

NORTH CAROLINA REGISTER

VOLUME 38 • ISSUE 10 • Pages 600 – 653

November 15, 2023

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PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
Telephone 984-236-1850
Fax 984-236-1947*

*Donald R. van der Vaart, Director
Ashley B. Snyder, Codifier of Rules
Dana McGhee, Publications Coordinator
Cathy Matthews-Thayer, Editorial Assistant
Julie B. Eddins, Register Drafter*

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Ashley B. Snyder, Codifier of Rules

ashley.snyder@oah.nc.gov

984-236-1941

Dana McGhee, Publications Coordinator

dana.mcghee@oah.nc.gov

984-236-1937

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

984-236-1901

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Brian Liebman, Commission Counsel

brian.liebman@oah.nc.gov

984-236-1948

William W. Peaslee, Commission Counsel

bill.peaslee@oah.nc.gov

984-236-1939

Seth M. Ascher, Commission Counsel

seth.ascher@oah.nc.gov

984-236-1934

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

984-236-1940

Julie B. Eddins, Administrative Assistant

julie.eddins@oah.nc.gov

984-236-1935

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Julie Ventaloro, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0694

NC Association of County Commissioners

919-715-2893

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

919-715-2925

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

mjackson@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

919-733-2578

Raleigh, North Carolina 27611

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Chris Saunders, Staff Attorney

Aaron McGlothlin, Staff Attorney

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 but not later than 60 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.

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



State of North Carolina

ROY COOPER
GOVERNOR

October 18, 2023

EXECUTIVE ORDER NO. 291

DISASTER DECLARATION FOR THE VILLAGE OF CEDAR ROCK IN CALDWELL COUNTY, NORTH CAROLINA

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a disaster declaration for an emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7) that has been impacted by a Type I disaster as defined in N.C. Gen. Stat. § 166A-19.21(b); and

WHEREAS, on July 15, 2023, the Village of Cedar Rock (hereinafter "Cedar Rock") in Caldwell County, North Carolina experienced damages from a rain event; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.22 the Mayor of the Village of Cedar Rock declared a state of emergency on July 16, 2023; and

WHEREAS, due to the impacts of the event, local and state emergency management officials conducted a joint preliminary damage assessment on August 23, 2023 for Cedar Rock; and

WHEREAS, Cedar Rock has incurred more than \$10,000 in disaster-related damages, the damages exceed one (1) percent of the Village's operating budget, Cedar Rock has a current state approved Hazard Mitigation plan in place and participates in the National Flood Insurance Program; and

WHEREAS, the President of the United States has not declared a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (hereinafter "Stafford Act"), as amended (42 U.S.C. § 5121-5206); and

WHEREAS, Cedar Rock would not qualify based on the preliminary damage assessment for Federal Public Assistance according to the requirements of 44 C.F.R. § 206.48; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.21(a)-(b), the criteria for a Type I disaster are met if: (a) the Secretary of the North Carolina Department of Public Safety has provided a preliminary damage assessment to the undersigned and the General Assembly; (b) local state of emergency declarations have been issued pursuant to N.C. Gen. Stat. § 166A-19.22 in the areas impacted by the Type I disaster; (c) the preliminary damage assessment meets or exceeds the State infrastructure criteria set out in N.C. Gen. Stat. § 166A-19.41(b)(2)a; and (d) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared for Public Assistance; and

WHEREAS, the undersigned has determined that a Type I disaster, as defined in N.C. Gen. Stat. § 166A-19.21(b)(1), exists in the State of North Carolina in the Village of Cedar Rock in Caldwell County; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.41, if a disaster is declared, the undersigned may make state funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of residents in the emergency area.

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

Section 1.

For purposes of this Executive Order only, the emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7), is the Village of Cedar Rock in Caldwell County, North Carolina ("the Emergency Area").

Section 2.

Pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Emergency Area.

Section 3.

I authorize state disaster assistance in the form of public assistance grants to the eligible local governments located within the emergency area that meet the terms and conditions under N.C. Gen. Stat. § 166A-19.41(b)(2). The public assistance grants are for the following:

- a. Emergency Protective Measures
- b. Roads and bridges

Section 4.

I hereby order that this declaration be (a) distributed to the news media and other organizations calculated to bring its contents to the attention of the public; (b) promptly filed with the Secretary of the North Carolina Department of Public Safety, the North Carolina Secretary of State, and the Clerk of Superior Court in Caldwell County; and (c) distributed to others as necessary to ensure proper implementation of this declaration.

Section 5.

Pursuant to N.C. Gen. Stat. § 166A-19.21(c)(1), this Type I disaster declaration shall expire sixty (60) days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of thirty (30) days each, not to exceed a total of 120 days from the date of first issuance.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 18th day of October in the year of our Lord two thousand and twenty-three.


 Roy Cooper
 Governor

ATTEST:


 Elaine F. Marshall
 Secretary of State



1 NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING

2
3 NORTH CAROLINA BUILDING CODE COUNCIL

4
5 **Notice of Rule-making Proceedings** is hereby given by NC Building Code Council in accordance with
6 G.S. 150B-21.5(d).

7
8 **Citation to Existing Rule Affected by this Rule-Making:** *North Carolina Administrative, Building and*
9 *Mechanical Code amendments.*

10
11 **Authority for Rule-making:** *G.S. 143-136; 143-138.*

12
13 **Reason for Proposed Action:** *To incorporate changes in the NC State Building Codes as a result of*
14 *rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the*
15 *Council.*

16
17 **Public Hearing:** *Tuesday, December 12, 2023, 9:00AM, Albemarle Building, 325 North Salisbury Street,*
18 *Raleigh, NC 27603, 2nd Floor Training Room 245. Comments on both the proposed rules and any fiscal*
19 *impacts will be accepted.*

20
21 **Comment Procedures:** *Written comments may be sent to David B. Rittlinger, (Interim) Secretary, NC*
22 *Building Code Council, NC Department of Insurance: Office of the State Fire Marshal, 1429 Rock Quarry*
23 *Road, Raleigh, NC 27610 (email david.rittlinger@ncdoi.gov). Comments on both the proposed rule and*
24 *any fiscal impact will be accepted. Comment period expires on January 16, 2024.*

25
26 **Link to Agency Notice:**
27 <https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notices>

28
29 **Statement of Subject Matter:**

30
31 **1. Request from Cheryl K. Dean and Timothy W. Maloney representing the NC Registered**
32 **Landscape Architects to amend the 2024 NC Administrative Code and Policies, Sections 204.4.5 and**
33 **204.4.5.1 as follows:**

34
35 **204.4.5 Design professional seal required.** *Where the General Statutes, North Carolina Board of*
36 *Architecture and Registered Interior Designers, the North Carolina Board of Landscape Architects, or the*
37 *North Carolina Board of Examiners for Engineers and Land Surveyors require, no permit shall be issued*

1 unless the construction documents (drawings and specifications), bear the North Carolina seal of a
2 registered design professional. Construction documents shall include the name and address of the business
3 entity (individual, corporation or partnership) with whom the registered design professional is affiliated.
4 Questions concerning this section should be directed to the North Carolina Board of Architecture and
5 Registered Interior Designers, the North Carolina Board of Landscape Architects, the North Carolina Board
6 of Examiners for Engineers and Land Surveyors, or the National Institute for Certified Engineering
7 Technologies (NICET) Board of Governors.

8
9 **204.4.5.1 Registered design professional.** The registered design professional shall be a registered
10 architect, registered interior designer, registered landscape architect, licensed professional engineer or
11 NICET Level III sprinkler or fire alarm designer legally registered or licensed under the laws of this state.

12
13 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
14 1, 2025, unless the BCC assigns a delayed effective date.

15
16 **Reason Given** – This amendment is proposed to protect the public by updating the code to current
17 standards of practice. This change proposed to the declared definition of a registered design professional
18 would resolve any conflicts when a system, structure or element, defined by the NC State Building Code is
19 appropriately designed and certified by a Registered Landscape Architect practicing within their expertise.
20 Currently when the NCBC specifies certain systems, structures, and elements, be designed or certified by a
21 “registered design professional” that precludes a qualified Registered Landscape Architect from providing
22 design services for things like, but not limited to, retaining walls, decks, soils or foundation analysis. A
23 Registered Landscape Architect is a professional who has demonstrated knowledge acquired through
24 professional education, experience, testing and continuing education and is deemed eligible to perform the
25 services in connection with the development of land areas. This practice shall include the preparation of
26 plans and specifications and supervising the execution of projects involving the arranging of land and
27 construction elements in accordance with the accepted professional standards of public health, safety, and
28 welfare. Further, the scope of this practice, as defined by G.S. 89A-1(3) and G.S. 89A2(b) shall be limited
29 only by the licensee possessing the requisite knowledge and experience to provide the service. These
30 services can include the design and certification of systems, structures, or elements such as retaining walls
31 and decks, among others. Furthermore, this proposed change aligns the state’s building codes with the 1989
32 opinion from the Attorney General of NC (copy attached) which states that a town cannot exclude a
33 qualified licensed design professional --- and specifically mentions “landscape architect” – from designing
34 and sealing something the licensee is qualified to design. There is no legal distinction between a town and
35 the State as a unit of government, and the Attorney General’s opinion should be equally applicable.

1 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
2 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
3 funds. A fiscal note has not been prepared.
4

5 **2. Request from Kerry Sutton, P.E. representing the American Concrete Institute, Edward Deaver**
6 **representing the ACI Carolinas Chapter, Caroline Sutton representing Carolinas Ready Mixed**
7 **Concrete Association, Shamim Rashid-Sumar, P.E., F.S.F.P.E. representing National Ready Mixed**
8 **Concrete Association, Griff Shapack, P.E. representing Simpson Strong-Tie, Jay Pease, P.E.**
9 **representing Owens Corning/Infrastructure Solutions, Jerzy Zemajtis, P.E. representing NEX: An**
10 **ACI Center of Excellence for Nonmetallic Building Materials, and Jay Thomas representing**
11 **Structural Technologies to amend the 2024 NC Building Code, Section 1901 as follows:**
12

13 **1901.2 Plain and reinforced concrete.** Structural concrete shall be designed and constructed in accordance
14 with the requirements of this chapter and ACI 318 as amended in Section 1905 of this code. Except for the
15 provisions of Section 1904 and 1907, the design and construction of slabs on grade shall not be governed in
16 this chapter unless they transmit vertical *loads* or lateral forces from other parts of the structure to the soil.
17

18 **1901.2.1 Structural concrete with GFRP reinforcement.** Cast-in-place structural concrete internally
19 reinforced with glass fiber reinforced polymer (GFRP) reinforcement conforming to ASTM D7957 and
20 designed in accordance with ACI CODE 440.11 shall be permitted where fire resistance ratings are not
21 required and only for structures assigned to Seismic Categories A, B or C.
22

23 **Exception:** Concrete internally reinforced with GFRP bars shall not be permitted for concrete elements that
24 are part of the seismic lateral force resisting system in structures assigned to Seismic Design Categories B
25 or C.
26

27 **Add new reference standard(s) to Chapter 35 as follows:**
28

29 **ACI**

30 **440.11-22 Building Code Requirements for Structural Concrete Reinforced with Glass Fiber-Reinforced**
31 **Polymer (GFRP) Bars-Code and Commentary.....1901.2.1**
32

33 **ASTM**

34 **D7957-17 Standard Specification for Solid Round Glass Fiber Reinforced Polymer Bars for Concrete**
35 **Reinforcement.....1901.2.1**
36

1 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
2 1, 2025, unless the BCC assigns a delayed effective date.

3
4 **Reason Given** – This proposal adds a new referenced standard: ACI CODE 440.11-22: Structural Concrete
5 Buildings Reinforced Internally with Fiber Reinforced Polymer (FRP) Bars – Code Requirements. The
6 addition of this new standard allows the design and construction of cast-inplace reinforced concrete using
7 non-metallic reinforcement bars. The design and construction requirements contained in the standard are
8 limited to use in structures assigned to Seismic Design Category A, B or C where fire resistance ratings are
9 not required (Section 4.11.1). It further clarifies that GFRP bars shall not be permitted for structure
10 elements assigned to Seismic Design Category B and C where part of seismic force-resisting systems
11 (Section 4.4.6.5). ACI Committee 440 developed this standard to provide for public health and safety by
12 establishing minimum requirements for strength, stability, serviceability, durability, and integrity of GFRP
13 reinforced concrete structures. The standard not only provides a means of establishing minimum
14 requirements for the design and construction of GFRP reinforced concrete, but for acceptance of design and
15 construction of GFRP reinforced concrete structures by the building officials or their designated
16 representatives. Due to the performance of other types of FRP reinforcement and the lack of research and
17 testing of other types, the standard only applies to reinforced concrete structures designed and constructed
18 with GFRP manufactured in accordance with ASTM D7957 Standard Specification for Solid Round Glass
19 Fiber Reinforced Polymer Bars for Concrete. GFRP reinforced concrete is especially beneficial for
20 satisfying a demand for improved resistance to corrosion in highly corrosive environments, such as
21 reinforced concrete exposed to water, sea water, sea air, and de-icing salts. This standard establishes
22 minimum requirements for GFRP reinforced concrete in a similar fashion as ACI 318 Building Code
23 Requirements for Structural Concrete establishes minimum requirements for structural concrete reinforced
24 with steel reinforcement. A separate standard is needed, as GFRP reinforcement behaves differently than
25 steel reinforcement. ACI CODE 440.11 will be referenced in the 2024 International Building Code.
26 Because of the many corrosive environments in North Carolina, acceptance of ACI CODE 440.11 prior to
27 the review of the 2024 I-Codes can be beneficial for the health, safety, and general welfare of the public in
28 North Carolina. Currently GFRP is accepted for use to reinforce highway bridge decks. Acceptance is
29 primarily in areas where saltwater is prevalent and where deicing salts are used on the roads and cause
30 severe corrosion to conventional steel reinforcement. This proposed change provides minimum
31 requirements for other applications where GFRP reinforced concrete is being considered, such as marine
32 and coastal structures, parking garages, water tanks, and structures supporting MRI machines. Design
33 reasons to use GFRP bars in structures are resistance to corrosion in the presence of chloride ions, lack of
34 interference with electromagnetic fields, and low thermal conductivity. The use of GFRP reinforcement is
35 accepted by the North Carolina Department of Transportation and has been specified in the Harkers Island
36 Bridge replacement project currently under construction.

1 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
 2 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
 3 funds. A fiscal note has not been prepared.

4

5 **3. Request from Julius Ballanco, P.E. representing JB Engineering and Code Consulting, P.C. to**
 6 **amend the 2024 NC Mechanical Code, Chapter 15 as follows:**

7

ASHRAE
ASHRAE 1791 Tullie Circle, NE
 Atlanta, GA 30329

15—
~~2019~~2022 Safety Standard for Refrigeration Systems 1101.1, 1106.4.2

34—
~~2019~~2022 Designation and Safety Classification of Refrigerants 1102.2.1, 1103.1, Table 1103.1

8

UL LLC
UL 333 Pfingsten Road
 Northbrook, IL 60062-2096

9

UL/CSA Household And Similar Electrical Appliances - Safety 908.1, 916.1,
 60335-2-40- — Part 2-40: Particular Requirements for Electrical 918.1, 918.2,
~~2019~~2022 Heat Pumps, Air-Conditioners and Dehumidifiers Table 1101.2

10

UL/CSA Household And Similar Electrical Appliances - Safety — Part
 60335- 2-89: Particular Requirements for Commercial Refrigerating Table 1101.2
 2-89- Appliances with an Incorporated or Remote Refrigerant Units
~~47~~2021 or Compressor

11

12 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is January
 13 1, 2025, unless the BCC assigns a delayed effective date.

14

15 **Reason Given** – These proposed amendments are based on the 2024 North Carolina Mechanical Code
 16 language but include updates based on approved 2024 ICC International Mechanical Code changes to these
 17 referenced standards – as related to A2L refrigerants. Updating noted standards to the 2022 editions are
 18 needed because computer room air conditioners and data center air conditioners using A2L refrigerants are
 19 not addressed in the UL/CSA 60335-2-40-2019 standard. These are only addressed in the UL/CSA 60335-

1 2-40-2022 edition. The ASHRAE 15-2022 standard has revised installation requirements for equipment
2 using A2L refrigerants. The ASHRAE 34-2022 standard has new refrigerants added. UL 60335-2-89 is
3 being added to allow for the use of new Low GWP, Group A2L refrigerants to be used in refrigeration
4 equipment. This UL/CSA 60335-2-89 standard was added in the 2021 IMC but updated to the 2021 edition
5 in the 2024 IMC. I am simply bringing them forward for early adoption to help speed the transition to new
6 lower GWP A2L refrigerants until such time as North Carolina adopts the 2024 I-Codes.

7
8 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
9 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
10 funds. A fiscal note has not been prepared.

