

DHHS / OSBM Review
Permanent Rule Repeal and Adoption without Substantial Economic Impact

Agency Proposing Rule Change

North Carolina Medical Care Commission

Contact Persons

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Impact Summary:

These rule changes do not have a substantial impact.

State government:	Yes
Local government:	Minimal
Substantial impact:	No Impact
Federal government:	No Impact
Small businesses:	Positive Impact (Increase in Revenues)

Titles of Rule Changes and Statutory Citations

- SL 2011-37 caused proposed Rule .1508 (c) to be modified to address individuals listed on the NC Sex Offender and Public Protection Register.
- Gen. Stat. § 15A-1331A affects individuals convicted of a felony who have their EMS credential suspended under court order by the presiding judge. This statute is referenced in proposed Rule .1508 (a) and is consistent with other licensing boards' language (i.e. NC Board of Nursing).
- No other statutory changes affected the proposed rule actions.

See proposed text of these rules in Appendix A

10A NCAC 13P

Section .0700 – Enforcement

- 10A NCAC 13P .0701 Denial, Suspension, Amendment, or Revocation (Repeal)
- 10A NCAC 13P .0702 Procedures for Denial, Suspension, Amendment, or Revocation (Repeal)

Authorizing Statutes N/A

10A NCAC 13P

Section .1500 – Denial, Suspension, Amendment, or Revocation

- 10A NCAC 13P .1501 Enforcement Definitions (Adopt)
- 10A NCAC 13P .1502 Licensed EMS Providers (Adopt)

- 10A NCAC 13P .1503 Specialty Care Transport Programs (Adopt)
- 10A NCAC 13P .1504 Trauma Centers (Adopt)
- 10A NCAC 13P .1505 EMS Educational Institutions (Adopt)
- 10A NCAC 13P .1506 EMS Vehicle Permits (Adopt)
- 10A NCAC 13P .1507 EMS Personnel Credentials (Adopt)
- 10A NCAC 13P .1508 Summary Suspension (Adopt)
- 10A NCAC 13P .1509 Procedures for Denial, Suspension, Amendment, or Revocation (Adopt)

Authorizing Statutes

Gen. Stat. § 131E-155(13a)
 Gen. Stat. § 131E-155.1(d)
 Gen. Stat. § 131E-156(c),(d)
 Gen. Stat. § 131E-157(c)
 Gen. Stat. § 131E-159(f),(g)
 Gen. Stat. § 131E-162
 Gen. Stat. § 143-508(b),(d)(1),(d)(4),(d)(10),(d)(13)
 Gen. Stat. § 150B
 Gen. Stat. § 15A-1331A
 SL 2011-37

Background

Under the authority of Gen. Stat. §143-509, the Medical Care Commission (MCC) has the responsibility for the adoption of rules for the development of emergency medical and trauma services for the citizens of North Carolina. To ensure these rules are kept contemporary and conform to industry standards, the MCC routinely makes revisions to the EMS and Trauma rules in collaboration with stakeholders, clients, state and local officials, and members of the general public. This set of rules adoptions and repeals is the result of these on-going efforts and when codified, will strengthen the emergency medical regulations keeping the citizens and visitors of North Carolina safe and provided with the best possible health treatment and care.

Summary of Proposed Revisions and its Anticipated Fiscal Impact

Formatting and functional changes

The most apparent formatting changes involve the repeal of Section .0700 – Enforcement, and the creation of a new Section .1500 – Denial, Suspension, Amendment, or Revocation. These changes are intended to make the EMS and Trauma rules easier to use and understand. Under their current format, these rules are lengthy with multiple paragraphs. This makes it difficult to read and may be confusing to the reader, and it is also difficult to locate specific criteria among the lengthy verbiage. Although there are new criteria placed into each of these new rules, the new Section .1500 rules are virtually verbatim from their current language. The specific changes are discussed in detail in the “Programmatic Changes” section of this document.

Programmatic Changes

The repeal of **Rules .0701** and **.0702** are necessary to accommodate the movement of the enforcement standards to the newly created rules in Section .1500 – Denial, Suspension, Amendment, or Revocation.

Fiscal Impact Statewide

No fiscal impact associated with the repeal of these rules.

