

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION

NORTH CAROLINA CHILD CARE COMMISSION

Fourth Quarter Meeting

Monday, May 16, 2016

Dix Grill

1101 Cafeteria Drive

Employee Center

Raleigh, NC 27603

Commission Members Present

Glenda Weinert, Chairperson

Kevin Campbell, Vice Chairperson

Elliott Blades

Jonathan Brownlee, Sr., MD

Zac Everhart

Melanie Gayle

Elizabeth Gilleland

Lisa Humphreys

Kay Lowrance

Linda Vandevender

William Walton, III

Commission Members with an Excused Absence

April Duvall

Charles F. McDowell III

Laurie Morin

Kristin Weaver

Division of Child Development & Early Education Staff Present

Pam Shue, Director

Heather Laffler, Administration/Policy

Dedra Alston, Administration/Policy

Lorie Pugh, Regulatory Services

Laura Hewitt, Regulatory Services

Cindy Wheeler, NC Pre-K

Tammy Barnes, Regulatory Services

Andrea Lewis, Regulatory Services

Melodie Ford, Regulatory Service

Terry McCauley, Regulatory Services

Melissa Stevenson, Regulatory Services

Rachel Kaplan, NC Pre-K

Attorney General's Office Staff

Bethany Burgon, Commission Attorney

Alexi Gruber, DCDEE Attorney

Welcome—Chairperson Glenda Weinert called the meeting to order at 9:05 a.m. and reviewed housekeeping items. She expressed a thank you to the Commission for their attendance, welcomed everyone and discussed the meeting agenda. She read the conflicts of interest statement and asked whether there were any conflicts noted for today for any member(s)? Chairperson Weinert also issued a special note of appreciation to DCDEE staff for its work on behalf of the Child Care Commission.

Chairperson Weinert called for roll call, which Ms. Dedra Alston performed. Chairperson Weinert listed the Commission members who were absent from this meeting who requested and received excused absences. Those members are: Ms. April Duvall, Ms. Laurie Morin, Rev. Charles F. McDowell, and Ms. Kristin Weaver.

Approval of March 7, 2015 Third Quarter Meeting Minutes

Chairperson Weinert asked if Commission members had any changes or amendments to the minutes as circulated, and none were mentioned.

Commission Action: **Vice Chairperson Kevin Campbell motioned for approval of minutes as presented. Mr. Elliott Blades seconded. The motion carried unanimously.**

Approval of March 8, 2015 Special Rules Meeting Minutes

Chairperson Weinert asked if Commission members had any changes or amendments to the minutes as circulated, and none were mentioned.

Commission Action: **Mr. Blades motioned for approval of the minutes as presented. Dr. Jonathan Brownlee seconded. The motion carried unanimously.**

Schedule Additional Meeting dates for 2016

Discussion established a schedule of meetings for the remainder of 2016.

The following meeting dates were added and approved for the Child Care Commission:

- September 26 Special Rules Meeting
- September 27 Special Rules Meeting
- October 24 Special Rules Meeting
- December 12 **Second Quarter Meeting**
- December 13 Special Rules Meeting

DCDEE Update—Pam Shue, Division Director

Division Director Pam Shue provided an update on a number of topics important to the Division of Child Development and Early Education and the Child Care Commission.

Rule .1718 - Requirements for Daily Operations became effective May 1, 2016. This rule change will allow school-age children to participate in age-appropriate activities in a room separate from younger children in care in a family child care home setting, where they can be seen OR heard, not requiring both. The change will also align this Rule with the Center supervision rules; more specifically defining supervision and allowing children to be seen “or” heard.

Legislative/Budget Updates – The Joint Legislative Oversight Committee on HHS Subcommittee on Statewide Early Education and Family Support Programs met in the interim prior to the start of the 2016 legislative session.

5 bills resulted from this Subcommittee:

- HB1026/SB740 Collaboration of State Agencies/Early Education
- HB2012 Study Allocation of CC Subsidies/Waitlist
- HB1013 Study Alignment of CC Services/Applications
- HB1014 NC Pre-K Conforming Change/Taylor's Law (Rare Disease)
- HB1040 Study Costs Associated with NC Pre-K Slots

Of these, HB 1012, 1013, 1014 and 1040 have been heard in House Committee and were approved on the House floor and sent to the Senate. They were assigned to a Senate committee and have not yet moved further.