11
12 **4. Request from David Rittlinger representing NCDOT to amend the 2024 NC Administrative Code**
13 **and Policies by adding Appendix H: “Affidavit of on-site wastewater existing system pursuant to**
14 **N.C.G.S. 160D-1110(h1)” to comply with SL 2023-90 (H628) that was signed into law on 7/10/23 and**
15 **becomes effective 10-1-23.**
16

APPENDIX H

AFFIDAVIT OF ON-SITE WASTEWATER EXISTING SYSTEM PUSUANT TO N.C.G.S. §160D-1110(h1)

[This form is only required with a permit application if the permit applicant is applying for exemption as allowed by N.C.G.S. § 160D-1110(h1)]

STATE OF NORTH CAROLINA

COUNTY OF _____

Inspection Department

Address and Parcel Identification of Real Property Where Building is to be Constructed or Altered:

I, _____,

(Print Full Name)

owner of the property, do hereby under penalties of perjury affirm that the proposed building construction will meet local and State on-site wastewater system setback requirements pursuant to N.C.G.S. § 130A-335. Additionally, the proposed construction shall not increase the design daily flow or wastewater strength of the existing system and thereby absolves the State, Inspection Department, and Local Health Department of any responsibility or liability regarding the existing wastewater system.

The property owner may, at his or her discretion, consult with an authorized on-site wastewater evaluator certified by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board or an inspector, as defined in N.C.G.S. § 90A-71(5), to locate the on-site wastewater existing system and verify setbacks requirements prior to executing this affidavit.

(Signature of Affiant)

Date

Sworn to (or affirmed) and Subscribed before me this the ____ day of _____, 20__

Signature of Notary Public

Printed Name of Notary Public

My Commission Expires: _____ (Notary Stamp or Seal)

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is January 1, 2025, unless the BCC assigns a delayed effective date.

Reason Given – Adding Appendix H: “Affidavit of on-site wastewater existing system pursuant to N.C.G.S. 160D1110(h1)” to comply with SL 2023-90 (H628) that was signed into law on 7/10/23 and becomes effective 10-123.

1 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
2 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
3 funds. A fiscal note has not been prepared.

4

5 **NOTICE:**

6 **Appeals and Interpretations** of the North Carolina State Building Codes are published online at the
7 following link.

8 <https://www.ncosfm.gov/interpretations>

9

10 **NOTICE:**

11 **Amendments** of the North Carolina State Building Codes are published online at the following link.

12 <https://www.ncosfm.gov/codes/codes-current-and-past>

13

14 **NOTICE:**

15 **Objections and Legislative Review** requests may be made to the NC Office of Administrative Hearings in
16 accordance with G.S. 150B-21.3(b2) after Rules are adopted by the Building Code Council.

17 <http://www.ncoah.com/rules/>



NORTH CAROLINA
STATE BOARD OF ELECTIONS

Mailing Address:
P.O. Box 27255,
Raleigh, NC 27611
(919) 814-0700 or
(866) 522-4723
Fax: (919) 715-0135

Mr. Al Pisano, Chairman
Constitution Party of North Carolina
7209-J WT Harris Blvd.
Charlotte, NC 28207

October 17, 2023

Re: Request for an advisory opinion under N.C.G.S. § 163-278.23 regarding
legal services

Dear Mr. Pisano,

Thank you for contacting our office. The following written opinion is provided in
accordance with N.C.G.S. § 163-278.23.

On August 5, 2023, you sent an email regarding legal services that may be
provided to a political committee pro bono. Our summary of your questions are as
follows:

- (1) Whether an attorney operating independent of any law firm would be
permitted to represent a political committee pro bono, and if permitted,
whether any campaign finance reporting requirements apply; and
- (2) Whether an attorney employed by a law firm or business entity would be
permitted to represent a political committee pro bono, and if permitted,
whether any campaign finance reporting requirement apply.

Two key provisions of Article 22A guide the analysis. These are outlined in
Sections I and II of this opinion. In Sections III, I provide a more detailed
explanation of the pro bono services that may be provided by legal clinics and
other programs through law schools.

I. Exception for services provided without compensation

The definition of contribution in N.C.G.S. § 163-278.6(13) states that the term
includes, “without limitation, such contributions as labor or personal services,
postage, publication of campaign literature or materials, in-kind transfers, loans or
use of any supplies, office machinery, vehicles, aircraft, office space, or similar or

related services, goods, or personal or real property.” However, N.C.G.S. § 163-278.6(13) also says that “the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, political committee, or referendum committee.”

Under this exception, an individual may volunteer their personal services to a candidate or political committee without making a contribution so long as the individual is not compensated by anyone else for the services. This includes the legal services of a licensed attorney, so long as the attorney is not paid by a law firm, or anyone else, for the time or the services rendered. An attorney may volunteer to appear in court on behalf of the political committee, write policy papers, edit campaign materials, place signs, canvass, serve as an election observer, or make phone calls. Since uncompensated services provided by volunteers are not contributions as that term is defined in N.C.G.S. § 163-278.6(13), the services do not have to be disclosed on any campaign finance disclosure report.

II. Attorneys employed by law firms

However, if the attorney is a partner or employee of a law firm, and services are provided during the hours that attorney is working for the firm,¹ or if the attorney is in any other way compensated by the law firm for the services, the exception in N.C.G.S. § 163-278.6(13) does not apply. The services rendered would constitute a contribution by the law firm to the political committee. As you are aware, a political committee is prohibited from accepting contributions from any corporation, business entity, labor union, professional association, or insurance company. N.C.G.S. § 163-278.15(a). The term “business entity” includes any “partnership” or “firm.” N.C.G.S. § 163-278.6(7).

In addition to attorney time, use of the firm’s resources including equipment, supplies and software to provide legal services to the political committee would result in a prohibited contribution under N.C.G.S. § 163-278.15.

Therefore, in general, an attorney who is a partner or employee of a law firm cannot provide services to a political committee without compensation from the political committee unless the services are rendered on personal time and without any compensation from the law firm.

¹ If the attorney is providing legal services to the political committee while taking paid leave from work, the exception in N.C.G.S. § 163-278.6(13) would apply so long as it is within the individual attorney’s discretion, not the firm’s discretion, how the attorney’s leave time is used.

III. Legal clinics and other programs through law schools

Legal clinics, which are programs through law schools that allow students to receive law school credit as they work to provide real legal services under supervision of staff, also result in individuals volunteering a portion of their time on behalf of a political committee. Other similar practical-skills programs, such as externships and internships, also allow law students to receive law school credit as they provide legal services. Consistent with the exception for volunteer services in N.C.G.S. § 163-278.6(13), political committees may receive such services without those services resulting in a contribution to the committee. Laws schools regularly make resources such as supplies, office machinery, or office space available to clinic programs and other practical-skills programs. However, use of these resources does not result in contributions since these resources are made available for free to all individuals and entities served by the clinic or practical-skills program.

Since uncompensated services provided by volunteers are not contributions as that term is defined in N.C.G.S. § 163-278.6(13), services provided by legal clinics or other practical-skills programs associated with law schools do not have to be disclosed on any campaign finance disclosure report.

The opinion will be filed with the Codifier of Rules to be published in the North Carolina Register.

Sincerely,



Karen Brinson Bell
Executive Director
State Board of Elections

Cc: Ashley B. Snyder, Codifier of Rules

From: chairman@constitutionpartync.com
<chairman@constitutionpartync.com>
Sent: Saturday, August 5, 2023 5:21 PM
To: Bell, Karen B <Karen.Bell@ncsbe.gov>
Subject: [External] Formal Request for a Written Advisory Opinion

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Executive Director Bell,
N.C.G.S. § 163-278.23 authorizes The Executive Director of the North Carolina State Board of Elections to issue advisory opinions. Therefore, The Constitution Party of North Carolina State Executive committee is hereby formally requesting a written opinion on the following?

1). Under 163-278.15(a) Would a attorney working for a law firm or business entity be allowed to represent a political committee pro bono, and if they are permitted under law would their services need to be reported as a in-kind donation? If The attorney was doing this work outside the law firm would it be permitted and would it need to be recorded as a in kind donation and would their services be limited to the contribution limits under NC Law?

Al Pisano
Chairman Constitution Party of North Carolina

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 08 – STATE BOARD OF ELECTIONS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Elections intends to adopt the rule cited as 08 NCAC 17 .0109, amend the rule cited as 08 NCAC 17 .0101, and repeal the rules cited as 08 NCAC 17 .0102, .0103, .0105, and .0106.

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

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncsbe.gov/about-elections/legal-resources/rulemaking>

Proposed Effective Date: April 1, 2024

Public Hearing:

Date: December 13, 2023

Time: 11:00 a.m.

Location: State Board Room, Dobbs Building, 3rd Floor, 430 N Salisbury St, Raleigh, NC 27603

Reason for Proposed Action: The State Board of Elections proposes to issue two permanent rules dealing with the process for implementing the requirement for photo identification for voting. One rule addresses in-person voting procedures (.0101) and another rule addressing absentee voting procedures (.0109). The proposed permanent versions of these rules draw on the temporary versions of these rules, with some modifications. Those temporary rules are currently in effect but will expire in May 2024. The State Board also proposes permanently repealing four rules that pertained to a prior version of the photo identification law and which are no longer necessary or applicable.

Comments may be submitted to: Rulemaking Coordinator, PO Box 27255, Raleigh, NC 27611-7255; email rulemaking.sboe@ncsbe.gov

Comment period ends: January 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 17 - PHOTO IDENTIFICATION

08 NCAC 17 .0101 DETERMINATION OF REASONABLE RESEMBLANCE AT CHECK-IN VERIFICATION OF PHOTO IDENTIFICATION DURING IN-PERSON VOTING

(a) ~~An election official shall check the registration status of all persons presenting to vote in person on election day or during one stop early voting pursuant to G.S. 163-166.7, and shall require that all persons presenting to vote provide one of the forms of photo identification listed in G.S. 163-166.13(c), subject to the exceptions outlined in Paragraph (b) of this Rule. If a person not satisfying the exceptions described in Paragraph (b) of this Rule does not provide any photo identification, the election official shall inform the person presenting to vote of applicable options specified in G.S. 163-166.13(c). If the person presenting to vote wishes to choose the option of voting a provisional ballot, the election official shall provide the person presenting to vote with information on the provisional voting process and the address of the county board of elections office.~~

(b) ~~The election official shall not require photo identification of a person who has a sincerely held religious objection to being photographed and meets the requirements of G.S. 163-166.13(a)(2), or who is the victim of a natural disaster and meets the requirements of G.S. 163-166.13(a)(3). Persons falling within any exception listed in this Paragraph shall be allowed to proceed pursuant to G.S. 163-166.7.~~

(c) ~~The election official shall inspect any photo identification provided by the person presenting to vote and shall determine the following:~~

- (1) ~~That the photo identification is of the type acceptable for voting purposes pursuant to G.S. 163-166.13(e). A valid United States passport book or a valid United States passport card is acceptable pursuant to G.S. 163-166.13(e);~~

- (2) That the photo identification is unexpired or is otherwise acceptable pursuant to G.S. 163-166.13(e);
- (3) That the photograph appearing on the photo identification depicts the person presenting to vote. The election official shall make this determination based on the totality of the circumstances, construing all evidence, along with any explanation or documentation voluntarily proffered by the person presenting to vote, in the light most favorable to that person. Perceived differences of the following features shall not be grounds for the election official to find that the photograph appearing on the photo identification fails to depict the person presenting to vote:
- (A) weight;
 - (B) hair features and styling, including changes in length, color, hairline, or use of a wig or other hairpiece;
 - (C) facial hair;
 - (D) complexion or skin tone;
 - (E) cosmetics or tattooing;
 - (F) apparel, including the presence or absence of eyeglasses or contact lenses;
 - (G) characteristics arising from a perceptible medical condition, disability, or aging;
 - (H) photographic lighting conditions or printing quality; and
- (4) That the name appearing on the photo identification is the same or substantially equivalent to the name contained in the registration record. The election official shall make this determination based on the totality of the circumstances, construing all evidence, along with any explanation or documentation voluntarily proffered by the person presenting to vote, in the light most favorable to that person. The name appearing on the photo identification shall be considered substantially equivalent to the name contained in the registration record if differences are attributable to a reasonable explanation or one or more of the following reasons:
- (A) Omission of one or more parts of the name (such as, for illustrative purposes only, Mary Beth Smith versus Beth Smith, or Patrick Todd Jackson, Jr. versus Patrick Todd Jackson, or Maria Guzman Santana versus Maria Guzman);
 - (B) Use of a variation or nickname rather than a formal name (such as, for illustrative purposes only, Bill versus William, or Sue versus Susanne);
 - (C) Use of an initial in place of one or more parts of a given name (such as, for illustrative purposes only, A.B. Sanchez versus Aaron B. Sanchez);
 - (D) Use of a former name, including maiden names (such as, for illustrative purposes only, Emily Jones versus Emily Gibson), or a variation that includes or omits a hyphenation (such as, for illustrative purposes only, Chantell D. Jacobson-Smith versus Chantell D. Jacobson);
 - (E) Ordering of names (such as, for illustrative purposes only, Maria Eva Garcia Lopez versus Maria E. Lopez-Garcia);
 - (F) Variation in spelling or typographical errors (such as, for illustrative purposes only, Dennis McCarthy versus Denis McCarthy, or Aarav Robertson versus Aarav Robertsson).
- (d) The election official shall not require any additional evidence outside the four corners of the photo identification. The election official shall not require that any person remove apparel for the purposes of rendering a determination under Paragraph (c). If the face of the person presenting to vote is covered such that the election official cannot render a determination under Subparagraph (c)(3), then the election official shall give the person the opportunity to remove the covering but shall not require that removal. If the person declines to remove the covering, the election official shall inform the person presenting to vote that he or she may cast a provisional ballot, which shall be counted in accordance with G.S. 163-182.1A, or, if applicable, may complete a written request for an absentee ballot as set out in G.S. 163-166.13(c)(3), and shall inform the voting site's judges of election that the election official cannot affirmatively determine that the person bears any reasonable resemblance to the photo identification. G.S. 163-166.16.
- (e) Differences between the address appearing on the photo identification meeting the requirements of Subparagraph (c)(1) and the address contained in the registration record shall not be construed as evidence that the photographic identification does not bear any reasonable resemblance pursuant to Subparagraphs (c)(3) and (c)(4) of this Rule, nor shall it be construed as evidence that the photographic identification does not otherwise meet the requirements of any other provision of Paragraph (C).
- (f) The election official examining photo identification provided by a person presenting to vote shall construe all evidence, along with any explanation or documentation voluntarily offered by the person presenting to vote, in the light most favorable to that person, and shall be guided by the purpose of the photo identification requirement, which is to confirm the person presenting to vote is the registered voter on the voter registration records. After an examination performed in the manner set out in Paragraphs (a) through (c)(d) of this Rule, the election official shall proceed as follows:
- (1) If the election official determines that the photo identification meets all the requirements of Paragraph (c), then the person presenting to vote shall be allowed to proceed pursuant to G.S. 163-166.7 and 163-166.13(b); or

- (2) ~~If the election official determines that the photo identification does not meet all of the requirements of Subparagraphs (c)(1) and (c)(2), the election official shall inform the person presenting to vote of the reasons for such determination (such as, for illustrative purposes only, that the photo identification is expired) and shall invite the person to provide any other acceptable photo identification that he or she may have. If the person presenting to vote does not produce photo identification that meets all the requirements of Subparagraph (c)(1) and (c)(2), then the election official shall inform the person presenting to vote of applicable options specified in G.S. 163-166.13(e). If the person presenting to vote wishes to choose the option of voting a provisional ballot, the election official shall provide the person presenting to vote with information on the provisional voting process and the address of the county board of elections office.~~
- (3) ~~If the election official determines that the photo identification does not meet all the requirements of Subparagraphs (c)(3) and (c)(4), the election official shall notify the voting site's judges of election that the person presenting to vote does not bear any reasonable resemblance to the photo identification.~~

(a) When a person presenting to vote checks in at a voting site, an election official shall ask the voter to show photo identification in accordance with G.S. 163-166.16 and this Rule. The election official shall examine any photo identification provided by the person presenting to vote and shall determine the following:

- (1) The photo identification is of the type acceptable for voting purposes pursuant to G.S. 163-166.16(a). A valid United States passport book or passport card is acceptable pursuant to G.S. 163-166.16(a)(1)c.
- (2) The photograph appearing on the photo identification bears a reasonable resemblance to the person presenting to vote. A reasonable resemblance is a similarity in appearance such that an ordinary person would conclude that the photograph on the identification is more likely than not the person presenting to vote. The election official shall make this determination based on the totality of the circumstances, bearing in mind that there are many reasons that a person's appearance could change (such as, for illustrative purposes only, changes in hair, facial hair, or weight; or the effects of medical conditions, aging, or medical treatment). The election official shall also be guided by the purpose of the photo identification requirement, which is to confirm the person presenting to vote is the registered voter on the voter registration records.
- (3) The name appearing on the photo identification is the same as or substantially equivalent to the

name contained in the voter's voter registration record. The election official shall make this determination based on the totality of the circumstances, construing all evidence, along with any explanation or documentation voluntarily offered by the person presenting to vote, in the light most favorable to that person. The election official shall consider the name appearing on the photo identification to be substantially equivalent to the name contained in the registration record if differences are attributable to a reasonable explanation, which shall include but is not limited to one or more of the following reasons:

- (A) Omission or inclusion of one or more parts of the name (such as, for illustrative purposes only, Mary Beth Smith versus Beth Smith, or Patrick Todd Jackson, Jr. versus Patrick Todd Jackson, or Maria Guzman-Santana versus Maria Guzman);
- (B) Use of a variation or nickname rather than a formal name (such as, for illustrative purposes only, Bill versus William, or Sue versus Susanne);
- (C) Use of an initial in place of one or more parts of a given name (such as, for illustrative purposes only, A.B. Sanchez versus Aaron B. Sanchez);
- (D) Use of a former name, including maiden names (such as, for illustrative purposes only, Emily Jones versus Emily Gibson), or a variation that includes or omits a hyphenation or hyphen (such as, for illustrative purposes only, Chantell D. Jacobson-Smith versus Chantell D. Jacobson or Chantell D. Jacobson Smith), an accent (such as, for illustrative purposes only, José Muñoz versus Jose Munoz), or an apostrophe (such as, for illustrative purposes only, Andrea D'Antonio versus Andrea Dantonio);
- (E) Ordering of names (such as, for illustrative purposes only, Maria Eva Garcia Lopez versus Maria E. Lopez-Garcia); or
- (F) Variation in spelling or typographical errors (such as, for illustrative purposes only, Dennis McCarthy versus Denis McCarthy, or Aarav Robertson versus Aarav Robertsson).