Section .1500 – Denial, Suspension, Amendment, or Revocation has been created to replace the repeal of the rules contained in Section .0700. The new rules adopted under Section .1500 are **Rules .1501 through .1510**. By creating this new section, it moves the enforcement standards to the end of the EMS and Trauma rules and separates each specific area into its own rule. Additionally, this change now enables the agency to allow for a focused review in lieu of revocation or denial for Specialty Care Transport Program Approval and EMS Educational Institution credentialing. This option is consistent with how the agency deals the Trauma Center designation or renewal, and has been desperately needed for these other regulated entities. Also in these new rules, the execution of a summary suspension under the authority of Gen. Stat. § 150-3(c) is clarified. This explains that the justification for a summary suspension action is based upon a confirmed “immediate threat” to the public health, safety, or welfare.

Rule .1501 – Enforcement Definitions identifies terms specific to Section .1500.

Fiscal Impact

No fiscal impact associated with the adoption of these rules.

Rule .1502 – Licensed EMS Providers maintains the language currently found in rule .0701.(f)–(j), with the exception of the addition in .1503(d) that expands the causes for revocation to include (6) “repeated deficiencies placed on the EMS Provider License in previous compliance site visits”; and (7) “altered, destroyed or attempted to destroy evidence needed for a complaint investigation.”

Fiscal Impact – State Government (Agency)

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Local (County) Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Federal Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Small Business / Licensed EMS Provider

With the inclusion of the additional grounds for revocation, it is possible that an EMS Provider License may be revoked. Currently there are two options available to enable the non-compliant EMS Provider to continue operations. First, if the agency determines the EMS Provider can become and remain compliant within a reasonable time the agency may issue a “Provisional” license and thereby authorize the provider to correct the deficiency while still providing services. Second, if the offense is egregious enough to pursue revocation, Gen. Stat. § 150B-22 requires a state agency to attempt to settle any administrative actions through a contested settlement agreement. This is the mechanism currently used to enable these providers to continue operations until the terms of the agreement have been satisfied. To date, there have been no instances of a licensed EMS Provider being revoked for non-compliance under the enforcement section of these rules.

Rule .1503 – Specialty Care Transport Programs is significantly different from the language currently found in rule .0701(m). Under new criteria established by this rule, a SCT programs may be eligible for a focused review in lieu of a denial of an initial or renewal application for program approval. This new option is intended to allow SCT programs additional time to reach full compliance with program approval criteria. The cause for revocation of an SCT program approval is more clearly defined in this new rule, and the lines of communication provided to all affected organizations and entities when administrative sanctions are imposed is clearly defined.

Fiscal Impact – State Government (Agency)

All of the functional duties associated with the adoption and application of this rule are managed within normal staff assignments and no additional administrative costs will be associated with the adoption of these rules. After review of the number of potential incidents that would occur and the amount of time necessary to address these occurrences, any fiscal impact absorbed into the agency’s administrative costs would be negligible.

Fiscal Impact – Local (County) Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Federal Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Small Business / Specialty Care Transport Programs

Since there are no fines associated with non-compliance with these rules, there is nothing fiscally relevant to the adoption of these rules. SCTP providers found to be non-compliant must correct any deficiencies serious enough to qualify for the focused review within 12 months or less, or face revocation of their program approval.

To date, no SCTP applicants have been determined ineligible for issuance of the program approval. However, since there is a trend developing whereby private and county owned licensed EMS Providers are applying for SCTP approval, there is a potential that eventually an applicant will be determined eligible for the focused review option. If this happens, the SCTP applicant will be able to initiate delivery of these services pending satisfying the conditions identified for focused review. This has the potential for increasing their revenue during the period of review. If these providers offer 3 to 4 SCTP transports per week at an estimated cost of \$1,200 per transport, the projected increase in revenue would be between \$187,000 and \$250,000 if the SCTP applicant took the entire year to become compliant.

Rule .1504 – Trauma Centers maintains the language currently found in rule .0701. subparagraphs (n) – (u), with the exception of the addition in .1505(c)(5) that expands the causes for revocation to include “altering, destroying or attempting to destroy evidence needed for a complaint investigation.”