Additionally, HB 474—Exclude Year Round Track Out Program/Child Care from Licensed Child Care has been approved by the Senate (as it was approved through crossover last session) with amendments, was confirmed by the House and has now been sent to the Governor for signature.

Budget Update – The Governor's Budget released last week and previewed throughout May. The House has begun its legislative budget process, and the House budget was released on Thursday, May 12. This document will be debated, potentially amended and likely approved this week or next. The Senate will create and release their budget and then House and Senate conferees will negotiate any differences before submitting an agreed upon document to the Governor.

CCDF Plan – NC's Child Care Development Fund Block Grant plan was submitted for 2016-2017. Adjustments of the original submission were required by the Federal Administration for Children and Families (this is not unusual), and those changes have been submitted and are awaiting Federal approval. Once the final plan has been approved, there are several items which will need to be in place by September 2016. Tammy Barnes, of the Division, will provide more information on these activities later in this meeting.

Division Updates - The Division has been alerted and is aware that there are delays being experienced by child care employees submitting criminal record checks. These delays are primarily due to issues with the State Mail Service Center, and Division and Department staff are working together to seek a resolution and an improvement in the mail delivery and pick up process.

NC Pre-K contractors and sites are in process of closing out and completing financial reporting for the 2015-16 SFY. The Governor and House budgets both provide additional funding for expansion of the NC Pre-K program next year, so we are hoping this this, or a similar increase, will remain in place throughout the end of the budget process.

Ms. Kim Miller, Senior Subsidy Manager provided an update to the Commission regarding **NC FAST (NC Families Accessing Services through Technology) and its interaction with Child Care Subsidy Assistance**. The implementation of child care enrollment and services through NC FAST has been delayed from the original schedule in order to address issues that have presented themselves as a result of testing.

However, pilot utilization is scheduled to begin in Buncombe, Durham, Lee, and Orange counties in October. Prior to that implementation, all providers must obtain a business NCID and report that ID to their Local Purchasing Agency to link from the reimbursement agency to the provider.

Additionally, providers must sign a contract with FIS, the direct deposit payment vendor. Mr. Walton expressed appreciation to Ms. Miller and the DCDEE/Subsidy staff for their rollout efforts.

Subsidized Child Care Assistance Policy changes - Ms. Kim Miller also provided updates on recent policy changes within the subsidy program.

- Self-employment/Gainful employment (Effective March 1, 2016)—gives newly self-employed individuals 12 months to allow time to establish gainful employment and their annual ‘income’. Gainful employment is defined as making at least minimum wage.
- Changing provider (Effective April 1, 2016)—LPAs can no longer limit the number of times a parent/responsible adult receiving Child Care Subsidy Assistance can change providers.
- Parental fee adjustments (Effective April 1, 2016)—Requires the recalculation of parental fees for any increase or decrease in countable monthly income.
- Post-secondary education (Effective April 1, 2016)—Provides a limit of no more than 20 months of Subsidized Child Care Assistance for post-secondary education or skills training, with no extension allowed through the end of a semester, if that 20 months does not fall at the completion of a semester or other completion period.
- Foster Care (Effective May 2, 2016)—Children in foster care will now be listed as the ‘case head’ in their own case (instead of the DSS Director), and the staff designated by DSS will sign the voucher. With sibling groups, the youngest child in the family will be listed as the case head.

DCDEE implemented the following changes to Subsidized Child Care Assistance Policies in Administrative Letter #04-16, with a pending effective date of June 1, 2016.

- Annual Redetermination - Anyone participating in the Subsidized Child Care Assistance Program will be able to complete the redetermination process by mail or phone *upon request from the client*.
- 90 Day Transition/Job Search provided - There will be a 90 day transition for job search after job loss, as well as an allowed transition between educational programs including vocational training and job search after education. This is not the same as graduated phase out, which is done following redetermination (and when a family’s eligibility has changed) only.
- Graduated Phase Out - A graduated 90 day phase out period will be provided when, at redetermination, a family’s gross countable monthly income exceeds Federal Poverty Levels of 133% for school age children or 200% for preschool age children with special needs whose income meets the federal income threshold of 85% State Median Income
- Defining a Foster Parent - The term “Foster Parent” had not been specifically defined in the Subsidized Child Care Assistance Program. “Foster parent” is now defined as anyone other than that child’s parent(s) or legal custodian(s) who is providing full time care for a child who is in the custody of a NC county department of social services.