If a voter is casting a provisional ballot because the voter's record does not appear in the poll book, the election official shall instead compare the name on the photo identification with the name provided by the voter on the provisional ballot application.

(b) The election official examining photo identification provided by a person presenting to vote shall not require the voter to provide any additional evidence outside the four corners of the photo identification. If the face of the person presenting to vote is covered to such an extent that the election official cannot determine reasonable resemblance under Subparagraph (a)(2) of this Rule, then the election official shall inform the voter that the face covering is preventing the official from determining that the photo on the identification is that of the voter and shall offer the voter the option to briefly remove the face covering. If the voter chooses not to remove the covering, then the election official shall enter a challenge in accordance with Subparagraph (d)(3) of this Rule.

(c) Differences between the address appearing on the photo identification of a person presenting to vote and the address contained in the registration record of that person shall not be considered as evidence that the photographic identification fails to meet the requirements of G.S. 163-166.16 or this Rule.

(d) After examining the photo identification according to Paragraphs (a) through (c) of this Rule, the election official shall proceed as follows:

- (1) If the election official determines that the photo identification meets all the requirements of Paragraph (a) of this Rule, then the election official shall allow the person to vote pursuant to G.S. 163-166.7.
- (2) If the election official determines that the photo identification is not an acceptable type of photo identification under Subparagraph (a)(1) of this Rule, the election official shall inform the person presenting to vote of the reasons for that determination (such as, for illustrative purposes only, that the photo identification is not on the list of student identifications approved by the State Board of Elections) and shall invite the person to provide any other photo identification that is acceptable under Subparagraph (a)(1) of this Rule that the person may have. If the person presenting to vote does not produce photo identification that meets all the requirements of Subparagraph (a)(1) of this Rule, then the election official shall inform the person presenting to vote of the options to vote by provisional ballot in accordance with Paragraph (e) of this Rule.
- (3) If the election official determines that the photo or name on the photo identification do not satisfy Subparagraphs (a)(2) and (a)(3) of this Rule, the election official shall inform the person presenting to vote of the reasons for that determination and shall invite the person to provide any other photo identification that the person may have that is acceptable under Subparagraph (a)(1) and satisfies Subparagraphs (a)(2) and (a)(3) of this Rule. If the person presenting to vote does not produce photo identification that meets all the requirements of Paragraph (a) of this Rule, then the election official shall enter a challenge

pursuant to G.S. 163-87 and immediately notify the voting site's judges of election of the challenge. The judges of election shall then conduct a challenge hearing, in accordance with the applicable procedures in G.S. 163-88. At the conclusion of the hearing, the judges of election shall vote on whether the photo appearing on the photo identification of the person presenting to vote bears a reasonable resemblance to that person or whether the name appearing on the photo identification is the same as or substantially equivalent to the name contained in the voter's voter registration record, applying the same standards as the election official initially reviewing the identification under Subparagraphs (a)(2) and (a)(3). Each judge shall record the judge's findings in writing. Only if the judges of election unanimously find that the photo appearing on the photo identification does not bear a reasonable resemblance to the person presenting to vote, or that the name appearing on the photo identification is not the same as or substantially equivalent to the name contained in the voter's voter registration record, the voter shall be offered the options to vote by provisional ballot in accordance with Paragraph (e) of this Rule. Absent such a unanimous finding, the person shall vote with a regular ballot pursuant to G.S. 163-166.7. When the judges of election conduct a challenge hearing under this Rule and the challenge is to a curbside voter, to ensure the voting enclosure remains properly attended, the judges may separately visit the curbside location to assess the voter's identification.

(e) A person presenting to vote who does not present acceptable photo identification in accordance with this Rule shall be offered the following options:

- (1) To vote by provisional ballot with an affidavit claiming an exception to the identification requirement, pursuant to G.S. 163-166.16(d). If the voter has completed the affidavit as required in G.S. 163-166.16(d) and is otherwise eligible to vote, the county board shall count the provisional ballot unless the county board unanimously finds that the affidavit is false. The county board shall substantiate any finding of falsity with grounds recorded in a written decision. Before disapproving a voter's provisional ballot because of a finding of falsity, the county board shall provide the voter advance notice and an opportunity to address the county board prior to the canvass on any grounds that the county board is considering regarding the falsity of the affidavit. The notice shall identify the specific reasons the county board is considering the affidavit to be potentially false and inform the voter how the voter may address the reasons for potential

falsity, which shall include the option to provide a written explanation or address the board at a meeting in person. The notice shall be provided by a means of physical delivery designed to provide the voter actual notice in advance of the opportunity to address the county board and by any email address or phone number that the county board possesses for the voter. The notice and opportunity to address the county board provided for in this Subparagraph shall be offered only to those provisional voters for whom the county board has identified a reason to find that the affidavit claiming an exception to the identification requirement is false.

(2) To vote by provisional ballot and then bring to the office of the county board identification acceptable under G.S. 163-166.16 and this Rule before 5 p.m. on the business day before county canvass. If the voter brings photo identification to the office of a county board in a timely manner, a county board staff member shall examine the photo identification in accordance with Paragraphs (a), (b), and (c) of this Rule. After examining the photo identification, the staff member shall proceed as follows:

(A) If the photo identification meets all the requirements of Paragraph (a) of this Rule, the staff member shall recommend approval of the provisional ballot to the county board.

(B) If the photo identification is not an acceptable type of photo identification under Subparagraph (a)(1) of this Rule, then the staff member shall inform the voter of the reasons for that determination, while the voter is at the county board office, and invite the voter to provide an acceptable photo identification in accordance with Subparagraph (d)(2) of this Rule. If the voter does not provide acceptable identification by 5 p.m. on the business day prior to the canvass, then county board staff shall recommend disapproval of the provisional ballot to the county board.

(C) If the photo or name on the photo identification do not satisfy Subparagraphs (a)(2) and (a)(3) of this Rule, then the staff member shall inform the voter of the reasons for that determination and shall invite the voter to provide any other acceptable photo identification. If the voter does not produce acceptable photo identification, then the staff member shall recommend disapproval of the provisional ballot to the county board.

While the voter is at the county board office, the staff member shall inform the voter of the recommendation and provide notice to the voter of the county board meeting at which the voter's provisional ballot will be reviewed and considered by the county board. If the voter appears at that meeting and desires to address the county board on whether their photo identification is acceptable under this Rule, the county board members are subject to the requirements of this Rule in the same manner as a staff member initially examining a voter's photo identification.

If the voter brings photo identification that is an acceptable type of photo identification under Subparagraph (a)(1) of this Rule to the county board office before 5 p.m. on the business day prior to the canvass, the county board shall count the provisional ballot unless the county board unanimously decides the photo identification presented does not satisfy Subparagraphs (a)(2) and (a)(3) of this Rule, in which case the county board shall record in writing the grounds for its decision.

Authority G.S. 163-22; 163-82.6A; 163-82.15; 163-166.7; NAACP v. McCrory, 831 F.3d 204 (4th Cir. 2016); 163A-1145.1; S.L. 2018-144, s. 3.1(e); 163-166.11; 163-166.16.

08 NCAC 17 .0102 DETERMINATION OF REASONABLE RESEMBLANCE BY JUDGES OF ELECTION

Authority G.S. 163-82.6A; 163-82.15; 163-88.1; 163-166.7; NAACP v. McCrory, 831 F.3d 204 (4th Cir. 2016); 163A-1145.1; S.L. 2018-144, s. 3.1(e).

08 NCAC 17 .0103 IDENTIFICATION REQUIRED OF CURBSIDE VOTERS

Authority NAACP v. McCrory, 831 F.3d 204 (4th Cir. 2016); S.L. 2018-144, s. 3.1(d).

08 NCAC 17 .0105 DECLARATION OF RELIGIOUS OBJECTION TO PHOTOGRAPH

Authority NAACP v. McCrory, 831 F.3d 204 (4th Cir. 2016); S.L. 2018-144, s. 3.1.(a),(e), (h).

08 NCAC 17 .0106 SIGNAGE NOTIFYING ONE-STOP VOTERS OF THE OPTION TO REQUEST AN ABSENTEE BALLOT

Authority NAACP v. McCrory, 831 F.3d 204 (4th Cir. 2016); S.L. 2018-144, s. 3.1.(j).

**08 NCAC 17 .0109 PHOTO IDENTIFICATION FOR
ABSENTEE-BY-MAIL BALLOTS**

(a) Identification Requirement for Absentee-by-Mail Ballots. Photo identification accompanying a voter's absentee ballot pursuant to G.S. 163-230.1(f1) is acceptable if it is a photocopy of a type of photo identification acceptable for voting purposes under 08 NCAC 17 .0101(a)(1), is readable, and the name appearing on the identification is the same as or substantially equivalent to the name contained in the voter's voter registration record in accordance with 08 NCAC 17 .0101(a)(3). As used in this Rule, "readable" means that, on the photocopy of identification required by this Rule, the name on the identification can be read and the photograph depicts a person, as opposed to displaying, for example, a mere shadow or outline of a person. A photo identification shall not be rejected due to differences between the address appearing on an absentee voter's photo identification and any address contained in the voter's absentee request form, absentee ballot application, or registration record. A copy of photo identification that is acceptable under this Rule need include only the side of the identification (or, if the identification is a booklet, the page of the identification) where the person's name and photo appears.

(b) Initial Review by County Board Staff. County board staff shall, upon receipt of a voter's absentee ballot application, determine whether the application is accompanied by a photocopy of photo identification that is acceptable under Paragraph (a) of this Rule, or, if the application is accompanied by an affidavit claiming an exception to the identification requirement pursuant to G.S. 163-166.16(d), determine whether the affidavit includes the affirmations required by G.S. 163-166.16(d) for that exception and, if applicable, the personal identification number required to be provided by G.S. 163-230.1(g)(2). The number required to be provided by G.S. 163-230.1(g)(2) is deficient only if it does not match the corresponding number listed in the voter's voter registration record.

If staff identify any deficiency, they shall mail written notice of the deficiency to the voter within one business day of identifying the deficiency, informing the voter that the voter, the voter's verifiable legal guardian or near relative, or a person of the voter's choice if the voter needs assistance due to the voter's disability, may provide a photocopy of the voter's acceptable photo identification or a completed affidavit claiming an exception to the county board by 5 p.m. on the business day before the county canvass. The notice of the deficiency shall also be provided by telephone or email if the telephone number or email address was provided by the voter on the request form for the absentee ballot. The voter may transmit either of the above documentation curing the deficiency in person, by mail, or by email. An electronic copy of the voter's photographic identification or signed affidavit claiming an exception to the identification requirement, if provided via email, shall be acceptable.

(c) Final Review by County Board. The county board shall, at the first meeting held pursuant to G.S. 163-230.1(f) after the application and ballot is received, proceed as follows:

- (1) If the voter has submitted a photocopy of their photo identification, the county board shall make its determination whether the identification is acceptable under Paragraph (a) of this Rule. A final determination that the

photocopy of photo identification is not acceptable under Paragraph (a) of this Rule shall require a unanimous vote by the county board. If the county board makes a final determination that a voter's photocopy of photo identification is not acceptable, staff shall notify the voter as provided in Paragraph (b) of this Rule, and the county board shall reserve its final decision on the approval of the absentee application until the next official meeting after it receives documentation curing the deficiency or the county canvass, whichever occurs first.

- (2) If the voter has completed an affidavit claiming an exception to the identification requirement pursuant to G.S. 163-166.16(d) and is otherwise eligible to vote, the county board may reject that person's ballot only if the county board unanimously finds that the affidavit is false. The county board shall substantiate any finding of falsity with grounds recorded in a written decision. Before rejecting a voter's ballot because of a finding of falsity, the county board shall provide the voter advance notice and an opportunity to address the county board prior to the canvass on any grounds that the county board is considering regarding the falsity of the affidavit, provided there is sufficient time remaining before the county canvass to send a notice that will be delivered in advance of the opportunity to address the county board. The notice shall identify the specific reasons the county board is considering the affidavit to be potentially false and inform the voter how the voter may address the reasons for potential falsity, which shall include the option to provide a written explanation or address the board at a meeting in person. The notice shall be provided by a means of physical delivery designed to provide the voter actual notice in advance of the opportunity to address the county board, and by any email address or phone number that the county board possesses for the voter. The notice and opportunity to address the county board provided for in this Subparagraph shall be offered only to those voters for whom the county board has identified a reason to find that the affidavit claiming an exception to the identification requirement is false.

- (3) If a voter's photocopy of photo identification or affidavit claiming an exception to the identification requirement pursuant to G.S. 163-166.16(d) is deemed deficient upon initial review under Paragraph (b) of this Rule, the county board shall reserve its final decision on the approval of the absentee application until the next official meeting after it receives documentation curing the deficiency or the county canvass, whichever occurs first.

(d) Exception for Military and Overseas Voters. A covered voter who is casting a ballot pursuant to G.S. 163, Article 21A, Part 1 is not required to submit a photocopy of acceptable photo identification under Paragraph (a) of this Rule or claim an exception under G.S. 163-166.16(d).

(e) Return of Original Form of Identification. If a voter sends their original form of photo identification in the container-return envelope, or if a voter or other person permitted to return the voter's absentee ballot hand-delivers an absentee ballot to the county board of elections that is not accompanied by a photocopy of the voter's photo identification and the voter or other person has the voter's photo identification that is a type acceptable for voting purposes under 08 NCAC 17 .0101(a)(1) on hand, the county board shall make a photocopy of the identification, which shall serve as an acceptable photo identification accompanying the voter's absentee ballot. When a voter sends their original form of photo identification in the container-return envelope, the county board shall notify the voter by mail and by any email address or phone number that the county board possesses for the voter that the original photo identification will be returned to the voter and shall use a method of return that documents receipt of the photo identification.

Authority G.S. 163-22; 163-166.7; 163-166.16; 163-229; 163-230.1.

TITLE 12 – DEPARTMENT OF JUSTICE

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 .1302.

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

Proposed Effective Date: March 1, 2024

Public Hearing:

Date: December 19, 2023

Time: 9:00 a.m.

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

Reason for Proposed Action: *The amendment to this rule is based on a recent Job Task Analysis completed for the telecommunicator certification training course. The total hours for the course remain the same, but the topics and hours were reallocated.*

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: January 16, 2024

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 a written objection to the Rules

Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

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

SECTION .1300 - MINIMUM STANDARDS OF TRAINING FOR TELECOMMUNICATORS

12 NCAC 10B .1302 TELECOMMUNICATOR CERTIFICATION COURSE

(a) The Commission hereby ~~accredits~~ approves as its telecommunicator certification training program, the 47-hour Telecommunicator Certification Course developed by the North Carolina Justice Academy.

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

- | | | |
|---------------------|---|----------------------|
| (1) | Orientation | 2 hours |
| (2) | Introductory Topics for the Telecommunicator | 2 3 hours |
| (3) | Interpersonal Communication | 4 2 hours |
| (4) | Civil Liability for the Telecommunicator | 4 5 hours |
| (5) | Telecommunications Systems and Equipment | 2 3 hours |
| (6) | Overview of Emergency Services | 9 7 hours |
| (7) | Communications Resources | 2 hours |
| (8) (7) | Call Reception, Prioritization, and Resource Allocation Reception and Prioritization | 6 8 hours |
| (9) (8) | Broadcasting Techniques, Rules, and Procedures Techniques and Resource Allocation | 6 7 hours |
| (40) (9) | Telecommunicator Training Practicum | 8 hours |

~~(11)(10)~~ State Comprehensive Examination 2 hours

TOTAL HOURS 47 hours

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

~~(d) The "Telecommunicator Certification Training Manual" as published by the North Carolina Justice Academy shall be used and shall automatically include any later amendments and editions of the incorporated matter to apply as the basic curriculum for the Telecommunicator Certification Course. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099.~~

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

~~(f)(c) Institutions may offer to deliver the Telecommunicator Certification Course after the Commission has approved the institution's pre-delivery report documenting who will be teaching the blocks of instruction for each course offering. No Telecommunicator Certification Course shall be offered by any persons, agencies, or institutions without the approval of the Commission pursuant to Rules .0709 and .0804 of this Subchapter. Any persons, agencies, or institutions desiring to offer the Telecommunicator Certification Course shall file a Pre-Delivery Report, Form F-7A-T.~~

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

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 02 – BOARD OF ARCHITECTURE AND REGISTERED INTERIOR DESIGNERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Architecture and Registered Interior Designers intends to adopt the rule cited as 21 NCAC 02 .0307, amend the rules cited as 21 NCAC 02 .0108, .0201, .0203, .0206, .0210, .0213, .0215, .0302, .0303, .0306 and repeal the rule cited as 21 NCAC 02 .0606.