Fiscal Impact

No significant fiscal impact associated with the adoption of these rules. Due to the rule change, there is a higher chance that Trauma Centers could have their permit revoked. Although, based on past experience, the probability of revocation would still be at the lower end of the scale.

Rule .1505 – EMS Educational Institutions is significantly different from the language currently found in rule .0701(k). Under new criteria established by this rule, an EMS Educational Institutions may be eligible for a focused review in lieu of a denial of an initial or renewal application for credentialing approval. This new option is intended to allow the educational institutions additional time to reach full compliance with credentialing approval criteria. The cause for revocation of an educational institution credential approval is more clearly defined in this new rule, and the lines of communication provided to all affected organizations and entities when administrative sanctions are imposed is clearly defined. An additional option not currently available is for the withdrawal of the credentials if the institution deems it in their best interest.

Fiscal Impact – State Government (Agency)

All of the functional duties associated with the adoption and application of this rule are managed within normal staff assignments and no additional administrative costs will be associated with the adoption of these rules. After review of the number of potential incidents that would occur and the amount of time necessary to address these occurrences, any fiscal impact absorbed into the agency’s administrative costs would be negligible.

Fiscal Impact – State Government (Community Colleges / Universities)

There are no fines associated with non-compliance with these rules. Under the proposed rules, EMS educational institutions found to be non-compliant may qualify for a focused review period that would allow them up to 12 months to correct any deficiencies, or face revocation of their credential. Since essentially all educational institutions are community colleges or universities, the time necessary to become eligible for credentialing will be significantly shortened, enabling

them to obtain faster state funding for the EMS courses than they would otherwise. The proposed changes have no bearing on whether after the focused review period the community college should be denied credentialing and lose the amount of funds made available by the state as a result of loss of offering EMS courses. EMS educational institutions would further benefit from the flexibility conferred through the withdrawal of credentials option. The benefit would be derived from the education institution's program not being tarnished by the state taking an enforcement action on the entity if there are any irregularities and from being able to maintain their enrollment numbers and funding.

Fiscal Impact – Local (County) Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Federal Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Small Business

No fiscal impact associated with the adoption of these rules.

Rule .1506 – EMS Vehicle Permits maintains the language currently found in rule .0701.(a)–(d), with the exception of the addition in .1507(a) that expands the causes for revocation to include (4) “has continued deficiencies identified as repeated from previous compliance site visits”; and (6) “altered, destroyed or attempted to destroy evidence needed for a complaint investigation.”

Fiscal Impact

No significant fiscal impact associated with the adoption of these rules. Due to the rule change, there is a higher chance that EMS vehicles could have their permit revoked. Although, based on past experience, the probability of revocation would still be at the lower end of the scale.

Rule .1507 – EMS Personnel Credentials maintains the language currently found in rule .0701.(e) except for the addition of the following:

- (a) An EMS credential which has been forfeited under G.S. 15A-1331A may not be reinstated until the person has successfully complied with the court's requirements, has petitioned the Department for reinstatement, has appeared before the EMS Disciplinary Committee, and has had reinstatement approved.
- (b) The Department shall amend, deny, suspend, or revoke the credentials of EMS personnel for any of the following reasons:
 - (4) tampering with or falsifying any record used in the process of obtaining an initial EMS credential or in the renewal of an EMS credential;

- (5) in any manner or using any medium, engaging in the stealing, manipulating, copying, reproducing or reconstructing of any written EMS credentialing examination questions or scenarios;
 - (6) cheating or assisting others to cheat while preparing to take or when taking a written EMS credentialing examination;
 - (14) performing as an EMT-I, EMT-P, or EMD in any EMS System in which the individual is not affiliated and authorized to function;
 - (23) altering, destroying or attempting to destroy evidence needed for a complaint investigation;
 - (24) as a condition to the issuance of an encumbered EMS credential with limited and restricted practices for persons in the chemical addiction or abuse treatment program;
- (c) Pursuant to the provisions of S.L. 2011-37, any person listed on the North Carolina Department of Justice Sex Offender and Public Protection Registry shall be denied initial or renewal EMS credentials.

Fiscal Impact

Little to no fiscal impact associated with the adoption of these rules. The rule change may decrease slightly the chances of some EMS personnel to obtain the credentials.