DCDEE Upcoming Policy on Blended Rates – The newly established “Blended Rate” for children who participate in a school-day program but also sometimes receive/need full day care or wrap around care, will be 83% of provider’s full-time approval subsidy rate. For children who need full time summer care and wraparound plan during the school year, a blended rate of 83% of a full time provider’s approved subsidy rate for that child’s specific age group will be paid for entire

year. The 83% rate takes into account the 10 teacher work days, 15 school holidays and the 15 emergency closings when the part-day program (schools, NC Pre-K, Early Head Start, Head Start, Title I and special education classrooms in the public schools) would be closed, and child care (school day activities) is not provided.

Questions -

Chairperson Weinert asked Ms. Miller whether providers were included in the conversation surrounding the establishment of the 83% blended rate? Ms. Miller responded that in this instance providers were not included directly, however the Division's Subsidy Advisory Committee – which does include providers – had been involved in a prior discussion about the topic. Chairperson Weinert stated her feelings that this decision is tremendously impactful to providers and is displeased they were not directly included in the process. She feels that in instances like this here is a tremendous disconnect between financial impact to providers and how decisions are made. She also asked rhetorically, who is supposed to make up the gap when a provider is only reimbursed 83%? Ms. Miller explained how the rate percentage was calculated and the thoughtfulness that went into this decision – including that it is not significantly different, but does avoid seasonal dips and increases, from the previous overall multi-part rate.

Vice Chairperson Campbell asked if the blended rate applies to school-age care? Ms. Miller explained that this rate applies to all children who currently receive wraparound services. Vice Chairperson Campbell also asked if providers are *required* to take 15 days of holiday, and Ms. Miller stated that 15 days are required (or will not be paid for).

Rules Update

Potential Amendment to Rules Governing Storage of Emergency Medicine - Dr. Jonathan Brownlee provided comments from a letter submitted on behalf of Ms. Laurie Morin (reference to handout of letter from Laurie Morin)

“It has come to my attention that “emergency medicine” in centers does not need to be locked up but is kept above five feet high so that it is accessible in case of an emergency. I understand that emergency medicine is carried by and kept on the Early Childhood Educator while outdoors. This way it is out of reach of children and is ready available if needed. In the family Childcare Homes Book the Rule says that ALL MEDICINE are to be locked up. I would like to have this Rule changed as to be the same as centers. Emergency Medicine does not need to be locked up but does need to be above five feet high and readily available in case of an emergency. Emergency medicine needs to be allowed to be carried outside on the provider in case it is needed and kept out of reach of children. Some meds like an Epi Pin are needed ASAP. Minutes ticking away to try to open a locked box could be a life or death situation for a child. Let's protect all children and make it easier for the Early Childhood Educator to get needed emergency medicine to a child in a timely manner.”

Dr. Brownlee spoke to the discrepancy between Child Care Center Rule and Family Child Care Home Rule concerning the storage of emergency medicines and requested that the FCCH rule should be changed to mirror the rule for Centers. Chairperson Weinert clarified that emergency medicine would still have to be stored out of the reach of children, just more accessible to adults, in an unlocked storage area.

Chairperson Weinert asked that Ms. Lorie Pugh and Division staff provide appropriate wording for a motion that would provide language to this effect in FCCHs, and then the motion will be revisited this afternoon.

Rule .3014 NC Pre-K Substitute Staff - Ms. Alexi Gruber 10A NCAC 09 .3014

Ms. Gruber presented the request from DCDEE's NCPK staff to the Commission to allow staff to review and extend long-term vacancies for substitute lead teachers beyond the current 12 week limit.

The following language was proposed:

Long term vacancies shall not exceed 12 weeks. In determining whether to approve an extension of long term vacancy, the Division shall consider:

The number of children and families who may lose services if the affected classroom is not approved for the extension, including the availability of unfilled Pre-K slots for placement of affected children;

The effect upon children and families if children are relocated to another Pre-K site, including transportation to and from the new Pre-K site, sibling care, and wrap-around care for the Pre-K child and the child's siblings;

Whether the Pre-K program has demonstrated a good faith effort to secure a permanent teacher for the vacancy;

Availability of funding sources other than Pre-K funds to support affected children;

Pre-K instructional staff turnover; and

Reasons for the vacancy, including, but not limited to:

Maternity leave;

Death, disability, or illness; and

Natural or man-made disasters.