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

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

Proposed Effective Date: March 1, 2024

Public Hearing:

Date: January 12, 2024

Time: 10:00 a.m.

Location: Board Office located at 434 Fayetteville Street, Ste. 2005, Raleigh, NC 27601

Reason for Proposed Action:

21 NCAC 02 .0108 - modifying fees assessed for licensure and registration

21 NCAC 02 .0201 - requiring that licensees and registrants notify the Board within 30 days following the occurrence of certain adverse actions

21 NCAC 02 .0203 - revising definition of "responsible control"

21 NCAC 02 .0206 - clarifying allowed use of unlocked copies of seal electronic documents

21 NCAC 02 .0210 - updating standards of incompetency

21 NCAC 02 .0213 - codifying the information required in individual renewal applications

21 NCAC 02 .0214 - codifying the information required in architectural firm registration renewal applications

21 NCAC 02 .0215 - codifying the information required in out-of-state architectural firm registration applications

21 NCAC 02 .0302 - codifying the information required in individual applications for licensure by exam for architects

21 NCAC 02 .0303 - codifying the information required in applications for reciprocity for architects

21 NCAC 02 .0306 - codifying the information required in applications for registration for registered interior designers

21 NCAC 02 .0307 - codifying the application process for military trained applicants and military spouses

21 NCAC 02 .0606 - removing rule from the Code as it is duplicative of statutory requirements

Comments may be submitted to: Cathe M. Evans, 434 Fayetteville St., Suite 2005, Raleigh, NC 27601; phone (984) 328-1161; email cathe@ncbarch.org

Comment period ends: January 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Authority G.S. 55B-10; 83A-4; 83A-11.

SECTION .0200 - PRACTICE OF ARCHITECTURE

21 NCAC 02 .0201 ARCHITECT, REGISTERED INTERIOR DESIGNER, FIRM OR PARTNERSHIP CONTACT INFORMATION AS ON FILE WITH THE BOARD

(a) Every individual licensee and registrant shall keep the Board advised of his or her preferred current contact information. Current contact information includes a physical mailing address, email, phone numbers, and the name of the firm or partnership where he or she is employed. Every individual licensee and registrant shall notify the Board in writing of all changes to contact information within 30 days of such changes.

(b) The licensee or registrant shall give notice in writing to the Board of the following within 30 days of the adverse action set forth below:

- (1) the filing of any criminal charges against the licensee or registrant and, if so, the jurisdiction, charge, and case number of each such charge;
- (2) any conviction of, or plea of nolo contendere by, the licensee or registrant for a felony or misdemeanor under any laws and, and, if so, the jurisdiction, charge, case number, and date of each such criminal conviction;
- (3) the filing of any disciplinary action, charges, or controversy against the licensee or registrant before any court, board, agency, or professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, and case number of each such pending action;
- (4) the finding by any court, board, agency, or professional organization that the licensee or registrant is guilty of unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, case number, and date of such adverse action;
- (5) any denial, limitation, reprimand, suspension, or revocation taken against the licensee or registrant's credentials, to include a statement providing the reason for the adverse action; the date and jurisdiction in which the adverse action occurred; the terms of the adverse action imposed;
- (6) whether the terms of the adverse action have been satisfied; and
- (7) whether any liens or judgments have been filed or entered against the licensee or registrant and, if so, the jurisdiction, date, and parties involved with such lien or judgment.

(b)(c) Each firm or partnership shall, within 30 days, notify the Board of all changes in ownership, association, contact information, email, or physical address. Upon the dissolution of a firm, the architect or registered interior designer in responsible control of the firm at the time of dissolution shall notify the Board within 30 days concerning such dissolution and of the succeeding

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 ($\geq \$1,000,000$)
☐ Approved by OSBM
☒ No fiscal note required

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 02 .0108 FEES

The fees required by the Board are set forth below:

Initial License to Practice Architecture:

By Exam	\$50.00 \$55.00
By Reciprocity	\$150.00 \$155.00
Architecture Firm License	\$75.00 \$100.00

Annual License to Practice Architecture Renewal:

Individual	\$50.00 \$55.00
Firm	\$100.00 \$125.00

Late Renewal Penalty for Individual Architects and Firms:

Up-to-30 days	\$50.00 \$55.00
30 days to 1 year	\$100.00 \$110.00

Reinstatement of Expired License:

Individual Architect	\$250.00 \$260.00
Architecture Firm	\$250.00 \$300.00

Initial Registration to Practice Interior Design:

By Reciprocity For NCIDQ Certified Individual	\$150.00 \$155.00
Firm Registration	\$75.00 \$100.00

Addition of Interior Design Firm Registration for Currently Licensed Architecture Firms

\$50.00

Annual Registration to Practice Interior Design Renewal:

Individual	\$50.00 \$55.00
Firm	\$100.00 \$125.00

Late Renewal Penalty for Interior Designers and Interior Design Firms:

Up-to-30 days	\$50.00 \$55.00
30 days to 1 year	\$100.00 \$110.00

Reinstatement of Expired Registration

Interior Designer Individual	\$250.00 \$260.00
Interior Design Firm	\$250.00 \$300.00

All fees paid to the Board are non-refundable.

status and addresses of the architects and registered interior designers employed by the firm.

(d) Each licensed or registered firm shall give notice in writing to the Board of the following within 30 days of the adverse action set forth below:

- (1) the filing of any criminal charges against the firm or any of its owners and, if so, the jurisdiction, charge, and case number of each such charge;
- (2) any conviction of, or plea of nolo contendere by, the firm or any of its owners for a felony or misdemeanor under any laws and, and, if so, the jurisdiction, charge, case number, and date of each such criminal conviction;
- (3) the filing of any disciplinary action, charges, or controversy against the firm or any of its owners before any court, board, agency, or professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, and case number of each such pending action;
- (4) the finding by any court, board, agency, or professional organization that the firm or any of its owners is guilty of unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, case number, and date of such adverse action;
- (5) any denial, limitation, reprimand, suspension, or revocation taken against the firm's credentials or that of any of its owners, to include a statement providing the reason for the adverse action; the date and jurisdiction in which the adverse action occurred; the terms of the adverse action imposed; and whether the terms of the adverse action have been satisfied; and
- (6) whether any liens or judgments have been filed or entered against the firm or any of its owners and, if so, the jurisdiction, date, and parties involved with such lien or judgment.

Authority G.S. 83A-5; 83A-6.

21 NCAC 02 .0203 RULES OF PROFESSIONAL CONDUCT

All persons licensed or registered under the provisions of Chapter 83A of the North Carolina General Statutes are charged with having knowledge of the rules of this Chapter and are deemed to be familiar with their provisions and to understand them. Each licensed or registered person and entity shall sign a statement on the renewal notice affirming understanding of the laws and rules.

- (1) Licensees and registrants shall conduct their practice in order to safeguard life, health and property as provided in G.S. 83A-12. The licensee or registrant shall always recognize the primary obligation to protect the public in the performance of the professional duties. If the licensee or registrant's professional judgment is

overruled under circumstances where the licensee or registrant, in their professional judgment, believes health, safety, and welfare of the public are endangered, the licensee or registrant shall inform the employer, the client, the contractor, other affected parties, and any appropriate regulatory agency of the possible consequences of the situation.

- (2) In designing a project, the licensee or registrant shall consider all applicable federal, State and municipal building laws and rules. A licensee or registrant shall undertake to perform professional services only when they, together with those whom the licensee or registrant may engage as consultants, are qualified by education, training and experience in the specific technical areas involved. While a licensee or registrant may rely on the advice of other professionals such as attorneys, engineers or other qualified persons as to the intent and meaning of such laws and rules, once having obtained advice, a licensee or registrant shall not design a project in violation of laws and rules.

- (3) In practicing architecture or interior design, the licensee or registrant shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects or interior designers of good standing.

- (4) Responsible Control. Responsible Control means responsibility for exercising the ultimate authority over, and possessing the knowledge and ability to oversee, delegate, and integrate the design and technical decisions related to the preparation of the project's instruments of service and the project's implementation in conformance with the standard of care. No architect or registered interior designer shall affix his or her seal and signature to contract documents developed by others not under the architect's or registered interior designer's responsible control. ~~"Responsible control" means that amount of control over and professional knowledge of the content of technical submissions during their preparation as is exercised by an architect or registered interior designer applying the required professional standard of care, including:~~

- ~~(a) dissemination of programmatic requirements;~~
- ~~(b) ongoing coordination and correlation of services with other aspects of the total design of the project;~~
- ~~(c) verification with consultant that owner's requirements are being met;~~
- ~~(d) authority over the services of those who assisted in the preparation of the documents;~~

- ~~(e) assumption of responsibility for the services;~~
 - ~~(f) incorporation of services and technical submissions into design documents to be issued for permitting purposes; and~~
 - ~~(g) incorporation and integration of information from manufacturers, suppliers, installers, the architect's or registered interior designer's consultants, owners, contractors, or other sources the architect or registered interior designer knows to be reliable that is incidental to and intended to be incorporated into the architect's or registered interior designer's technical submissions if the architect or registered interior designer has coordinated and reviewed such information.~~
- (5) An architect or registered interior designer shall not deliberately make a false statement or deliberately fail to disclose a fact requested in connection with their application for license or registration renewal.
- (6) An architect or registered interior designer shall not assist in the application for licensure or registration of a person known by the architect or registered interior designer to be unqualified with respect to education, training, experience, or character.
- (7) An architect or registered interior designer shall issue public statements only in an unbiased and truthful manner and:
- (a) shall be objective and truthful in all professional reports, statements, or testimony. The architect or registered interior designer shall include all relevant and pertinent information in such reports, statements or testimony;
 - (b) when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon knowledge of the facts at issue, upon a background of technical competence in the subject matter, and of the accuracy and propriety of the individual's testimony;
 - (c) shall issue no statements, criticisms, or arguments on architectural or interior design matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the architect or registered interior designer has prefaced the comment by explicitly identifying their name, by disclosing the identities of the party or parties on whose behalf the architect or registered interior designer is speaking, and by revealing the existence of any pecuniary interest the architect or registered interior designer may have in the matters; and shall not attempt to harm the professional reputation, prospects, practice, or employment of another architect or registered interior designer, nor indiscriminately criticize another architect's or registered interior designer's work. Indiscriminate criticism is a statement without basis or cause or that is not objective and truthful or that fails to include all factual information. If the architect or registered interior designer believes that another architect or registered interior designer is in violation of G.S. 83A or the Rules of this Chapter, such information shall be presented to the North Carolina Board of Architecture and Registered Interior Designers in writing.
- (8) An architect or registered interior designer shall avoid conflicts of interest and:
- (a) shall inform the employer or client, and any reviewing agency, of any business association, interests, or circumstances that attempts to influence the judgment or the quality of services of the architect or registered interior designer. If, in the course of their work on a project, an architect or registered interior designer becomes aware of a decision taken by their employer or client, against their advice, which violates applicable State or municipal building laws or federal regulations and which will, in their judgment, affect adversely the safety to the public of the finished project, the architect or registered interior designer shall:
 - (i) report the decision to the local building inspector or other public official charged with the enforcement of the applicable State or municipal building laws and regulations;
 - (ii) refuse to consent to the decision;
 - (iii) in circumstances where the architect or registered interior designer reasonably believes that other such decisions will be taken notwithstanding his or her objection, terminate their

- services with reference to the project; and
 - (iv) in the case of termination in accordance with clause in Sub-Item (a)(iii) of this Rule, the architect or registered interior designer shall have no liability to his or her client or employer on account of such termination.
 - (b) shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties;
 - (c) shall not solicit or accept financial or other valuable considerations from material, furniture, fixtures, or equipment suppliers for specifying their products unless disclosed to the client;
 - (d) shall not pay or offer to pay, a commission, political contribution, gift, or other consideration in order to secure work. Gifts of nominal value including entertainment and hospitality are permitted;
 - (e) when in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or registrant or the licensee's or registrant's firm in private architectural or registered interior design practices;
 - (f) shall not engage in any false, deceptive, fraudulent, or misleading advertising;
 - (g) shall not attempt to supplant another architect or registered interior designer on a specific project after becoming aware that the other has been selected for the employment;
 - (h) when acting as the interpreter of building contract documents and the judge of contract performance, an architect or interior designer shall render decisions in an impartial manner;
 - (j) if an architect or registered interior designer has any business association or financial interest which influences their judgment in connection with the performance of professional services, they shall disclose in writing to their
- client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, they will either terminate such association or interest or offer to give up the commission or employment;
- (k) an architect or registered interior designer making public statements on architectural or interior design questions shall disclose when they are being compensated for making such statements.
- (9) A licensee or registrant shall solicit or accept work on the basis of qualifications and:
 - (a) shall not offer to pay any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;
 - (b) shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, or deceptive statement or claim regarding the cost, quality, or extent of services to be rendered;
 - (c) shall, with regard to fee bidding on public projects, comply with, and not knowingly cooperate in any violation of the provisions of G.S.143-64.31(a), (a1), (e), and (f) for state projects and, with the Brooks Act, 40 U.S.C. 541 et seq. for federal projects; and
 - (d) shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded unless it is stated that no degree or certificate was awarded; and
 - (e) shall represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit. Misrepresentation shall be found if any of the following is not complied with:
 - (i) Each licensee or registrant shall state their prior professional experience and the firm they are representing while presenting qualifications to all prospective clients. If the licensee or registrant uses visual representations of prior projects or experience,

- all designers or architects of record shall be identified.
- (ii) An architect or registered interior designer who has been an employee of another firm may not claim credit for projects contracted for in the name of the previous employer. They shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee and identify the previous firm. The architect or registered interior designer shall also describe the nature and extent of their participation in the project.
- (iii) An architect or registered interior designer who presents a project that has received awards or public recognition shall comply with the requirements in this Sub-Item with regard to project presentation to the public and prospective clients.
- (iv) Projects that remain unconstructed and are listed as credits in presentation items shall be listed as "unbuilt" or a similar designation, as determined by the architect or registered interior designer.
- (10) A licensee or registrant shall perform services in compliance with all of the provisions of this Chapter and any federal, State, and municipal laws or regulations that apply and:
- (a) shall not knowingly associate with or permit the use of the licensee's or registrant's name or firm name in a business venture by any person or firm which the licensee or registrant knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not licensed or registered;
- (b) if the licensee or registrant has knowledge or reason to believe that another person or firm may be in violation of the rules of this Chapter or of the North Carolina Architectural and Registered Interior Design Practice Act (G.S. 83A), they shall present such information to the Board
- in writing and shall cooperate with the Board in furnishing further information or assistance as may be required by the Board.
- (c) An architect or registered interior designer shall cooperate with the Board in connection with any inquiry it shall make. Cooperation includes responding to all inquiries from the Board or its representative and claiming correspondence from the U. S. Postal Service, or other delivery service, sent to the licensee or registrant from the Board in a timely manner. The Board shall utilize electronic mail as its primary method of communication with licensees and registrants. "Timely" is defined as within the time specified in the correspondence, or if no time is specified, within 15 business days of receipt.
- (11) An architect or registered interior designer who has received a reprimand or civil penalty or whose professional license or registration is revoked, suspended, denied, refused renewal, refused reinstatement, put on probation, restricted, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's or registrant's action constitutes a violation of G.S. 83A or the rules of this Chapter adopted by the Board.
- (12) In addition to the grounds stated in G.S. 83A-14 and G.S. 83A-15(3), the following acts or omissions may be deemed to be "unprofessional conduct" and to be cause for the levy of a civil penalty or for denial, suspension, or revocation of a license or registration or firm certificate of licensure or registration to practice architecture or registered interior design:
- (a) An architect or registered interior designer shall not, in the conduct of their professional practice, knowingly violate any State or federal criminal law. A criminal conviction shall be deemed prima facie evidence of knowingly violating the law.
- (b) Evasion of professional duties.
- (i) An architect or registered interior designer shall not, through employment by contractors whether or not the contractors are licensed under G.S. 87, or by another individual or entity not holding an individual or firm registration from the Board,

- enable the employer to offer or perform architectural services or registered interior design services. In design/build arrangements, the architect or registered interior designer shall not be an employee of a person or firm not holding a license to practice architecture or registered interior design in North Carolina.
- (ii) An architect or registered interior designer shall not furnish limited services in such manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of Chapter 83A, G.S. 133-2, G.S. 153A, G.S. 153A-357, G.S. 160A-412, or G.S. 160A-417.
- (iii) When building plans are begun or contracted for by persons not licensed or registered and qualified, an architect or registered interior designer shall not take over, review, revise, or sign or seal such drawings or revisions thereof for such persons or do any act to enable either persons or the project owners to evade the requirements of Chapter 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.
- (c) It is unprofessional conduct for an architect or registered interior designer to be found by a court to have infringed upon the copyrighted works of other architects, registered interior designers or other design professionals.
- (13) An architect, registered interior designer or firm shall not maintain or represent by sign, listing, or other manner that they have a physical presence in North Carolina unless such office employs a licensed architect or registered interior designer who is a resident in North Carolina whose principal place of business takes place in that office. This item does not apply to on-site project offices during construction of a project.
- (14) An architect or registered interior designer shall not knowingly continue to offer or render architectural or registered interior design services as set forth in G.S. 83A after their license or registration expires, is placed on delinquent status, is revoked, or suspended for failure to renew.
- (15) Architects or registered interior designers preparing plans for building permits shall submit plans that are complete and buildable. Such plans shall conform with the State Building Code and local plan submission requirements. Professional judgment shall be exercised to reflect sufficient documentation necessary for plan approval. Provided, however, this Rule does not alter any standard of liability applicable to licensees or registrants.