Rule .1508 – Summary Suspension has been created to provide the procedural steps involved with this enforcement action. Currently, the affected party must read Gen. Stat. § 150B, which is general in nature, to try and understand the specifics associated with a summary suspension of their license or credential.

Fiscal Impact

No fiscal impact associated with the adoption of these rules.

Rule .1509 – Procedures for Denial, Suspension, Amendment, or Revocation mandates the Department abide by the terms of Gen. Stat. § 150B when imposing administrative sanctions for violations of the 10A NCAC 13P rules. The language in this rule was proposed by legal counsel for the Rules Review Commission.

Fiscal Impact

No fiscal impact associated with the adoption of these rules.

Fiscal Impact Summary

These rules are used by state and local governments; hospitals; colleges and universities; paid and volunteer emergency medical service organizations; county and municipal law enforcement communications centers; small and private businesses; industrial complexes using emergency response and transport programs; and EMS and healthcare professionals to provide a structured, well managed emergency medical and trauma system to the citizens and visitors of North Carolina.

The proposed changes might have a small impact on state employees' time, as well as on the timing of disbursement of state funds; however, the overall impact on state government is not expected to be significant. The aggregate financial impact of these proposed permanent rules changes on all persons and entities affected is a possible increase in revenue between \$187,000 and \$250,000 for the Specialty Care Transport Program applicants. This projection does not meet the threshold for qualifying as a significant fiscal impact of more than \$500,000.

APPENDIX A

10A NCAC 13P .0701 DENIAL, SUSPENSION, AMENDMENT OR REVOCATION

History Note: Authority G.S. 131E-155.1(d); 131E-157(c); 131E-159(a),(f); 131E-162; 143-508(d)(10);
Temporary Adoption Eff. January 1, 2002;
Eff. January 1, 2004;
Amended Eff. January 1, ~~2009~~ 2009;
Repealed Eff. October 1, 2012.

10A NCAC 13P .0702 PROCEDURES FOR DENIAL, SUSPENSION, AMENDMENT, OR REVOCATION

History Note: Authority G.S. 143-508(d)(10);
Temporary Adoption Eff. January 1, 2002;
Eff. April 1, ~~2003~~ 2003;
Repealed Eff. October 1, 2012.

10A NCAC 13P .1501 ENFORCEMENT DEFINITIONS

Notwithstanding Section .0100 of this Subchapter, for the purpose of this Section, the following definitions apply to Rules .1502, 1503, 1504, and .1506 for EMS Systems, Licensed EMS Providers, Specialty Care Transport Programs, and EMS Educational Institutions:

- (1) "Contingencies" mean conditions placed on an initial or renewal designation, approval or license that, if unmet, can result in the loss or amendment of the designation, approval, or license.
- (2) "Deficiency" means the failure to meet essential criteria for credentialing, approval, or licensing as specified in Sections .0200, .0300 or .0600 of this Subchapter, that can serve as the basis for a focused review or denial of a designation, approval or license.
- (3) "Essential Criteria" means those items listed in Sections .0200, .0300 or .0600 of this Subchapter that are the minimum requirements for the respective application for initial or renewal designation, approval, or licensing.
- (4) "Focused Review" means an evaluation by the OEMS of a regulated entity's corrective actions to remove contingencies that are a result of deficiencies placed upon it following review of an application for renewal.

History Note: Authority G.S. 131E-155(13a); 143-508(b),(d)(1),(d)(4),(d)(13);
Eff. October 1, 2012.

10A NCAC 13P .1502 LICENSED EMS PROVIDERS

(a) The Department shall amend any EMS Provider license by reducing it from a full license to a provisional license whenever the Department finds that:

- (1) the licensee failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that article;
- (2) there is a reasonable probability that the licensee can remedy the licensure deficiencies within; and
- (3) there is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

(b) The Department shall give the licensee written notice of the amendment of the EMS Provider license. This notice shall be given personally or by certified mail and shall set forth:

- (1) the length of the provisional EMS Provider license;
- (2) the factual allegations;
- (3) the statutes or rules alleged to be violated; and
- (4) notice to the EMS provider's right to a contested case hearing on the amendment of the EMS Provider license.

