applicable to licensing (.0300); licensing requirements (.0400); licensing options (.0500); licensing reciprocity (.0700); special restricted licenses (.0800); violations and contested case hearings (.0900); and continuing education (.1100).

<u>Fees</u> Amend*	21	NCAC	18B	.0209
<u>Annual License Fees</u> Amend*	21	NCAC	18B	.0404

MEDICAL BOARD

The rules in Subchapter 32B concern license to practice medicine including prescribing (.1000); general (.1300); resident's training license (.1400); faculty license (.1500); special purpose license (.1600); other licenses (.1700); and expedited application for physician license (.2000).

<u>Physician Supervision of Nurse Midwives</u> Adopt*	21	NCAC	32B	.1002
<u>COVID-19 Drug Preservation Rule</u> Repeal*	21	NCAC	32B	.1708

The rules in Subchapter 32M regulate the approval, registration and practice of nurse practitioners (.0100).

<u>Continuing Education (CE)</u> Amend*	21	NCAC	32M	.0107
<u>COVID-19 Drug Preservation Rule</u> Repeal*	21	NCAC	32M	.0119

REAL ESTATE COMMISSION

The rules in Subchapter 58A are concern real estate brokers including general brokerage (.0100); application for license (.0300); examinations (.0400); licensing (.0500); real estate commission hearings (.0600); petitions for rules (.0700); declaratory rulings (.0900); real estate education and recovery fund (.1400); discriminatory practices prohibited (.1600); mandatory continuing education (.1700); limited nonresident commercial licensing (.1800); post-licensing education (.1900); annual reports (.2000); brokers in military service (.2100); and broker price opinions and comparative market analyses (.2200).

<u>Reporting Criminal Convictions and Disciplinary Actions</u> Amend*	21	NCAC	58A	.0113
<u>Form</u> Amend*	21	NCAC	58A	.0301
<u>Reinstatement of a License</u> Amend*	21	NCAC	58A	.0505
<u>Attendance and Participation Requirements</u> Amend*	21	NCAC	58A	.1705
<u>Equivalent Credit</u> Amend*	21	NCAC	58A	.1708
<u>Continuing Education Required of Nonresident Brokers</u> Repeal*	21	NCAC	58A	.1711

The rules in Subchapter 58B concern time shares including timeshare program registration (.0100); real estate education providers (.0200); cancellation (.0300); time share sales operation (.0400); handling and accounting of funds (.0500); and project broker (.0600).

Public Offering Statement Summary 21 NCAC 58B .0202
Amend*

The rules in Subchapter 58H concern real estate education including general rules (.0100); real estate schools (.0200); approved instructors (.0300); and real estate courses (.0400).

Application for Education Provider Certification 21 NCAC 58H .0202
Amend*

Limited Education Provider Petition for Consideration 21 NCAC 58H .0216
Adopt*

Application and Criteria for Instructor Approval 21 NCAC 58H .0302
Amend*

Limited Instructor Petition for Reconsideration 21 NCAC 58H .0307
Adopt*

BUILDING CODE COUNCIL

2018 NC Fire Code/Maximum Floor Area Allowances Per Occupant Table 1004.1.2
Amend*

2018 NC Building Code/Maximum Floor Area Allowances Per O... Table 1004.1.2
Amend*

2018 NC Plumbing Code/Definitions Section 202
Amend*

2018 NC Building Code/Definitions Section 202
Amend*

2018 NC Plumbing Code/Minimum Number of Required Plumbing... Table 403.1
Amend*

2018 NC Building Code/Minimum Number of Required Plumbing... Table 2902.1
Amend*