Authority G.S. 83A-6; 83A-14; 83A-15; 83A-16.

21 NCAC 02 .0206 REQUIREMENT FOR AND USE OF PROFESSIONAL SEAL BY AN ARCHITECT OR REGISTERED INTERIOR DESIGNER

(a) An architect shall seal his or her work whether or not the work is for an exempt project as defined in G.S. 83A-13. An architect shall not sign nor seal drawings, specifications, reports, or other professional work that were not prepared by the architect or under his or her responsible control. Documents shall be sealed as follows:

- (1) An architect may seal those portions of the professional work that:
- (A) were prepared by or under the responsible control of persons who are licensed architects in this State if the architect has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into his or her work; and
- (B) are not required by law to be prepared by or under the responsible control of an architect if the architect has reviewed and adopted in whole or in part such portions and has integrated them into his or her work.
- (2) A registered interior designer may seal those portions of the professional work that were prepared by or under the responsible control of persons who are registered interior designers in this State if the registered interior designer has reviewed in whole or in part such portions and has either coordinated their preparation or integrated them into their work
- (3) Individual Architect Seal Design shall be as follows:
- (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to original paper drawings or sets of specifications for use in this State. For the purposes of this Rule, the term "for use in this State" means drawings and sets of

- specifications prepared for bidding, procurement, permitting, or for construction. For purposes of this Rule, "original" means the version of drawings and sets of specifications from which all paper copies can be made.
- (B) The standard design of the seal shall be two concentric circles in which "North Carolina" and the name of the licensee are placed within the outermost circle and in which the license number of the licensee and "Licensed Architect" placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter.
- (C) The original, handwritten signature of the individual named on the seal shall be considered part of the individual seal and shall appear across the face of each original seal imprint along with the date of affixation. The use of signature reproductions such as rubber stamps, computer generated, or other facsimiles on paper copies are not permitted in lieu of actual handwritten and hand dated signatures.
- (4) Architecture Firm Seal Design shall be as follows:
- (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to paper drawings or sets of specifications.
- (B) The design of the firm seal shall be two concentric circles in which the architectural firm's approved name shall be between the inner and outer circles and the firm's license number is placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter. For a Professional Corporation the words "Architectural Corporation, North Carolina" shall be along the inside perimeter of the inner circle. For a Professional Limited Liability Company, the words "Architectural Company" shall be along the inside perimeter of the inner circle.
- (5) Individual Registered Interior Designer Seal Design shall be as follows:
- (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to original paper drawings or sets of specifications for use in this State. For the purposes of this Rule, the term "for use in this State" means drawings and sets of specifications prepared for bidding, procurement, permitting, or for construction. For purposes of this Rule, "original" means the version of drawings and sets of specifications from which all paper copies can be made.
- (B) The standard design of the seal shall be two concentric ovals in which "North Carolina" and the name of the registrant are placed within the outermost oval and in which the registration number of the registrant and "Registered Interior Designer" be placed within the innermost oval. The dimensions shall be two inches tall by 2.75 inches wide.
- (C) The original, handwritten signature of the individual named on the seal shall be considered part of the individual seal and shall appear across the face of each original seal imprint along with the date of affixation. The use of signature reproductions such as rubber stamps, computer generated, or other facsimiles on paper are not permitted in lieu of actual handwritten and hand dated signatures.
- (6) Registered Interior Design Firm Seal Design shall be as follows:
- (A) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to drawings or sets of specifications.
- (B) The design of the seal shall be two concentric ovals in which the registered interior design firm's approved name shall be between the inner and outer ovals and the firm's registration number is placed within the innermost oval. The size shall be 2 to 2 ¾ inches in diameter. For a Corporation the words "Registered Interior Design Corporation, North Carolina" shall be along the inside perimeter of the inner circle. For a Limited Liability Company, the words "Registered Interior Design Company" shall be along the inside perimeter of the inner oval.
- (7) Architects and registered interior designers shall affix their seal on one original of all their drawings and sets of specifications prepared by them for use in this State as follows:
- (A) on the cover sheet of each design and on each drawing prepared by the

- architect or registered interior designer for the design;
- (B) on the index page identifying each set of specifications; and
- (C) on the index page of all other technical submissions. For the purposes of this Rule, "technical submissions" refer to plans, drawings, specifications, studies, addenda, and other technical reports prepared in the course of practicing architecture or registered interior design.
- (8) Presentation documents, such as renderings created by an architect or registered interior designer used to communicate conceptual information, shall not be sealed or signed.
- (9) Documents considered incomplete by the architect or registered interior designer may be released for interim review without the architect's or registered interior designers seal or signature affixed, but shall be dated, bear the architect's or registered interior designer's name, and be marked or designated as follows "Incomplete - for interim review only and not intended for bidding, procurement, permit, or construction purposes."
- (10) Those sheets or pages prepared by licensed professional consultants, such as structural, mechanical or electrical engineers, retained by the architect or registered interior designer shall bear the seal and registration or license number of the consultant responsible therefore and shall not be sealed by the architect or registered interior designer.
- (11) The use of the prescribed seal on paper is an individual act whereby the architect or registered interior designer must personally sign over the imprint of the seal. By sealing documents for use in this State, an architect or registered interior designer is representing that he or she is in responsible control over the content of such documents and has applied the required professional standard of care. The architect or registered interior designer is responsible for security of the seal when not in use.
- (12) Use of Firm Seal. The use of the firm seal does not replace the statutory requirement for an architect's or registered interior designer's individual seal as required in Rule .0203(4) of this Chapter. The firm seal must be affixed in addition to the individual seal on the cover sheet. A firm shall designate a principle or other authorized individual to be responsible for the security of the firm seal.
- (b) Prototypical building design documents prepared by architects or registered interior designers who are licensed or registered in this State or in their state of origin may be sealed by
- a succeeding licensed architect or registered interior designer in North Carolina provided:
- (1) the seal of the original architect or registered interior designer appears on the documents to authenticate authorship;
- (2) the words "Prototypical Design Documents/Not for Construction" appear on each sheet of the documents by the original architect or registered interior designer;
- (3) the succeeding North Carolina architect or registered interior designer identifies all modifications to the standard design documents;
- (4) the succeeding North Carolina architect or registered interior designer assumes responsibility for the adequacy of the design for the specific application in North Carolina and for the design conforming with applicable building codes, local conditions, site condition; and
- (5) the succeeding North Carolina architect or registered interior designer affixes his or her seal to the prototypical design documents with a statement as follows: "These documents have been examined by the undersigned. I have determined that they comply with existing local North Carolina codes, and I assume responsibility for the adequacy of the design for the specific application in North Carolina."
- (c) Post construction record drawings prepared by an architect or registered interior designer, but based upon representations of contractors, are not plans that are for "bidding, procurement, permit, or construction purposes" and therefore shall not be sealed by the architect or registered interior designer. Post construction record drawings shall bear the name of the architect or registered interior designer and include language that states "these drawings are post construction record drawings and are based in part upon the representations of others and are not for bidding, procurement, permit, or construction purposes."
- (d) Documents to be electronically transmitted beyond the direct control of the licensee or registrant that are signed using a digital signature, shall contain the authentication procedure in a secure mode and a list of the hardware, software, and parameters used to prepare the document(s). Secure mode means that the authentication procedure has protective measures to prevent alteration or overriding of the authentication procedure. The term "digital signature" shall be an electronic authentication process that is attached to or logically associated with an electronic document. Unlocked copies of sealed construction documents may be provided to entities to allow for electronic usage where document content is not effectively being altered (e.g. plan review approval stamps, contractor material takeoffs, etc.) The digital signature shall be:
- (1) Unique to the person using it;
- (2) Capable of verification;
- (3) Under the sole control of the person using it; and

- (4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(e) Documents for use in this State, that are transmitted electronically beyond the direct control of the licensee or registrant shall have the computer-generated image of the seal removed from the original file, unless signed with a digital signature as defined in this Rule. After removal of the image of the seal the electronic media shall have the following inserted in lieu of the signature and date: "This document was originally issued and sealed by (name of sealer), (license or registration number), on (date of sealing). This medium shall not be considered a certified document." Hardcopy documents containing the original seal, signature and date of the licensee or registrant may be duplicated by photocopy or electronic scanning processes and distributed either in hardcopy or electronic medium. The scanned digital files of certified documents are not subject to the requirements of this Paragraph. The electronic transmission beyond the direct control of the licensee or registrant of Computer Aided Design (CAD), vector, or other files subject to easy editing are subject to the requirements of this Paragraph. A file subject to "easy editing" is one consisting of separate elements that can be individually modified or deleted. Documents that are excepted from certification by a statement meeting the following requirements are not subject to the requirements of this Paragraph:

- (1) "Preliminary - Do not use for construction";
- (2) "Progress Drawings - Do not use for construction";
- (3) "Final Drawing - Not released for construction";
- (4) "Final Drawing - For Review Purposes Only";
- (5) "Not a Certified Document – This document was originally issued and sealed by (name of licensee or registrant), (license or registration number), on (date of sealing). This document shall not be considered a certified document";
- (6) "Not a Certified Document as to the Original Document but Only as to the Revisions - This document originally issued and sealed by (name of licensee or registrant), (license or registration number), on (date of sealing). This document is only certified as to the revisions".

Authority G.S. 83A-6; 83A-10; 83A-12.

21 NCAC 02 .0210 INCOMPETENCE

(a) ~~In practicing architecture, an architect shall act with reasonable care and competence and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing, practicing in the same locality. No person shall be permitted to practice architecture or registered interior design if such person's competence is found by a licensed physician or court of law to be substantially impaired by physical or mental disabilities.~~

(b) ~~In designing a project, an architect shall take into account all applicable state and municipal building laws and rules. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers and other qualified persons) as to the intent~~

~~and meaning of such laws and rules, once having obtained such advice, an architect shall not design a project in violation of such laws and rules. No person shall be permitted to practice architecture or registered interior design if such person is found insane or incompetent by a court of law.~~

~~(c) An architect shall undertake to perform professional services only when he, together with those whom the architect may engage as consultants, are qualified by education, training and experience in the specific technical areas involved.~~

~~(d) No person shall be permitted to practice architecture if such person's professional competence is substantially impaired by physical or mental disabilities.~~

~~(e) Architects preparing plans for building permits for projects not exempt under G.S. 83A-13 shall submit plans that are complete and buildable. Such plans shall conform with the State Building Code and local plan submission requirements. Professional judgment shall be exercised to reflect sufficient documentation necessary for plan approval. Provided, however, this Rule does not alter any standard of liability applicable to licensees.~~

Authority G.S. 83A-6; 83A-14; 83A-15.

21 NCAC 02 .0213 INDIVIDUAL LICENSES AND REGISTRATIONS

(a) Renewal. The license to practice architecture or interior design registration must be renewed on or before the first day in July each year. Continued practice after such date shall constitute unlawful practice as set forth in G.S. 83A-12 and may be grounds for disciplinary action. No less than 30 days prior to the renewal date, the Board shall send a notice of renewal to each individual licensee or registrant via electronic mail. The licensee or registrant shall submit to the Board the completed license or registration renewal documentation, along with the annual license or registration renewal fee. The Board shall not accept incomplete renewal documentation. If the accompanying payment in the amount of the renewal fee is dishonored by the licensee or registrant's drawee bank for any reason, the Board shall suspend the license or registration until the renewal fees and check charges are paid. When the annual renewal has been completed according to the provisions of G.S. 83A-11, as well as Section .0900 of this Chapter, the Executive Director shall approve renewal of the license or registration for the current renewal year. Renewal fees are non-refundable. All applications for renewal of individual licensure or registration shall contain the following:

- (1) the licensee's or registrant's name, mailing address, physical address, email address, and phone number;
- (2) whether the licensee or registrant has satisfied the continuing education requirements set forth in Rule .0903;
- (3) since issuance of the individual's licensure or registration or the individual's last renewal, whichever is later:
 - (A) whether the licensee or registrant has had a credential denied, limited, reprimanded, suspended, or revoked and, if so, a statement providing the reason for the adverse action; the date

and jurisdiction in which the adverse action occurred; the terms of the adverse action imposed; and whether the terms of the adverse action have been satisfied;

(B) whether the licensee or registrant has been convicted of a felony or misdemeanor under any laws and, and, if so, the jurisdiction, charge, case number, and date of each such criminal conviction;

(C) whether any criminal charges have been filed or are pending against the licensee or registrant and, if so, the jurisdiction, charge, and case number of each such charge;

(D) whether any court, board, agency, or professional organization has found the licensee or registrant guilty of unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, case number, and date of such adverse action;

(E) whether any disciplinary action, charges, or controversy is pending against the licensee or registrant before any court, board, agency, or professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, and case number of each such pending action; or

(F) whether any liens or judgments have been filed or entered against the licensee or registrant and, if so, the jurisdiction, date, and parties involved with such lien or judgment.

(b) Late Renewal. If the Board has not received the annual renewal fee and completed renewal documentation on or before the first day of July, each year the license or registration shall expire and be placed on delinquent status. For the purpose of this Rule, "delinquent status" means an administrative suspension and is not considered discipline. The license or registration may be renewed at any time within one year of being deemed delinquent, upon the return of the completed renewal documentation, the annual renewal fee, and the late renewal penalty and demonstration of compliance with Section .0900 of this Chapter.

(c) Reinstatement. After one year from the date of expiration, the Board shall revoke the license or registration for failure to renew. Reinstatement shall occur pursuant to G.S. 83A-11 and Sections .0300 and .0900 of this Chapter.

(d) Any individual who is currently licensed or registered by and in good standing with the Board who is serving in the armed forces of the United States shall not be subject to late fees, suspension, or revocation for failure to renew licensure on or before the first day July each year, provided that the individual

has been granted an extension of time to file a tax return as set forth in G.S. 105-249.2.

Authority G.S. 83A-6; 83A-11; 93B-15(b).

21 NCAC 02 .0214 FIRM PRACTICE OF ARCHITECTURE AND REGISTERED INTERIOR DESIGN

(a) Prior to offering and rendering architectural or registered interior design services as set forth in G.S. 83A and Rule .0204(a) and Rule .0204(c) of this Chapter, all firms shall submit an application for firm licensure or registration and be granted licensure or registration by the Board. Application for firm licensure or registration to practice of architecture or registered interior design within the State of North Carolina shall be made upon forms provided on the Board web site at www.ncbarch.org and include the required application fee as set forth in Rule .0108 of this Chapter. Licensure for firm practice of architecture shall be issued only under the provisions of the Professional Corporation Act, G.S. 55B and G.S 57D-2-02. Registration for firm practice of interior design shall be issued only under the provisions of the Business Corporation G.S. 55 and G.S 57D. All applications for firm licensure or registration shall contain the following:

(1) the firm's name, mailing address, physical address, email address, and phone number;

(2) the firm's representative completing the application;

(3) for all officers, directors and shareholders, if the firm is a professional corporation:

(A) the profession;

(B) the credential number and jurisdiction in which the credential was issued, if outside of North Carolina;

(C) the credential number issued by the Board, if any;

(D) whether the individual is an officer, director, or shareholder; and

(E) percentage of stock owned.

(4) for all members and owners, if the firm is a professional limited liability company:

(A) the profession;

(B) the credential number and jurisdiction in which the credential was issued, if outside of North Carolina;

(C) the credential number issued by the Board, if any;

(D) whether the individual is a member or manager; and

(E) percentage of membership held.