(c) The provisional EMS Provider license is effective immediately upon its receipt by the licensee and shall be posted in a prominent location at the primary business location of the EMS Provider, accessible to public view, in lieu of the full license. The provisional license remains in effect until the Department:

- (1) restores the licensee to full licensure status; or
- (2) revokes the licensee's license.

(d) The Department shall revoke or suspend an EMS Provider license whenever the Department finds that the licensee:

- (1) failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that article and it is not reasonably probable that the licensee can remedy the licensure deficiencies within 12 months or less;
- (2) failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that Article and, although the licensee may be able to remedy the deficiencies, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future;
- (3) failed to comply with the provision of G.S. 131E, Article 7, and the rules adopted under that article that endanger the health, safety or welfare of the patients cared for or transported by the licensee;
- (4) obtained or attempted to obtain an ambulance permit, EMS nontransporting vehicle permit, or EMS Provider license through fraud or misrepresentation;
- (5) repeated deficiencies placed on the EMS Provider License in previous compliance site visits;

- (6) failed to provide emergency medical care within the defined EMS service area in a timely manner as determined by the EMS System;
 - (7) altered, destroyed, attempted to destroy, withheld or delayed release of evidence, records, or documents needed for a complaint investigation; or
 - (8) continues to operate within an EMS System after a Board of County Commissioners has terminated its affiliation with the licensee.
- (e) The issuance of a provisional EMS Provider license is not a procedural prerequisite to the revocation or suspension of a license pursuant to Paragraph (d) of this Rule.

*History Note: Authority G.S. 131E-155.1(d); 143-508(d)(10);
Eff. October 1, 2012.*

10A NCAC 13P .1503 SPECIALTY CARE TRANSPORT PROGRAMS

- (a) The Department shall deny the initial or renewal approval, without first allowing a focused review, of a SCTP for any of the following reasons:
- (1) failure to comply with the provisions of G.S.131E, Article 7 and the rules adopted under that Article;
 - (2) obtained or attempted to obtain approval through fraud or misrepresentation;
 - (3) endangerment to the health, safety, or welfare of patients cared for by the SCTP; or
 - (4) repeated deficiencies placed on the program in previous site visits.
- (b) When an SCTP is required to have a focused review, it must demonstrate compliance with the provisions of G.S. 131E, Article 7 and the rules adopted under that Article within 12 months or less.
- (c) The Department shall revoke an SCTP approval at any time or deny a request for renewal of approval whenever the Department finds that the SCTP failed to comply with the provisions of G.S.131E, Article 7 and the rules adopted under that Article; and
- (1) it is not probable that the SCTP can remedy the deficiencies within 12 months or less;
 - (2) although the SCTP may be able to remedy the deficiencies, it is not probable that the SCTP shall be able to remain in compliance with designation rules for the foreseeable future;
 - (3) the SCTP fails to meet the requirements of a focused review;
 - (4) endangerment to the health, safety, or welfare of patients cared for or transported by the SCTP;
 - (5) fails to provide SCTP services within the defined service area in a timely manner as determined by the Department;
 - (6) continues to operate within an EMS System after a Board of County Commissioners has terminated its affiliation with the SCTP; or
 - (7) alters, destroys or attempts to destroy evidence needed for a complaint investigation.
- (d) The Department shall give the SCTP written notice of revocation. This notice shall be given personally or by certified mail and shall set forth:

- (1) the factual allegations;
- (2) the statutes or rules alleged to be violated; and
- (3) notice of the program's right to a contested case hearing on the revocation of the approval.

(e) Focused review is not a procedural prerequisite to the revocation of an approval pursuant to Paragraph (c) of this Rule.

*History Note: Authority 143-508(d)(10), (d)(13);
Eff. October 1, 2012.*

10A NCAC 13P .1504 TRAUMA CENTERS

(a) The Department shall deny the initial or renewal designation, without first allowing a focused review, of a trauma center for any of the following reasons:

- (1) failure to comply with G.S. 131E-162 and the rules adopted under that Statute;
- (2) attempted to obtain a trauma center designation through fraud or misrepresentation;
- (3) endangerment to the health, safety, or welfare of patients cared for in the hospital; or
- (4) repeated deficiencies placed on the trauma center in previous site visits.

(b) When a trauma center is required to have a focused review, it must demonstrate compliance with the provisions of G.S.131E-162 and the rules adopted under that Statute within 12 months or less.