Ms. Elizabeth Gilleland asked whether language should be included to limit the maximum length of time for any extension? Ms. Wheeler stated that the limit of any extension is through the end of a school year. Ms. Gilleland asked that the language limiting extensions to the end of the school year be added for clarity.

Mr. Blades asked if this allowance for long term substitute staff extends beyond Pre-K to non-NC Pre-K classrooms? The answer is no at this time; Rule .3014 only applies to NC Pre-K classrooms. Ms. Wheeler stated that the NC Pre-K program is committed to the highest quality of care; this request is based upon a need for extensions of current policy in rare cases; however, there is a need for a mechanism in place for these rare circumstances to be addressed, in order to allow for continuity and consistency in providing services to children.

Vice Chairperson Campbell agreed that there is a need to amend existing rules for this provision; however, if this rule is moved to the front of the line, then he feels that other rules should be able to be reviewed out of order, as well. Director Shue reiterated that the reason the Division is bringing this forward at this time is due to a few emergency circumstances and the Division does not want children to be left without continuity of care in emergency situations, e.g., death of a teacher.

Commission Action:

Ms. Lowrance motioned to publish Rule .3014(c) with revision to the first sentence to read as “Long term vacancies shall not exceed 12 weeks. In determining whether to approve a long term vacancy extension, not to exceed the end of the current school year, the Division shall consider:” Ms. Vandevender seconded. The motion carried unanimously.

Child Care and Development Block Grant (CCDBG) Presentation—Tammy Barnes

Ms. Barnes provided a handout of CCDF Federal Requirements and Rule Recommendations following the law’s federal reauthorization. In that document, three columns show the federal legislation, the current NC rules/Law and the recommended NC rules needed to meet federal requirements.

Under the Consumer Education section, Mr. Blades referred to a bullet point in the handout that stated that ”major” substantiated complaints would need to be documented on the Division’s website; he asked whether this means that unsubstantiated complains will no longer be noted on the website? Ms. Barnes stated that this is correct; unsubstantiated complains will not be posted on the website.

In the area of Health and Safety Requirements/ Ongoing Training, Chairperson Weinert commented that practical concerns of costs to providers need to be considered when additional mandates for training are established.

Review of Rules with Staff Edits**Revised 10A NCAC 09 .1403—Aquatics Activities**

Ms. Gruber discussed changes proposed for Rule .1403 regarding Aquatic Activities. Within that discussion Dr. Brownlee asked about any allowance for activities that take place ON water, such as canoeing and kayaking? Chairperson Weinert referenced Paragraph (n), line 22 “Boating, rafting and canoeing activities are permitted.” Ms. Gruber also referenced Paragraph (m), line 20-21 distinguishing between “in” and “on” the water “However, if children will be in the water for any part of the activity, Paragraphs (a) through (i) of this Rule shall apply.”

Ms. Gilleland asked for clarification of what is included in the “educational exception” in Paragraph (m), line 19 “Educational activities, such as observing tadpoles, exploring mud or learning about rocks and vegetation, are permitted around bodies of water. However, if children will be in the water for any part of the activity, Paragraphs (a) through (i) of this Rule shall apply.” She asked whether this exception creates an internal conflict in the rule when children may be in or be tempted to enter into less than knee high water around such areas? DCDEE staff informed the Commission that the regulation that requires this rule is a Sanitation requirement that a child cannot be in a natural body of water without a lifeguard, so wading of any kind is not permitted.

Chairperson Weinert asked Ms. Gruber whether the Commission should vote to approve and publish the Aquatic Activity rules because of summer approaching; however, Ms. Gruber stated that the rules would still not go into effect by summer, even if the Commission voted to publish today.

Ms. Vandevender asked whether other Commissions contact DCDEE with questions about their rules and work, because when she has attended other Commission meetings, they have said that they are under the guidance of the Division. Division staff present indicated that they are not aware of this being the case recently. Chairperson Weinert stated that she intends to propose to meet with other chairpersons of commissions, with work related to the Child Care Commission, to discuss issues that overlap.