(5) the names, position, and ownership interest of any non-licensed shareholder or member of the firm;

(6) whether the firm is a professional corporation or professional limited liability company;

(7) whether the firm intends to form a new entity with the North Carolina Secretary of State and, if so, copies of the proposed articles of incorporation or organization;

- (8) whether the firm intends to register with the North Carolina Secretary of State as a foreign entity and, if so, copies of the articles of incorporation or organization filed in the other jurisdiction;
 - (9) whether the firm or any of its owners ever has had a credential denied, limited, reprimanded, suspended, or revoked and, if so, a statement providing the reason for the adverse action; the date and jurisdiction in which the adverse action occurred; the terms of the adverse action imposed; and whether the terms of the adverse action have been satisfied;
 - (10) whether the firm or any of its owners ever has been convicted of a felony or misdemeanor under any laws and, and, if so, the jurisdiction, charge, case number, and date of each such criminal conviction;
 - (11) whether any criminal charges have been filed or are pending against the firm or any of its owners and, if so, the jurisdiction, charge, and case number of each such charge;
 - (12) whether any court, board, agency, or professional organization has found the firm or any of its owners guilty of unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, case number, and date of such adverse action;
 - (13) whether any disciplinary action, charges, or controversy is pending against the firm or any of its owners before any court, board, agency, or professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, and case number of each such pending action;
 - (14) whether any liens or judgments have been filed or entered against the firm or any of its owners and, if so, the jurisdiction, date, and parties involved with such lien or judgment;
 - (15) if the firm is a foreign entity, a certification from the person identified in Paragraph (b)(2) of this Rule that:
 - (A) the information contained in the application is true and correct to the best of his or her knowledge and belief; and
 - (B) he or she has read the statutes and rules set forth in North Carolina General Statutes 55B or 57D (for PLLC), 83A and Title 21 Chapter 2 of the North Carolina Administrative Code.
 - (16) if the firm is an entity desiring to be incorporated or organized in North Carolina, a certification from the incorporator or organizer that the information contained in the application is true and correct to the best of his or her knowledge and belief; and
 - (17) a certification that the firm has read and understands the public notice statement on employee misclassification that is set forth in the application and has disclosed any investigations for employee misclassification, and its results, over the preceding 12-month period, as prescribed by G.S. 143-789.
- (b) Architecture firm licensure and interior design firm registration shall be renewed on or before December 31st of each year. If the Board has not received the annual renewal fee as set forth in Rule .0108 and completed application on or before December 31st of each year, the architecture firm license or interior design firm registration shall expire. The Board shall send a notice of renewal to each licensed and registered firm no less than 30 days prior to the renewal date. Renewal documentation shall be accompanied by the renewal fee. If the accompanying draft or check in the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm license or registration until the renewal fees and returned check charges are paid. When the annual renewal has been completed according to the provisions of G.S. 83A-11, the Executive Director shall approve renewal for the firm for the current renewal year. Upon completion of the firm annual renewal, the Board may randomly audit the compliance of firm licenses and registrations and require proof in the form of corporate records maintained pursuant to North Carolina General Statute 55B or 57D. Such records shall be maintained for a period of seven years after the renewal is submitted. Renewal fees are non-refundable. All applications for renewal of firm licensure or registration shall contain the following:
- (1) the firm's name, mailing address, physical address, email address, and phone number;
 - (2) the firm's representative completing the application;
 - (3) since issuance of the firm's licensure or registration or the firm's last renewal, whichever is later,
 - (A) whether the firm or any of its owners has had a credential denied, limited, reprimanded, suspended, or revoked and, if so, a statement providing the reason for the adverse action; the date and jurisdiction in which the adverse action occurred; the terms of the adverse action imposed; and whether the terms of the adverse action have been satisfied;
 - (B) whether the firm or any of its owners has been convicted of a felony or misdemeanor under any laws and, and, if so, the jurisdiction, charge, case number, and date of each such criminal conviction;
 - (C) whether any criminal charges have been filed or are pending against the firm or any of its owners and, if so, the jurisdiction, charge, and case number of each such charge;

- (D) whether any court, board, agency, or professional organization has found the firm or any of its owners guilty of unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, case number, and date of such adverse action;
 - (E) whether any disciplinary action, charges, or controversy is pending against the firm or any of its owners before any court, board, agency, or professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice and, if so, the jurisdiction, charge, and case number of each such pending action; or
 - (F) whether any liens or judgments have been filed or entered against the firm or any of its owners and, if so, the jurisdiction, date, and parties involved with such lien or judgment;
- (4) an affirmation from the architectural firm's Chief Executive Officer or person designated by firm resolution as a responsible officer in charge that:
- (A) the information contained in the renewal application is true and correct to the best of his or her knowledge and belief;
 - (B) ownership of the shares or stock or membership of the firm is in compliance with the rules and laws of North Carolina;
 - (C) any officers, directors, shareholders or members and professional employees, who are practicing architecture or registered interior design for said firm in the State of North Carolina, are duly licensed to so practice in this State;
 - (D) at least one officer, director, and shareholder or member/owner of the firm is licensed in North Carolina;
 - (E) non-licensed individuals do not own no more than one-third of the total stock or ownership; and
 - (F) the firm has read and understands the public notice statement on employee misclassification that is set forth in the application and has disclosed any investigations for employee misclassification, and its results, over the preceding 12-month period, as prescribed by G.S. 143-789.

(c) Failure to Renew and Reinstatement. Within one year of the expiration, the firm license or registration may be renewed at any time, upon the return of the completed renewal documents, the annual renewal fee, and the late renewal fees. After one year from

the date of expiration for non-payment of the annual renewal fee the licensee or registrant shall seek reinstatement, as allowed by G.S. 83A-11. The Board may reinstate the firms' license or registration, as allowed by G.S. 83A-11.

(d) Seal. Each licensed or registered firm shall adopt a seal pursuant to Rule .0206 of this Chapter.

(e) Every firm, partnership, corporation or limited liability company that performs or offers to perform architectural or registered interior design services in the State of North Carolina shall have a resident Architect or Registered Interior Designer in Responsible Control in each separate office located in North Carolina where architectural or registered interior design services are performed or offered to be performed. Out-of-state office locations where architectural or registered interior design services are performed or offered to be performed for North Carolina projects shall have architects or registered interior designers in responsible charge of only the specific projects in North Carolina.

Authority G.S. 55B-5; 55B-10; 55B-15; 83A-6; 83A-8; 83A-10.

21 NCAC 02 .0215 OUT OF STATE FIRMS

(a) Architectural and interior design firms from other states shall be granted firm licensure or registration for practice in this State upon receipt by the Board of a completed application as set forth in Rule .0214(a), fees as required by Rule .0108, the submission of a copy of their firm charter, or other corresponding documents, amended as may be necessary to ensure compliance with all requirements of Chapter 55B, the Professional Corporation Act for architectural firms and Chapter 55, the Business Corporation Act for registered interior design firms. In addition to the other requirements as set out in G.S. 83A-8, out of state interior design firms shall, prior to registration, receive from the Secretary of State of North Carolina a certificate of authority to do business within the state. Architectural firms shall obtain a certificate for filing from the Board prior to submitting application to the Secretary of State for a Certificate of Authority.

(b) Designated Individuals. If an out of state entity offers both architectural and engineering services, then it shall comply with requirements set forth in G.S. 89C. An out of state entity shall have at least one officer, director and shareholder licensed as an architect in this state. Two-thirds of the issued and outstanding shares of the out of state corporations shall be owned by licensed architects or engineers who are licensed to practice their profession in a jurisdiction of the United States. However, the firm shall designate at least one architect who is licensed in the State of North Carolina to be in responsible control for the firm practice of architecture within the State of North Carolina. A registered interior design firm shall designate one registered interior designer to be in responsible control of all interior design work offered and performed by that firm in this State.

(c) Partnerships. An out of state architectural or registered interior design partnership may practice architecture or registered interior design, if every partner in the firm is licensed or registered as an individual in this state under Rule .0213 and the partnership complies with Paragraph (f) this Rule .

(d) Limited Liability Companies. An out of state Limited Liability Company may practice architecture or registered interior design if the Limited Liability Company complies with G.S. 57D and at least one member and one owner are licensed or registered

as an individual under Rule .0213 and comply with Paragraph (a) of this Rule.

(e) Limited Liability Partnerships. An out of state Limited Liability Partnership may practice architecture or registered interior design, if the Limited Liability Partnership complies with G.S. 59, and at least one partner is licensed or registered as an individual under Rule .0213.

(f) Failure to Renew and Reinstatement. If the Board has not received the annual firm renewal fee and completed application as required by Rule .0214(b) on or before December 31st each year the firm license or registration shall expire and be deemed delinquent. The firm registration may be renewed at any time within one year, upon the return of the completed application, the annual renewal fee and the late renewal fees. After one year from the date of expiration for non-payment of the annual renewal fee, the license or registration shall be automatically revoked. The Board may reinstate the firm's license or registration, as allowed by G.S. 83A-11.

Authority G.S. 55B-6; 55B-16; 83A-6; 83A-8; 83A-9.

SECTION .0300 - EXAMINATION PROCEDURES

21 NCAC 02 .0302 ARCHITECTURAL LICENSURE BY EXAMINATION

(a) Those individuals who wish to take the Architectural Registration Exam (ARE) shall contact the National Council of Architecture Registration Boards (NCARB) directly to obtain exam eligibility. Upon completion of all requirements set forth in the NCARB Architecture Experience Program (AXP), a candidate seeking licensure by exam in North Carolina shall direct NCARB to transmit a completed NCARB AXP record to the North Carolina Board of Architecture and Registered Interior Designers.

(b) Upon passing all sections of the NCARB ~~ARE~~, ARE, fulfillment of all NCARB AXP requirements, and completion of the National Architectural Accrediting Board (NAAB) accredited degree, NCARB, as directed by the candidate, will transmit a completed NCARB AXP file to the Board to determine compliance with G.S. 83A-7(a)(1)a. shall be deemed satisfied through completion of the requirements set forth in Subparagraphs (1) through (5) of this Paragraph. The Board shall grant licensure by exam to those individuals who:

- (1) are of good moral character as defined in G.S. 83A-1(5);
- (2) are at least 18 years of age;
- (3) have completed a NAAB accredited professional degree in architecture or who have completed a NAAB accredited degree program that is identified as an NCARB endorsed Integrated Path To Architectural Licensure Degree Program;
- (4) have completed the NCARB AXP; and
- (5) submit the Application for Licensure by Exam and ~~fee~~ fee as required by Rule .0108.

(c) Retention of credit for purposes of licensure by examination in North Carolina.

- (1) Passing scores received after July 1, 2006 on any part of the ARE remain valid for a period

of time established by the exam provider, NCARB.

- (2) Scores received on any part of the ARE prior to July 1, 2006 are invalid.

(d) Practical training pursuant to G.S. 83A-7(a)(2) means practical experience and diversified training as defined by the NCARB AXP.

(e) During the application process, Board members, in order to augment the evidence submitted in an application may interview the applicant regarding qualifications required in Paragraph (b) of this Rule. The Board shall determine whether an interview is needed on a case-by-case basis, based upon information in the application, including any academic or professional discipline.

(f) To complete the ARE, an exam candidate shall receive a passing grade in each division of the ARE. Information regarding NCARB grading methods and procedures can be found on their web site at www.ncarb.org.

(g) A person currently employed under the responsible control of an architect, who holds a Professional Degree from a NAAB accredited program, and who maintains an active NCARB AXP record or has completed the NCARB AXP may use the title "Architectural Intern" or "Intern Architect" in conjunction with his or her current employment.

(h) The fees for examination, or parts thereof, are set and collected by the NCARB. Fee information is available on the NCARB web site www.ncarb.org.

(i) The standards of the National Council of Architecture Registration Boards and its components are hereby incorporated by reference including subsequent amendments and editions, and can be accessed at no charge at www.ncarb.org.

Authority G.S. 83A-1; 83A-6; 83A-7; 83A-12.

21 NCAC 02 .0303 ARCHITECTURE LICENSURE BY RECIPROCITY

(a) An individual who holds a current license in good standing from a National Council of Architecture Registration Boards (NCARB) recognized jurisdiction and a Certified Council Certificate issued by NCARB shall qualify for licensure by reciprocity upon receipt of a certified record from NCARB and the Board application for licensure by reciprocity and fee as required by Rule .0108 as provided in G.S. 83A-7(b). Revocation of the certificate by NCARB shall automatically suspend the architect's license to practice in North Carolina until such time as the certificate is reinstated by NCARB.

(b) In order to supplement or clarify the contents of a record or application, the Board may interview the applicant to ensure that the applicant has had sufficient architectural practice experience to be able to practice architecture in this State.

Authority G.S. 83A-6; 83A-7.

21 NCAC 02 .0306 INTERIOR DESIGNER REGISTRATION

(a) Those individuals who wish to practice as a registered interior designer in North Carolina shall demonstrate that they have satisfied the educational and professional experience eligibility requirements adopted by the Council for Interior Design Qualification (CIDQ) to sit for the National Council for Interior

Design Qualification Examination (NCIDQ), shall pass the NCIDQ Examination, and submit to the Board an application for registration and fee, fee as required by Rule .0108. Revocation of the certificate by CIDQ shall automatically suspend the interior designer's registration to practice in North Carolina until such time as the certificate is reinstated by CIDQ.

(b) An architect shall be granted registration to practice interior design so long as they are currently licensed and in good standing in the State of North Carolina and submit the Board application for registration and fee.

(c) In order to supplement or clarify the contents of a record or application, the Board may interview the applicant to ensure that the applicant has had interior design experience to be able to practice registered interior design in this State.

(d) The standards of the CIDQ and its components are hereby incorporated by reference including subsequent amendments and editions and can be accessed at no charge at www.cidq.org.

Authority G.S. 83A-7.

**21 NCAC 02 .0307 CERTIFICATION AND
LICENSURE FOR MILITARY PERSONNEL AND
MILITARY SPOUSES**

(a) Upon receipt of a request for certification or licensure pursuant to G.S. 93B-15.1 from an applicant with military training and experience, the Board shall issue a certificate or license upon submission of the following to the Board:

- (1) an application containing the following information:
 - (A) the applicant's contact information;
 - (B) the social security number of the applicant;
 - (C) the requested designation of licensure or registration;
 - (D) employment history;
 - (E) whether the applicant has ever been certified, licensed, or registered to practice architecture or registered interior design by the Board, by another occupational Board, or in another state/jurisdiction and, if so what credential was held, in what state/jurisdiction, the issuance date and expiration date, and what examinations were taken to obtain said certification, licensure, or registration;
 - (F) whether the applicant has ever had a credential denied, limited, reprimanded, suspended, or revoked;
 - (G) whether the applicant has ever been convicted of, or plead nolo contendere to, a felony or misdemeanor under any laws;
 - (H) whether any criminal charges have been filed or are pending against the applicant;
 - (I) whether any court, board, agency, or professional organization has found the applicant guilty of unprofessional

- (J) conduct, dishonest or fraudulent practice, or incompetent practice;
- (K) whether any charges are pending against the applicant before any court, board, agency, or professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice;
- (K) the applicant's affirmation that the applicant has read the statutes and rules set forth in North Carolina General Statutes 83A and Title 21 Chapter 2 of the North Carolina Administrative Code, the information provided by the applicant in the application is true, and that the applicant has read and understands the public notice statement on employee misclassification that is set forth in the application and has disclosed any investigations for employee misclassification, and its results, over the preceding 12-month period, as prescribed by G.S. 143-789;

- (2) written documentation to satisfy conditions set out in G.S. 93B-15.1(a); or
- (3) written documentation to satisfy conditions set out in G.S. 93B-15.1(a2).

(b) Upon receipt of a request for certification or licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a certificate or license upon submission of the following to the Board:

- (1) an application containing the following information:
 - (A) the applicant's contact information;
 - (B) the social security number of the applicant;
 - (C) the requested designation of licensure or registration;
 - (D) employment history;
 - (E) whether the applicant has ever been certified, licensed, or registered to practice architecture or registered interior design by the Board, by another occupational Board, or in another state/jurisdiction and, if so what credential was held, in what state/jurisdiction, the issuance date and expiration date, and what examinations were taken to obtain said certification, licensure, or registration;
 - (F) whether the applicant has ever had a credential denied, limited, reprimanded, suspended, or revoked;
 - (G) whether the applicant has ever been convicted of, or plead nolo contendere to, a felony or misdemeanor under any laws;

- (H) whether any criminal charges are pending against the applicant;
- (I) whether any court, board, agency, or professional organization has found the applicant guilty of unprofessional conduct, dishonest or fraudulent practice, or incompetent practice;
- (J) whether any charges are pending against the applicant before any court, board, agency, or professional organization for unprofessional conduct, dishonest or fraudulent practice, or incompetent practice;
- (K) a completed NCARB AXP file as set forth in Rule .0302; and
- (L) the applicant's affirmation that the applicant has read the statutes and rules set forth in North Carolina General Statutes 83A and Title 21 Chapter 2 of the North Carolina Administrative Code, the information provided by the applicant in the application is true, and that ; and the applicant has read and understands the public notice statement on employee misclassification that is set forth in the application and has disclosed any investigations for employee misclassification, and its results, over the preceding 12-month period, as prescribed by G.S. 143-789 (2) written documentation to satisfy conditions set out in G.S. 93B-15.1(b);

(c) Military trained applicants and military spouse applicants may apply for a temporary license by submitting to the Board an application containing the information set forth in Paragraph (a)(1) of this Rule.

Authority G.S. 83A-7; 93B-15.1.

SECTION .0600 - ADMINISTRATIVE HEARINGS: PROCEDURES

21 NCAC 02 .0606 WHO SHALL HEAR CONTESTED CASES

Authority G.S. 83A-6; 150B-11; 150B-38; 150B-40.

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to amend the rule cited as 21 NCAC 16H .0104.

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

Proposed Effective Date: April 1, 2024

Public Hearing:

Date: December 7, 2023

Time: 6:30 p.m.