(c) The Department shall revoke a trauma center designation at any time or deny a request for renewal of designation, whenever the Department finds that the trauma center has failed to comply with the provisions of G.S. 131E-162 and the rules adopted under that Statute; and

- (1) it is not probable that the trauma center can remedy the deficiencies within 12 months or less;
- (2) although the trauma center may be able to remedy the deficiencies it is not probable that the trauma center shall be able to remain in compliance with designation rules for the foreseeable future;
- (3) the trauma center failed to meet the requirements of a focused review;
- (4) failure to comply endangers the health, safety, or welfare of patients cared for in the trauma center;
or
- (5) altered, destroyed or attempted to destroy evidence needed for a complaint investigation.

(d) The Department shall give the trauma center written notice of revocation. This notice shall be given personally or by certified mail and shall set forth:

- (1) the factual allegations;
- (2) the statutes or rules alleged to be violated; and
- (3) notice of the hospital's right to a contested case hearing on the revocation of the designation.

(e) Focused review is not a procedural prerequisite to the revocation of a designation pursuant to Paragraph (c) of this Rule.

(f) A trauma center may voluntarily withdraw its designation for a maximum of one year by submitting a written request to the Department. This request shall include the reasons for withdrawal and a plan for resolution of the issues. To reactivate the designation, the facility shall provide to the Department written documentation of compliance. Voluntary withdrawal does not affect the original expiration date of the trauma center's designation.

(g) If the trauma center fails to resolve the issues which resulted in a voluntary withdrawal within one year, the Department shall revoke the trauma center designation.

(h) In the event of a revocation or voluntary withdrawal, the Department shall provide written notification to all hospitals and emergency medical services providers within the trauma center's defined trauma primary catchment area. The Department shall provide written notification to all hospitals and emergency medical services providers within the trauma center's defined trauma primary catchment area if, and when, the voluntary withdrawal reactivates to full designation.

*History Note: Authority G.S. 131E-162; 143-508(d)(10);
Eff. October 1, 2012.*

10A NCAC 13P .1505 EMS EDUCATIONAL INSTITUTIONS

(a) The Department shall deny the initial or renewal credential, without first allowing a focused review, of an EMS Educational Institution for any of the following reasons:

- (1) failure to comply with the provisions of Section .0600 of this Subchapter;
- (2) attempting to obtain an EMS Educational Institution designation through fraud or misrepresentation;
- (3) endangerment to the health, safety, or welfare of patients cared by students of the EMS Educational Institution; or
- (4) repetition of deficiencies placed on the EMS Educational Institution in previous compliance site visits.

(b) When an EMS Educational Institution is required to have a focused review, it must demonstrate compliance with the provisions of Section .0600 of this Subchapter within 12 months or less.

(c) The Department will revoke an EMS Educational Institution credential at any time or deny a request for renewal of credential, whenever the Department finds that the EMS Educational Institution has failed to comply with the provisions of Section .0600 of this Subchapter; and:

- (1) it is not probable that the EMS Educational Institution can remedy the deficiencies within 12 months or less;
- (2) although the EMS Educational Institution may be able to remedy the deficiencies, it is not probable that the EMS Educational Institution shall be able to remain in compliance with credentialing rules for the foreseeable future;
- (3) the EMS Educational Institution failed to meet the requirements of a focused review;

(4) failure to comply endangered the health, safety, or welfare of patients cared for as part of an EMS educational program; or

(5) altered, destroyed or attempted to destroy evidence needed for a complaint investigation.

(d) The Department shall give the EMS Educational Institution written notice of revocation. This notice shall be given personally or by certified mail and shall set forth:

(1) the factual allegations;

(2) the statutes or rules alleged to be violated; and

(3) notice of the EMS Educational Institution 's right to a contested case hearing on the revocation of the credential.

(e) Focused review is not a procedural prerequisite to the revocation of a credential pursuant to Paragraph (c) of this Rule.

(f) An EMS Educational Institution may voluntarily withdraw its credential for a maximum of one year by submitting a written request. This request shall include the reasons for withdrawal and a plan for resolution of the deficiencies. To reactivate the credential, the institution shall provide to the Department written documentation of compliance. Voluntary withdrawal does not affect the original expiration date of the EMS Educational Institution's credential.