Ms. Lowrance raised a question about the placement of this Rule under Section .1000 Transportation Standards and not as new Rule .0513 under Schedules and Activities?

Commission Action: **Ms. Gilleland motioned to approve language for 10A NCAC 09 .1403 as presented. Ms. Melanie Gayle seconded. The motion carried unanimously.**

Lunch break at 11:30 a.m., meeting reconvened at 12:30 p.m.

Public Comment

Dr. Sharon Brown—UNC School of Public Health, NC Child Care Health & Safety Resource Center

Dr. Brown stated that she agreed with the earlier proposed change to the Rule .1720 regarding matching the language for FCCH providers to child care centers regarding storage of emergency medication. Dr. Brown also spoke to her concerns about the incredible variation in the level of provider training and knowledge across the state regarding the administration of medications in child care. She cited statistics that indicated there are high levels of violations in centers across the state. She is especially concerned about this, as her organization is the group that is responsible for providing medication administration training, currently, as an optional training for providers.

Dr. Brown also asked that a clear definition of recreational programs be provided and cited a situation in Beaufort County that may have utilized exceptions in licensure through this definition.

Linda Piper—Director, NCLCCA

Ms. Piper expressed her excitement to hear about the provisional employment allowance potentially being implemented due to criminal background checks taking so long and as a part of the federal reauthorization. Ms. Piper also stated her appreciation that the one-day Emergency Preparedness Training now provided on Saturdays is a huge time saver for providers. Ms. Piper reiterated Mr. Walton's earlier statement about the NC FAST rollout process being wonderful, and noted that she will still request additional clarification about the 83% blended rate discussed earlier today by Ms. Miller.

Commissioner Linda Vandevender

Ms. Vandevender read from a memo that she has created, which she also distributed to Commission members.

“The North Carolina Childcare Commission should re-Mission the Commission to have a PURPOSE that first: Addresses the business interests of Private Sector Providers i.e., both “for profit” and nonprofit” entities throughout the state:

- A. *To provide their ideas and initiatives that would improve childcare.*
 1. *That would have an active legislative agenda in meeting with DHHS committee chairs and provide them with both their insights and statistical data supporting their ideas and initiatives that should be a vital part of any discussion regarding childcare issues in the state.*
 2. *That would also have interaction with the Governor and His Administration regarding the same creative ideas and initiatives discussed with legislators in vital meetings regarding childcare in North Carolina.*
 3. *That would include NC Childcare Commissioners being a vital part with childcare legislators and the governor’s administrative officials meeting formally to discuss childcare issues in conferee formats.*
- B. *These types of initiatives enacted by Commissioners would require that their meeting’s agenda would first: be comprised of meetings to address these private sector provider business’ interests then, resume their activities with the Division attending to regulatory Rules’ review and other items.*
- C. *Fiscal initiatives that addresses Tier 1 and 2 Counties of low wealth populations (80 counties):*
 1. *Replace antiquated market rate system with a new system that compensates Providers by the classroom for 4 and 5 Star Centers with a uniform competitive rate statewide.*
 2. *That Providers have sufficient income to hire and to retain the best teaching staff. That they are not placed in a deficient economic position and conflict with Public School NC Pre-K teachers’ salaries and benefit packages (their current position).*
 3. *“Regulation without Equitable Compensation”. That recognizes that Providers are being required by the State to observe continuing regulations that add costs to Providers without additional, equitable compensation.*
 4. *That addresses the CACFP current position of only offering reimbursement to Providers for food and beverage and not for labor to prepare and serve meals and snacks throughout the day.*
 5. *That addresses the manner of how NC Pre-K slots are awarded to Providers and Public Schools.*
 6. *That addresses the practical need for ECERS and ITERS and why they have authority to affect the star rating of a Provider and their compensation as a single state entity conducting evaluations on Private Sector Providers.*

Chairperson Weinert thanked Ms. Vandevender for expressing her thoughts and asked the Commissioners to be mindful today, and in the future, of what is the best format for Commission meetings and activities.

Curriculum Review Discussion

Director Pam Shue, Chairperson Glenda Weinert, and Vice Chairperson Kevin Campbell met via telephone prior to today's meeting to discuss the curriculum review process. This group addressed the Commission and referenced a handout that was distributed to all Commission members outlining their proposed curriculum review process.