Location: 2000 Perimeter Park Drive, #200, Morrisville, NC 27560

Reason for Proposed Action: *The proposed amendment updates education and training requirements for dental assistants and eliminates a requirement related to coronal polishing.*

Comments may be submitted to: Bobby White, 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Comment period ends: January 16, 2024

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or 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 (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

SUBCHAPTER 16H - DENTAL ASSISTANTS

SECTION .0100 - CLASSIFICATION AND TRAINING

21 NCAC 16H .0104 APPROVED EDUCATION AND TRAINING PROGRAMS

(a) To be classified as a Dental Assistant II, an assistant shall have and maintain an unexpired CPR certification and also shall ~~meet~~ one of the following criteria: complete:

- (1) completion of: a dental assisting program accredited by the Commission on Dental Accreditation ("CODA"), a list of which is available at no cost at coda.ada.org/find-a-program/search-dental-programs and is incorporated by reference, including subsequent amendments and editions;

- (A) ~~an ADA accredited dental assisting program; or~~
 (B) ~~one academic year or longer in an ADA accredited dental hygiene program;~~
 (2) one complete school year or longer in a CODA-accredited dental hygiene program;
 (3) a dental assistant program offered through a branch of the U.S. armed forces at the Medical Education & Training Campus that includes a clinical rotation providing dental assisting for live patients;
 (2)(4) ~~completion of the Certified Dental Assistant certification examination(s) examinations administered by the Dental Assisting National Board; Board ("DANB") with a passing score as set by DANB; or~~
 (3)(5) completion of: the following:
 (A) employment as a Dental Assistant I for two years of the preceding five, consisting of at least 3,000 hours total; and
 (B) a 3-hour course in sterilization and infection control; and control, and a 3-hour course in dental office emergencies. The courses shall be offered by Board-approved course
 sponsors as set out in 21 NCAC 161 .0202.
 (C) ~~a 3 hour course in dental office emergencies.~~
 (b) A Dental Assistant I who has completed the requirements of ~~Parts (a)(3)(B) (C) Part (a)(5)(B)~~ of this Rule but not completed the training employment hours required pursuant to Part ~~(a)(3)(A)(a)(5)(A)~~ may be trained by a licensed dentist and allowed to perform the functions of a Dental Assistant II, as specified in Rule .0203 of this Subchapter, under the direct control and supervision of a licensed ~~dentist, dentist, except that a Dental Assistant I performing the functions of a Dental Assistant II pursuant to this Paragraph shall not perform the coronal polishing function set out in Rule .0203(a)(21) of this Subchapter.~~
 (c) For purposes of this Rule, an unexpired CPR certification is one that is in effect and valid at the time of classification as a Dental Assistant II and remains so at all times while employed as a Dental Assistant II or while performing any of the permitted functions under Rule .0203 of this Subchapter.
 (d) ~~A Dental Assistant~~ dental assistant shall not take radiographs before completing radiology training consistent with G.S. 90-29(c)(12).

Authority G.S. 90-29(c)(9).

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.
This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: Department of Health and Human Services/Director, DHSR

Rule Citation: 10A NCAC 14E .0101, .0111

Effective Date: October 27, 2023

Date Approved by the Rules Review Commission: October 19, 2023

Reason for Action: On May 16, 2023, Senate Bill 20 became law as S.L. 2023-14. This new law entitled "An Act to Make Various Changes to Health Care Laws and to Appropriate Funds for Health Care Programs" revised various state laws governing abortions in North Carolina. The Department was made aware of the proposed changes on May 2, 2023, when a Proposed Conference Committee Substitute was issued that made the changes to the State's abortion laws. The revisions in Part I and Part 2.4 of the law went into effect on July 1, 2023, less than 2 months after the Department became aware of the proposed changes. Among other changes, S.L. 2023-14 makes significant changes to defining when an abortion is lawful. Current rules governing the certification of abortion clinics are found in Subchapter 14E of Title 10A of the Administrative Code. Given the changes to the law that became effective July 1, emergency rules became effective June 30, 2023. Adoption of temporary rules to amend the existing rules to conform with the provisions of S.L. 2023-14 will ensure continuity of care for patients and resolve any uncertainty about the rules applicable to impacted providers while being critical to protect the health and safety of women in obtaining lawful abortions in a certified abortion clinic. Therefore, the N.C. DHHS is amending Rules 10A NCAC 14E .0101 and .0111 under temporary procedures.

CHAPTER 14 - DIRECTOR, DIVISION OF HEALTH SERVICE REGULATION

SUBCHAPTER 14E - CERTIFICATIONS OF CLINICS FOR ABORTION LICENSURE OF SUITABLE FACILITIES FOR THE PERFORMANCE OF SURGICAL ABORTIONS

SECTION .0100 – CERTIFICATION LICENSURE PROCEDURE

10A NCAC 14E .0101 DEFINITIONS

The following definitions will apply throughout this Subchapter:

- (1) "Abortion" means the termination of a pregnancy as defined in G.S. ~~90-21.81(1)~~; 90-21.81(1c).
- (2) "Clinic" means a freestanding ~~facility~~ (a facility neither physically attached nor operated by a licensed ~~hospital~~) hospital for the performance of abortions completed during the first ~~20~~ 12 weeks of pregnancy.
- (~~3~~) "Complication" ~~includes but is not limited to hemorrhage, infection, uterine perforation, cervical laceration, or retained products of conception.~~
- (~~4~~)(3) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
- (~~5~~)(4) "Gestational age" means the length of pregnancy as indicated by the date of the first day of the last normal monthly menstrual period, if known, or as determined by ultrasound.
- (~~6~~)(5) "Governing authority" means the individual, agency, group, or corporation appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the abortion clinic is vested pursuant to Rule ~~.0302~~ .0318 of this Subchapter.
- (~~7~~)(6) "Health Screening" means an evaluation of an employee or contractual employee, including tuberculosis testing, to identify any underlying conditions that may affect the person's ability to work in the clinic.
- (~~8~~)(7) "New clinic" means one that is not certified as an abortion clinic by the Division as of July 1, ~~2014~~, 2023, and has not been certified or licensed within the previous six months of the application for ~~certification~~; licensure.
- (9) "~~Qualified Physician~~" means ~~a licensed physician who advises, procures, or causes a miscarriage or abortion as defined in G.S. 14-45.1(g); 90-21.81(7a).~~
- (~~10~~)(8) "Registered Nurse" means a person who holds a valid license issued by the North Carolina Board of Nursing to practice professional nursing in accordance with the Nursing Practice Act, G.S. 90, Article 9A.

History Note: Authority G.S. ~~14-45.1(a); 14-45.1(g); 143B-10; 131E-153; S.L. 2013-366, s. 4(e); S.L. 2023-14, s. 2-2; 2-4;~~
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. October 1, 2015; July 1, 1994; December 1, 1989;
June 30, 1980;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019;
Codifier determined that agency's findings of need did not meet criteria for emergency rule on June 22, 2023;
Emergency Rule Eff. June 30, 2023;
Repealed Eff. July 1, 2023 pursuant to G.S. ~~150B-21.7~~. 150B-21.7;
Temporary Adoption Eff. October 27, 2023.*

10A NCAC 14E .0111 INSPECTIONS

(a) Any clinic ~~certified~~ licensed by the Division to perform abortions shall be inspected by representatives of the Division annually and as it may deem necessary as a condition of holding such license. An inspection ~~shall~~ may be conducted whenever the Division receives a complaint alleging the clinic is not in compliance with the rules of the Subchapter. ~~purpose of the inspection is to determine whether the clinic complies with the rules of this Subchapter Subchapter. or whenever there is reason to believe that some condition exists which is not in compliance with the rules of this Subchapter.~~

~~(b) The Division shall have authority to investigate any complaint relative to the care, treatment, or complication of any patient.~~

~~(c)~~ (b) Representatives of the Division shall make their identities known to the ~~person in charge~~ clinic staff prior to inspection of the clinic.

~~(d)~~ (c) Representatives of the Division may review any records in any medium necessary to determine compliance with the rules of this Subchapter, Subchapter. ~~while maintaining~~ The Department shall maintain the confidentiality of the complainant and the patient, unless otherwise required by law.

~~(e)~~ (d) The clinic shall allow the Division to have immediate access to its premises and the records necessary to conduct an inspection and determine compliance with the rules of this Subchapter.

~~(f)~~ (e) A clinic shall file a written plan of correction for cited deficiencies within 10 business days of receipt of the report of the survey. The Division shall review and respond to a written plan of correction within 10 business days of receipt of the corrective action plan.

History Note: Authority G.S. ~~14-45.1(a); 14-45.1(a1); 143B-10; 131E-153; 131E-153.6; S.L. 2013-366, s. 4(e); S.L. 2023-14, s. ~~2.2~~; 2.4~~;
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. October 1, 2015; July 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019;
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Emergency Rule Eff. June 30, 2023;
Repealed Eff. July 1, 2023 pursuant to G.S. ~~150B-21.7~~. 150B-21.7;
Temporary Adoption Eff. October 27, 2023.

TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION

Rule-making Agency: *State Board of Education*

Rule Citation: 16 NCAC 06C .0408

Effective Date: *October 27, 2023*

Date Approved by the Rules Review Commission: *October 19, 2023*

Reason for Action: *S.L. 2023-14, Part V – as amended by S.L. 2023-65, Part XIII-A, and S.L. 2023-134, Section 7.83 – added G.S. 126-8.6 to the North Carolina General Statutes, which provides for paid parental leave for State employees and employees of other public entities, including the public school system. G.S. 126-8.6(c) directs the State Human Resources Commission (SHRC) to adopt rules and policies providing for State employees to receive paid parental leave of up to 8 weeks after giving birth to a child and up to 4 weeks after any other qualifying event (defined as becoming a parent of a child). G.S. 126-8.6(e) directs the "appropriate governing board, officer, or entity" to adopt rules and policies awarding paid parental leave to other employees covered by the law that are "substantially equivalent" to those adopted by the State Human Resources Commission. As the governing board for the North Carolina public school system, the State Board of Education is charged with adopting paid parental leave rules for public school employees. The SHRC adopted its temporary rules, effective August 25, 2023, and published in the North Carolina Register at 38:06 NCR 354-357. The SBE has adopted a temporary rule in accordance with the statutory requirement that it be "substantially equivalent" to the SHRC rules and will move forward with permanent rulemaking in a timely fashion.*

**CHAPTER 06 - ELEMENTARY AND SECONDARY
EDUCATION**

SUBCHAPTER 06C - PERSONNEL

SECTION .0400 – ANNUITIES AND PENSIONS

16 NCAC 06C .0408 PARENTAL LEAVE

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

- (1) "Child" means a newborn biological child or a newly placed adopted, foster, or otherwise legally placed child under the age of 18 whose parent is an eligible employee.
- (2) "Continuous" leave means leave taken over a continuous period for the full amount of leave to which an eligible employee is entitled under Paragraph (c) of this Rule.
- ~~(2)~~ (3) "Eligible employee" means a person employed to fill a permanent, probationary, or time-limited position in a public-school unit ("PSU") who meets the eligibility requirements set forth in Paragraph (b) of this Rule. "Eligible employee" shall not include temporary employees or independent contractors.
- (4) "Intermittent" leave means leave taken in separate periods for a single qualify event that cumulatively equal the amount of leave to

which an eligible employee is entitled under Paragraph (c) of this Rule. Intermittent leave may include periods of leave ranging from half of an employee's regularly scheduled workday to several consecutive workdays.

(3)(5) "Parent" means the legal guardian or custodian of a child through birth, adoption, foster care, or other legal placement.

(4)(6) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a). This Rule shall only apply to a charter school if the board of directors for the charter school has opted to provide for paid parental leave in accordance with G.S. 115C-218.90(a)(6).

(5)(7) "Qualifying event" means when an eligible employee becomes a parent to a child.

(b) To be eligible for paid parental leave, a PSU employee shall, at the time of the qualifying event, have been in pay ~~status~~ status, as defined in 25 NCAC 01D .0105, with a PSU, state agency, or other public entity providing paid parental leave under G.S. 126-8.6 for at least 1,040 hours ~~with the same PSU and~~ without a break in service within the previous 12-month period. The employee may aggregate periods of employment with different employers to satisfy this requirement, except that any period of employment by a charter school shall not satisfy this requirement unless the governing board of the charter school has elected to provide paid parental leave in accordance with G.S. 115C-218.90(a)(6). For purposes of this Rule, a break in service is defined in 25 NCAC 01D .0114, provided it shall not include:

(1) Any period in the past 12 months during which the employee was receiving workers' compensation under G.S. 97-1 et seq. or on short-term disability under G.S. 135-105.

(2) Any period in which the employee was on leave without pay.

(3) Any period in which the employee was absent due to military service in the Armed Forces of the United States, in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301-4333.

(3)(4) For a 10- or 11-month employee whose employment will continue for the following school year, the time between the conclusion of one employment period and the commencement of the following employment period.

(5) For an employee who transitions from one employer offering paid parental leave under G.S. 126-8.6 to another employer providing paid parental leave under G.S. 126-8.6, any time between the date of separation from the first employer and the date of hire for the second employer, not to exceed 31 days.

(c) A full-time eligible employee who becomes a parent to a child shall be entitled to the following:

(1) Up to eight weeks of paid parental leave after giving birth to a child; or

(2) Up to four weeks of paid parental leave after any other qualifying event.

(d) A part-time eligible employee who becomes a parent to a child shall be entitled to a prorated share of paid parental leave based upon the hours in the employee's regular, weekly schedule compared to the hours worked by a full-time employee in a similar position within the PSU, provided that the prorated share of leave shall not exceed:

(1) Eight weeks of paid parental leave after the parent gives birth to a child; or

(2) Four weeks of paid parental leave after any other qualifying event.

(e) The paid parental leave provided by this Rule shall result in compensation at 100 percent of the eligible employee's regular, straight-time pay.

(f) The paid parental leave provided under this Rule is in addition to any other leave authorized by this Chapter, State or federal law, or policies established by the PSU, provided that the paid parental leave:

(1) Shall not be counted against or deducted from an eligible employee's sick, vacation, or other accrued leave.

(2) Shall be reported by the PSU separately from all other paid leave.

(3) Shall not accrue and is not eligible for donation to another employee.

(4) ~~Shall no longer be available to the employee upon separation from employment with the PSU.~~

(5)(4) Shall not be used for calculating the employee's retirement benefits.

(5) Shall run concurrently with any leave to which the employee may be entitled under the Family and Medical Leave Act, 28 U.S.C. 2601-2654, provided the PSU has complied with the appropriate notice requirements in 29 C.F.R. 825.300.

(g) An eligible employee who requests paid parental leave shall do so in accordance with policies adopted by the employee's PSU, subject to the following:

(1) The paid parental leave may be used any time during the 12 months following a qualifying ~~event~~ event on either a continuous or intermittent basis. A PSU shall not deny, delay, or require intermittent use of paid parental leave to an eligible employee, except by mutual agreement of the PSU and employee. deny or delay an employee's request to use paid parental leave, or otherwise require the employee to use the leave on a prescribed schedule, without the employee's consent.

(2) The employee shall provide advanced notice to the PSU of the employee's intent to use paid parental leave in accordance with policies adopted by the PSU. When ~~reasonably~~ possible, the employee shall provide notice at least 10 weeks in advance of a qualifying event, but under no circumstances shall a PSU require more than 10 weeks' notice.

- (3) The paid parental leave provided by this Rule may be used only once for a qualifying event within a 12-month period. Multiple births, adoptions, or other legal placements within the same 12-month period shall not entitle an otherwise eligible employee to more than one award of paid parental leave.
- (4) If both parents of a child are employed by the same PSU, the PSU shall permit both parents to take paid parental leave simultaneously if they so request, subject to Subparagraphs (1) and (2) of this Paragraph.

- (5) An employee shall forfeit any unused paid parental leave 12 months after the date of the qualifying event.

(h) This paid parental leave provided by this Rule applies only to requests for paid parental leave related to qualifying events occurring on or after July 1, 2023. Nothing in this Rule shall prohibit an employer, if authorized, from providing paid parental leave in amounts greater than what is required by this Rule.

History Note: Authority G.S. 115C-12(5); 115C-12(8); 115C-12(16); 115C-272; 115C-285; 115C-302.1; 115C-315; 126-8.6; Temporary Adoption Eff. October 27, 2023.

This Section contains information for the meeting of the Rules Review Commission October 19, 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)
Jay R. Hemphill
Jeff Hyde
Brandon Leebrick
Bill Nelson

Appointed by House

Barbara A. Jackson (1st Vice-Chair)
Randy Overton (2nd Vice-Chair)
Wayne R. Boyles, III
Jake Parker
Paul Powell

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

November 16, 2023	January 18, 2024
December 14, 2023	February 15, 2024

**RULES REVIEW COMMISSION MEETING
MINUTES****October 19, 2023**

The Rules Review Commission met on Thursday, October 19, 2023, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Wayne R. Boyles III, Jeanette Doran, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker were present in the Commission Room.

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

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

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

Chair Doran introduced Associate Justice of the North Carolina Supreme Court, Philip Berger, Jr., to the Commission.

Justice Berger administered the Oath of Office to newly appointed Commissioner Brandon Leebrick.

The Chair read into the record the Evaluation of Statement of Economic Interest for Brandon Leebrick, which states the NC Ethics Commission did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow-up matters Tabs I and J for the Department of Revenue and temporary rules from DHHS - Division of Health Service Regulation.