(g) If the institution fails to resolve the issues which resulted in a voluntary withdrawal within one year, the Department shall revoke the EMS Educational Institution credential.

(h) In the event of a revocation or voluntary withdrawal, the Department shall provide written notification to all EMS Systems within the EMS Educational Institution's defined service area. The Department shall provide written notification to all EMS Systems within the EMS Educational Institution's defined service area if, and when, the voluntary withdrawal reactivates to full credential.

History Note: 143-508(d)(4), (d)(10);

Eff. October 1, 2012.

10A NCAC 13P .1506 EMS VEHICLE PERMITS

(a) The Department shall deny, suspend, or revoke the permit of an ambulance or EMS nontransporting vehicle if the EMS Provider:

(1) failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that Article;

(2) obtained or attempted to obtain a permit through fraud or misrepresentation;

(3) has continued deficiencies identified as repeated from previous compliance site visits;

(4) failed to provide emergency medical care within the defined EMS service area in a timely manner as determined by the EMS System;

(5) continued to operate the ambulance or nontransporting vehicle in a county after written notification by a Board of Commissioners to cease operations in that county;

- (6) altered, destroyed or attempted to destroy evidence needed for a complaint investigation; or
- (7) does not possess a valid EMS Provider License.

(b) In lieu of suspension or revocation, the Department shall issue a temporary permit for an ambulance or EMS nontransporting vehicle whenever the Department finds that:

- (1) the EMS Provider to which that vehicle is assigned has failed to comply with the provisions of G.S. 131E, Article 7, and the rules adopted under that Article;
- (2) there is a reasonable probability that the EMS Provider can remedy the permit deficiencies within a length of time determined by the Department; and
- (3) there is a reasonable probability that the EMS Provider will be willing and able to remain in compliance with the rules regarding vehicle permits for the foreseeable future.

(c) The Department shall give the EMS Provider written notice of the temporary permit. This notice shall be given personally or by certified mail and shall set forth:

- (1) the duration of the temporary permit not to exceed 60 days;
- (2) a copy of the vehicle inspection form;
- (3) the statutes or rules alleged to be violated; and
- (4) notice of the EMS Provider's right to a contested case hearing on the temporary permit.

(d) The temporary permit is effective immediately upon its receipt by the EMS Provider and remains in effect until the earlier of the expiration date of the permit or until the Department:

- (1) restores the vehicle to full permitted status; or
- (2) suspends or revokes the vehicle permit.

*History Note: Authority G.S. 131E-156(c),(d); 131E-157(c);
Eff. October 1, 2012.*

10A NCAC 13P .1507 EMS PERSONNEL CREDENTIALS

(a) An EMS credential which has been forfeited under G.S.15A-1331A may not be reinstated until the person has successfully complied with the court's requirements, has petitioned the Department for reinstatement, has appeared before the EMS Disciplinary Committee, and has had reinstatement approved.

(b) The Department shall amend, deny, suspend, or revoke the credentials of EMS personnel for any of the following reasons:

- (1) failure to comply with the applicable performance and credentialing requirements as found in this Subchapter;
- (2) making false statements or representations to the Department or willfully concealing information in connection with an application for credentials;
- (3) making false statements or representations, willfully concealing information, or failing to respond within a reasonable period of time and in a reasonable manner to inquiries from the Department during a complaint investigation;