1. **Invitation:** *will be announced to submit curriculum for review and adoption.*
2. **Submission:** *Each publisher will be asked to submit a Curriculum Application Form in which the publisher will report how their curriculum meets the criteria set forth by the Child Care Commission.*
3. **Review:** *DCDEE will convene an unbiased curriculum committee randomly selected from professionals in the early childhood profession to evaluate publishers' submissions and get the backlog of curricula processed efficiently and effectively by the end of July 30, 2016. The Curriculum Committee will be made up of one member of the Child Care Commission, teachers, directors, practitioners, social workers, and lawyers in early care and education are asked to participate in the review process. Once people are identified as viable for the committee, a group will be randomly chosen to participate in the process as long as there is not a conflict of interest (e.g., a teacher who uses a curriculum will not be able to evaluate that curriculum.)*
4. **Future Reviews:** *Once curricula are processed as of August 1, 2016, Child Care Commission will have two paths to process curricula: 1) initial review and 2) fast-track (for previously approved curricula that have been revised/edited). Initial review will be held annually.*
5. *Once the Curriculum Application Form has been developed further for the publishers we will train the curriculum committee as well as DCDEE consultants on the curriculum evaluation tool.*
6. *The Curriculum tool criteria will include a comprehensive, evidence-based curriculum with a reading (literacy) component.*

Mr. Blades asked how "practitioner" is defined in this context? Director Shue stated that she intended 'practitioners' to encompass all professionals in the early childhood arena, not including publishers themselves. Mr. Blades then asked how the Commission will be assured that those reviewing the curricula would be unbiased? Director Shue stated that she used the word 'unbiased' intending it to mean that the group of reviewers would be diverse in their roles; however, if desired, the Commission might want to revise that (or any other) language. Mr. Blades also inquired whether the committee membership listing would be private or public? Chairperson Weinert assured Mr. Blades that the Review Committee would not be secret and that its membership and makeup would be fully publicized.

Ms. Gilleland asked who will be in charge of the review process? Director Shue stated that she will oversee the process, if that is agreed upon by the Commission. The sentiment of the Commission members was complete agreement that Director Shue should oversee the process. She is currently working on the criteria tool and will share that with the Commission when it is complete.

Commission Action: Chairperson Weinert motioned to approve the curriculum review process as presented and delegated to DCDEE, to convene a group to review backlogged curriculums that have been submitted for review and potential approval. The instrument created and used will verify that each approved curriculum is comprehensive and evidence-based with a literacy component. Vice Chairperson Campbell seconded. The motion carried unanimously.

Review Rules with Staff Edits (cont.)

Following completion of the public comment period, discussion continued from before the lunch break regarding a change in rule for emergency medication storage in FCCHs. Dr. Brownlee mentioned additional items that he does not believe need to be locked away, including certain types of skin creams and Albuterol. Chairperson Weinert included the requested additional language in the list of items that are not required to be locked, but are required to be out of reach of children.

Commission Action: Ms. Laurie Morin motioned for approval of the language as written (from her written comment), and Dr. Brownlee seconded the motion. The motion carried unanimously.

Rules Review - Section .0701-.0704 Staff Qualifications

10A NCAC 09 .0701 Health Standards for Child Care Providers, Substitute Providers, Volunteers and Uncompensated Providers

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review. Ms. Vandevender asked about the fact that after initial employment, the TB test is not required to be repeated; Dr. Brownlee stated that it is not necessary to re-administer a TB test unless there is knowledge of exposure. Chairperson Weinert asked for clarification in the chart (line 8) about due dates for various forms? She worried there would be confusion distinguishing when the forms must be received by the employer (within 60 days) and when the form must be completed (within the prior 12 months). Ms. Gruber suggested moving the description of when the form must be completed from “Due Date” to the “Item” column, and staff will make this change.

There was also discussion among Commission members about Paragraph (b) “*The Division, or the director of the child care center, may request another evaluation of a staff member’s emotional and physical fitness to care for children when there is reason to believe that there has been a deterioration in the person’s emotional or physical fitness to care for children*”. There was discussion whether “evaluation” should be changed to “medical report”? Ms. Gruber suggested that it was the term “another” that was the problem and the rule should read “an evaluation”.