The Chair notified the Commission that since all Commissioners attending the meeting are present in the Commission Room, the RRC is not required to cast roll-call votes; therefore, roll-call votes were not called at this meeting's agenda.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the October 5, 2023, special meeting minutes. There were none and the minutes were approved as distributed.

The Chair asked for any discussion, comments, or corrections concerning the September 21, 2023, meeting minutes. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS**Board of Agriculture**

02 NCAC 52B .0214; 52J .0901, .0902, .0903, and .0904 - The Commission extended the period of review for these Rules at the September meeting. No action was required by the Commission.

Medical Care Commission

10A NCAC 13F .0702, .1307; 13G .0705, and .1301 - The Commission extended the period of review for these Rules at the September meeting. No action was required by the Commission.

Department of Justice

12 NCAC 02J .0201 - The Commission extended the period of review for this Rule at the September meeting. No action was required by the Commission.

Criminal Justice Education and Training Standards Commission

12 NCAC 09B .0209, .0403, .0501, .0502; 09C .0306; 09G .0405, and .0406 - The Commission extended the period of review for these Rules at the September meeting. No action was required by the Commission.

Sheriffs' Education and Training Standards Commission

12 NCAC 10B .0604, .0605, .0606, .0607, .0704, and .0714 - All rules were unanimously approved.

Private Protective Services Board

14B NCAC 16 .0201, .0205, .0403, .0807, .1101, .1501, .1502, .1601, .1701, .1706, and .1707 - All rules were unanimously approved.

Environmental Management Commission

15A NCAC 02D .0503, .0506, .0532, .0614, .0918, .0926, .0927, .0928, .0932, .0960, .0961, .0964, .1403, .1708; 02Q .0102, and .0706 - All rules were unanimously approved.

Coastal Resources Commission

Prior to the review of rules from the Coastal Resources Commission, Commissioner Parker recused himself and did not participate in any discussion or vote concerning these Rules because of a conflict of interest.

15A NCAC 07H .0208, .0308; and 07M .0603 - The Commission objected to these Rules at the August meeting. The agency has not responded to the Commission's objection. No action was required by the Commission.

Department of Revenue

17 NCAC 07B .0104, .0106, .0108, .0112, .0117, .0121, and .0801 were unanimously approved.

The Commission voted to object to 17 NCAC 07B .1202 pursuant to G.S. 150B-21.9(a), finding the rule to be unnecessary with Commissioner Hyde voting against the objection. Additionally, the Commission unanimously objected to 17 NCAC 07B .1303, .1404, .1601, .1605, .1705, .2001, .2002, .2204, and .4109 pursuant to G.S. 150B-21.9(a) for lack of necessity.

The Commission unanimously voted to object to 17 NCAC 07B .1202, .1303, .1404, .1601, .1605, .1705, .2001, .2002, .2204, and .4109 pursuant to G.S. 150B-21.9(a)(2) lack of clarity and G.S. 150-29.9(a)(1) for lack of authority.

17 NCAC 07B .0115, .3101, and .3107 – The Commission objected to these Rules at the September meeting. No action was required by the Commission.

17 NCAC 07B .0901, .0902, .0904, .1101, .1123, .1302, .1305, .1602, .1701, .1702, .1704, .1801, .1905, .1907, .2101, .2102, .2105, .2201, .2205, .2209, .2210, .2212, .2213, .2301, .2401, .2603, .2604, .2605, .2701, .2702, .2801, .2802, .2901,

.3004, .3009, .3101, .3106, .3107, .3301, .3302, .3801, .3804, .3907, .3910, .4102, .4105, and .4106 - The Commission extended the period of review for these Rules at the September meeting. No action was required by the Commission.

Department of Revenue

17 NCAC 07B .4204, .4716, .4802, and .4803 were unanimously approved.

The Commission unanimously voted to object to 17 NCAC 07B .4707 and .5004 pursuant to G.S. 150B-21.9(a)(3) for lack of necessity. Additionally, the Commission unanimously voted to object to 17 NCAC .4202, .4207, .4801, and .5001 pursuant to G.S. 105B-21.9(a)(2) finding the rules to be unclear or ambiguous.

The Commission unanimously voted to object to 17 NCAC 07B .4201, .4202, .4707, .4708, and .5001 pursuant to G.S. 150B-21.9(a)(2) lack of clarity and G.S. 150-29.9(a)(1) for lack of authority.

17 NCAC 07B .4206, .4415, and .5002 – The Commission objected to these Rules at the September meeting. No action was required by the Commission.

17 NCAC 07B .4201, .4202, .4203, .4205, .4210, .4301, .4302, .4401, .4403, .4404, .4406, .4411, .4413, .4503, .4510, .4609, .4614, .4701, .4707, .4708, .4801, .5001, and .5004 - The Commission extended the period of review for these Rules at the September meeting. No action was required by the Commission.

Andrew Furuseth, with the agency, addressed the Commission.

The Chair called the meeting into a brief recess at 10:17 a.m.
The meeting resumed at 10:25 a.m.

LOG OF FILINGS (PERMANENT RULES)**Sheriffs' Education and Training Standards Commission**

12 NCAC 10B .2201 was unanimously approved.

Wildlife Resources Commission

15A NCAC 10A .0401, .0402, .1101, and .1201 were unanimously approved.

State Board of Education

16 NCAC 06G .0601 was unanimously approved.

Board of Examiners in Optometry

21 NCAC 42B .0201 was unanimously approved.

The Commission voted to extend the period of review for 21 NCAC 42D .0102 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period to allow the agency additional time to prepare a response to a staff opinion issued on the rule. Commissioner Hyde voted against the extension.

LOG OF FILINGS (TEMPORARY RULES)**DHHS - Division of Health Service Regulation**

Prior to the review of rules from DHHS - Division of Health Service Regulation, Commissioner Leebrick recused himself and did not participate in any discussion or vote concerning these Rules because of a conflict of interest.

10A NCAC 14E .0101 and .0111 were unanimously approved.

The Commission voted to object to 10A NCAC 14E .0104, .0106, .0107, .0109, .0112, .0114, .0201, .0202, .0207, .0209, .0210, .0211, .0212, .0315, .0318, .0319, .0320, .0321, .0322, .0323, .0324, .0325, .0326, .0327, .0328, .0329, .0330, and .0331 in accordance with G.S. 150B-21.1(b) finding the rules lacked statutory authority pursuant to G.S. 150-21.9(a)(1). Additionally, with respect to Rules 10A NCAC 14E .0106 and .0109, the Commission objected to the rules pursuant to G.S. 150B-21.9(a)(2) finding the rules to be unclear or ambiguous. Commissioner Parker voted against the objection.

Eric Hunt, representing the agency, addressed the Commission.

State Board of Education

16 NCAC 06C .0408 was unanimously approved.

EXISTING RULES REVIEW

15A NCAC 05C – The Commission unanimously voted to amend the 2014-2023 Existing Rules Review Schedule and change the due date for 15A NCAC 05C from December 2023 to February 2024. Additionally, the Commission voted to approve the joint request from the Mining Commission and the Oil and Gas Commission to reassign 15A NCAC 05C for the periodic review from the Mining Commission to the Oil and Gas Commission.

COMMISSION BUSINESS

The meeting was adjourned at 10:56 a.m.

The next regularly scheduled meeting of the Commission is Thursday, November 16, 2023, at 9:00 a.m.

Alexander Burgos, Paralegal

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

DRAFT

October 19, 2023

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Jennifer Everett	DEQ
Phillip Reynolds	NC DOS
Taylor Corpening	PHHS
Laura Hansford	NCDOR
Andrew Furseth	NCDOR
RAT PREMAKUMAR	NC DHHS
Melissa Bowman	NC DOJ
Anne Evangelista	Governor's office
Elly Young	NC DOJ
Julie Cronin	NC DHHS
Bethany Burgon	NC DOJ
Ann White	SOS
Helen Madi	HTS BANKS
Emily Kirby	Gov office
Derek Hunter	NC DOJ
Susan Birdsong	PPS AT

RULES REVIEW COMMISSION

Rules Review Commission Meeting October 19, 2023
Via WebEx

Name	Agency
Ann Elmore	SOSNC
Ryan Collins	DPI
Marlika Hairston	NCCOB
Adam Parr	DEQ
Katherine Quinlan	DEQ
Julie Ventaloro	OSBM
Joelle Burleson	DEQ
Emily Jones	DOT
Ashley Snyder	OAH
Womenhealth225	Member of Public
Cameron Ervin	CSHLAW
Canaan Huie	MVALAW.COM
Jillian Riley	Member of Public
Liz Barber	acluofnc.org
Marktom0397	Member of Public
Ron Williams	DOJ
Emery Milliken	DHHS
Jeff Harms	DHHS
Jonathan Puryear	DOR
Makeda Harris	NCHA.ORG
Laura Rowe	Treasurer
Johnson, Daniel H	DOT
Catherine Blum	DEQ
Hope Ascher	Member of Public
Mark Payne	DHHS
Robert El-Jaouhari	CSHLAW.COM
Ruhlman, Carrie A	WRC
Anne Coan	NCFB
Melva Bonner	WRC
Dana McGhee	OAH
Eddie Sheehy	NCLEG
Nadine Pfeiffer	Member of Public
Donna Marie	Member of Public
T Moreland	Member of Public



STATE ETHICS COMMISSION

POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

October 6, 2023

The Honorable Phil Berger
President Pro Tempore of the Senate
16 West Jones Street, Room 2008
Raleigh, North Carolina 27601

**Re: Evaluation of Statement of Economic Interest Filed by Mr. Brandon Leebrick
Appointee to the Rules Review Commission**

Dear Senator Berger:

Our office has received **Mr. Brandon Leebrick's** 2023 Statement of Economic Interest as an appointee to the **Rules Review Commission (the "Commission")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Rules Review Commission has authority to review all temporary and permanent rules proposed by North Carolina government agencies, including the authority to veto rules that fail to satisfy specific statutory criteria. Generally speaking, those rules are intended to implement or interpret laws adopted by the General Assembly or Congress or certain federal regulations. Temporary or permanent rules approved by the Commission are filed with the Office of Administrative Hearings to be included in the North Carolina Administrative Code.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

The Honorable Phil Berger
October 6, 2023
Page 2 of 2

Mr. Leebrick is a principal attorney with Ott Cone & Redpath, P.A., a law firm which could represent clients that come before the Commission during the rulemaking process. As such, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should issues involving the law firm of Ott Cone & Redpath, P.A. or its clients come before the Commission for official action.

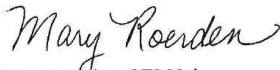
In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,



Mary Roerden, SEI Unit
State Ethics Commission

cc: Brandon Leebrick
Alexander Burgos, Ethics Liaison

Attachment: Ethics Education Guide

MEMORANDUM OF ABSTENTION FROM
PARTICIPATION IN OFFICIAL ACTION
RULES REVIEW COMMISSION

In accordance with N.C. General Statute G.S. 138A-15(e), I have abstained from taking any verbal or written action, including voting, on the agenda item regarding Item # IV. H.

I have abstained because a potential conflict of interest.

_____.

This the 19th day of October, 2023.



Signature of Commission Member

No public servant authorized to perform an official action requiring the exercise of discretion shall knowingly participate in an official action by the board if the public servant, a member of the public servant's extended family, or a business with which the public servant is associated has an economic interest in, or a reasonably foreseeable benefit from, the matter under consideration, which would impair the public servant's independence of judgment or from which it could be reasonably inferred that the interest or benefit would influence the public servant's participation. A potential benefit includes a detriment to a business competitor or (1) the public servant; (2) a member or the public servant's extended family, or (3) a business with which the public servant is associated. The public servant shall abstain from taking any verbal or written action and shall submit in writing to the board the reasons for the abstention.

MEMORANDUM OF ABSTENTION FROM
PARTICIPATION IN OFFICIAL ACTION
RULES REVIEW COMMISSION

In accordance with N.C. General Statute G.S. 138A-15(e), I have abstained from taking any verbal or written action, including voting, on the agenda item regarding VI.1 (DHHS Temporary Rules).

I have abstained because a potential conflict of interest

_____.

This the 19th day of October, 2023.



Signature of Commission Member

No public servant authorized to perform an official action requiring the exercise of discretion shall knowingly participate in an official action by the board if the public servant, a member of the public servant's extended family, or a business with which the public servant is associated has an economic interest in, or a reasonably foreseeable benefit from, the matter under consideration, which would impair the public servant's independence of judgment or from which it could be reasonably inferred that the interest or benefit would influence the public servant's participation. A potential benefit includes a detriment to a business competitor or (1) the public servant; (2) a member or the public servant's extended family, or (3) a business with which the public servant is associated. The public servant shall abstain from taking any verbal or written action and shall submit in writing to the board the reasons for the abstention.

LIST OF APPROVED PERMANENT RULES

October 19, 2023 Meeting

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Trainee Attendance</u>	12 NCAC	10B	.0604
<u>Completion of Detention Officer Certification Course</u>	12 NCAC	10B	.0605
<u>Comp Written Exam - Detention Officer Certification Course</u>	12 NCAC	10B	.0606
<u>Satisfaction of Minimum Training Requirements</u>	12 NCAC	10B	.0607
<u>Responsibilities: Schools and Detention Officer Courses</u>	12 NCAC	10B	.0704
<u>Pilot Course Presentation/Participation</u>	12 NCAC	10B	.0714
<u>Certification Forms</u>	12 NCAC	10B	.2201

PRIVATE PROTECTIVE SERVICES BOARD

<u>Application for License and Trainee Permits</u>	14B NCAC	16	.0201
<u>Company Business License</u>	14B NCAC	16	.0205
<u>Trainee Permit Requirements</u>	14B NCAC	16	.0403
<u>Training Requirements for Armed Licensees and Registrants</u>	14B NCAC	16	.0807
<u>Definitions</u>	14B NCAC	16	.1101
<u>Experience Requirements for a Close Personal Protection L...</u>	14B NCAC	16	.1501
<u>Training Requirements for Close Personal Protection License</u>	14B NCAC	16	.1502
<u>Experience Requirements for a Digital Forensics Examiner ...</u>	14B NCAC	16	.1601
<u>Definitions</u>	14B NCAC	16	.1701
<u>Consideration of Experience</u>	14B NCAC	16	.1706
<u>Enforcement</u>	14B NCAC	16	.1707

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Particulates from Fuel Burning Indirect Heat Exchangers</u>	15A NCAC	02D	.0503
<u>Particulates from Hot Mix Asphalt Plants</u>	15A NCAC	02D	.0506
<u>Sources Contributing to an Ambient Violation</u>	15A NCAC	02D	.0532
<u>Compliance Assurance Monitoring</u>	15A NCAC	02D	.0614
<u>Can Coating</u>	15A NCAC	02D	.0918
<u>Bulk Gasoline Plants</u>	15A NCAC	02D	.0926
<u>Bulk Gasoline Terminals</u>	15A NCAC	02D	.0927
<u>Gasoline Service Stations Stage 1</u>	15A NCAC	02D	.0928
<u>Gasoline Truck Tanks and Vapor Collection Systems</u>	15A NCAC	02D	.0932
<u>Cargo Tank Leak Tester Report</u>	15A NCAC	02D	.0960
<u>Offset Lithographic Printing and Letterpress Printing</u>	15A NCAC	02D	.0961
<u>Miscellaneous Industrial Adhesives</u>	15A NCAC	02D	.0964
<u>Compliance Schedules</u>	15A NCAC	02D	.1403
<u>Reporting Requirements</u>	15A NCAC	02D	.1708
<u>Activities Exempted from Permit Requirements</u>	15A NCAC	02Q	.0102
<u>Modifications</u>	15A NCAC	02Q	.0706

WILDLIFE RESOURCES COMMISSION

<u>Form and Contents of Petition</u>	15A NCAC	10A	.0401
<u>Action on Petition</u>	15A NCAC	10A	.0402
<u>Waiver</u>	15A NCAC	10A	.1101
<u>Emergency Powers</u>	15A NCAC	10A	.1201

EDUCATION, STATE BOARD OF

Remote Academies Hardware and Software Fees 16 NCAC 06G .0601

REVENUE, DEPARTMENT OF

Registration and Returns 17 NCAC 07B .0104

Certificates of Exemption Sales for Resale 17 NCAC 07B .0106

Trade Discounts and Cash Discounts 17 NCAC 07B .0108

Occasional and Isolated Sales 17 NCAC 07B .0112

Property Transfers Between Divisions 17 NCAC 07B .0117

Bankrupt's Liability 17 NCAC 07B .0121

Manufacturer's Warranty and Dealer's Warranty; Adjustment... 17 NCAC 07B .0801

Government Agricultural Offices 17 NCAC 07B .4204

Typesetting 17 NCAC 07B .4716

Accrual Basis 17 NCAC 07B .4802

Cash Basis 17 NCAC 07B .4803

OPTOMETRY, BOARD OF EXAMINERS IN

Beginning Practice; Relocating Practice 21 NCAC 42B .0201

LIST OF APPROVED TEMPORARY RULES

October 19, 2023 Meeting

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Definitions 10A NCAC 14E .0101

Inspections 10A NCAC 14E .0111

EDUCATION, STATE BOARD OF

Parental Leave 16 NCAC 06C .0408