- (4) tampering with or falsifying any record used in the process of obtaining an initial EMS credential or in the renewal of an EMS credential;
- (5) in any manner or using any medium, engaging in the stealing, manipulating, copying, reproducing or reconstructing of any written EMS credentialing examination questions or scenarios;
- (6) cheating or assisting others to cheat while preparing to take or when taking a written EMS credentialing examination;
- (7) altering an EMS credential, using an EMS credential that has been altered or permitting or allowing another person to use his or her EMS credential for the purpose of alteration. Altering includes changing the name, expiration date or any other information appearing on the EMS credential;
- (8) unprofessional conduct, including a failure to comply with the rules relating to the proper function of credentialed EMS personnel contained in this Subchapter or the performance of or attempt to perform a procedure that is detrimental to the health and safety of any person or that is beyond the scope of practice of credentialed EMS personnel or EMS instructors;
- (9) being unable to perform as credentialed EMS personnel with reasonable skill and safety to patients and the public by reason of illness, use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality;
- (10) conviction in any court of a crime involving moral turpitude, a conviction of a felony, or conviction of a crime involving the scope of practice of credentialed EMS personnel;
- (11) by false representations obtaining or attempting to obtain money or anything of value from a patient;
- (12) adjudication of mental incompetence;
- (13) lack of competence to practice with a reasonable degree of skill and safety for patients including a failure to perform a prescribed procedure, failure to perform a prescribed procedure competently or performance of a procedure that is not within the scope of practice of credentialed EMS personnel or EMS instructors;
- (14) performing as an EMT-I, EMT-P, or EMD in any EMS System in which the individual is not affiliated and authorized to function;
- (15) testing positive for any substance, legal or illegal, that has impaired the physical or psychological ability of the credentialed EMS personnel to perform all required or expected functions while on duty;
- (16) failure to comply with G.S. 143-518 regarding the use or disclosure of records or data associated with EMS Systems, Specialty Care Transport Programs, or patients;
- (17) refusing to consent to any criminal history check required by G.S. 131E-159;
- (18) abandoning or neglecting a patient who is in need of care, without making reasonable arrangements for the continuation of such care;
- (19) falsifying a patient's record or any controlled substance records;

- (20) harassing, abusing, or intimidating a patient either physically or verbally;
- (21) engaging in any activities of a sexual nature with a patient including kissing, fondling or touching while responsible for the care of that individual;
- (22) any criminal arrests that involve charges which have been determined by the Department to indicate a necessity to seek action in order to further protect the public pending adjudication by a court;
- (23) altering, destroying or attempting to destroy evidence needed for a complaint investigation;
- (24) as a condition to the issuance of an encumbered EMS credential with limited and restricted practices for persons in the chemical addiction or abuse treatment program; or
- (25) representing or allowing others to represent that the credentialed EMS personnel has a credential that the credentialed EMS personnel does not in fact have.

(c) Pursuant to the provisions of S.L. 2011-37, any person listed on the North Carolina Department of Justice Sex Offender and Public Protection Registry shall be denied initial or renewal EMS credentials.

(d) When a person who is credentialed to practice as an EMS professional is also credentialed in another jurisdiction and that other jurisdiction takes disciplinary action against the person, the Department shall summarily impose the same or lesser disciplinary action upon receipt of the other jurisdiction's action. The EMS professional may request a hearing before the EMS Disciplinary Committee. At the hearing the issues shall be limited to:

- (1) whether the person against whom action was taken by the other jurisdiction and the Department are the same person;
- (2) whether the conduct found by the other jurisdiction also violates the rules of the Medical Care Commission; and
- (3) whether the sanction imposed by the other jurisdiction is lawful under North Carolina law.

History Note: Authority G.S. 131E-159(f),(g); 143-508(d)(10); 15A-1331A; S.L. 2011-37; Eff. October 1, 2012.

10A NCAC 13P .1508 SUMMARY SUSPENSION

In accordance with G.S. 150B-3(c) an EMS Provider License, EMS Vehicle Permit, or EMS credential may be summarily suspended if the public health, safety, or welfare requires emergency action. This determination is delegated to the Chief of the OEMS. For EMS credentials, this determination shall be made following review by the EMS Disciplinary Committee pursuant to G.S. 131E-159(f). Such a finding shall be incorporated with the order of the Department and the order is effective on the date specified in the order or on service of the certified copy of the order at the last known address of the affected party, whichever is later, and continues to be effective during the proceedings. Failure to receive the order because of refusal of service or unknown address does not invalidate the order.

History Note: Authority G.S. 131E-159(f); 150B-3(c);

Eff. October 1, 2012.

**10A NCAC 13P .1509 PROCEDURES FOR DENIAL, SUSPENSION, AMENDMENT, OR
REVOCATION**

The procedures for contested cases in G.S. 150B, Article 3, apply to the denial, suspension, amendment or revocation of credentials, licenses, permits, approvals, or designations.

History Note: Authority G.S. 143-508(d)(10);

Eff. October 1, 2012.