Ms. Gruber suggested that Paragraph (b) line 3 “person’s” should be changed to “staff member’s” to read as “...*there has been a deterioration in the staff member’s emotional or physical fitness to*

care for children.” In further discussion, Mr. Everhart asked who would request this evaluation, expressing concern at the potential legal ramifications of an employer asking a staff member to undergo psychological evaluation? Ms. Barnes replied that any such request would most likely be made by the Division, not the Provider. However, Ms. Gruber stipulated that while this is true for the most part, the ultimate responsibility does lie with the Provider if something were to occur that necessitated immediate action that did not allow for the time to contact the Division prior to acting when there is a concern over fitness to provide care.

Mr. Walton asked whether any of the requirements of this rule apply to interns and volunteers. Division staff referred him to Rule .0102(39) page 6, line 16 which provides the definition “Staff” or “Staff member” as used in this Chapter includes child care providers, substitute providers, and uncompensated providers. Volunteers, as defined in this Rule, are not staff members.”

Mr. Blades asked for further clarification regarding the responsibility of the provider for ensuring that the facility’s staff is mentally and physically capable of performing their duties. Ms. Gruber stated that Rule .0701 authorizes the provider (owner/administrator) to ask for an evaluation of a staff member’s fitness (mental and physical) to provide care, if necessary.

Ms. Lowrance asked about line 8 Paragraph (e) *“On or before the first day of work, the operator shall verify the age of the substitute providers and volunteers and documentation...”* She suggested that this should be moved to Rule .0703 because it has nothing to do with health; it is just a verification of age. There was general agreement with this sentiment, and staff will make this change.

10A NCAC 09 .0702 Standards for Substitutes, Volunteers

Ms. Gruber reiterated that parts of this rule are proposed to be moved to Rule .0701, and Rule .0102, therefore Rule .0702 is proposed for repeal. There was no further discussion regarding this action.

10A NCAC 09 .0703 General Statutory Requirements

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review. Vice Chairperson Campbell requested that when “credentials” or “equivalency” are referenced, that they be explicitly defined. There was no further discussion regarding this rule.

10A NCAC 09 .0704 Preservice Requirements for Administrators

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review. Vice Chairperson Campbell started a larger discussion about the definition of “equivalency” as it is used in this and other similar rules. Ms. Gruber stated that Statute states that equivalency is defined by the Department; therefore, the Division cannot define it. Vice Chairperson Campbell stated that he will raise certain issues with the rules surrounding the Star Rated License, and equivalency, when those are discussed. Vice Chairperson Campbell also stated that he maintains that administrators and lead teachers need to be evaluated in separate sections; however, Ms. Gruber stated the Division’s position that doing so would result in duplicative rules.

Commission Action: Vice Chairperson Campbell motioned to approve language submitted for 10A NCAC 09 .0701-.0704 as amended. Mr. Walton seconded, and the motion carried unanimously.

10A NCAC 09 .0801-.0806 Health Standards for Children

10A NCAC 09 .0801 Application for Enrollment

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review and there was no further discussion from the Commission.

10A NCAC 09 .0802 Emergency Medical Care

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review. Staff additionally recommended deleting the existing language in *Subparagraph (a)(1) "The name, address, telephone number of a health care professional, community clinic, or local health department that is available to provide medical consultation."* and the existing language in Part (a)(2)(B) *"Advice from previously identified medical consultant in order to decide if care is to be given at the center or if the ill or injured child is to be transported to a designated medical resource"* because that language is no longer needed.

10A NCAC 09 .0803 Administering Medication

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review. Dr. Brownlee asked about the proposed addition of Item (14) *"Center administrators and staff members that are responsible for administering medications to children shall complete NC Medication Administration in Child Care training. Documentation of this training shall be maintained in each staff member's personnel file."* Vice Chairperson Campbell asked about what completion of this training would require, and Ms. Vandevender detailed her experience with the training.

Dr. Sharon Brown who was in the audience and is a staff member at the UNC School of Medicine, which is contracted to provide Medication Administration training to child care workers in NC, stated that the training is a five hour training costing \$25 through the Child Care Health and Safety Resource Center. Vice Chairperson Campbell requested further clarification about why this requirement for training was added? The Commission members referenced the minutes from the previous Special Rules Meeting in which Ms. Vandevender discussed the importance of staff medical training and requested that the Division find a place where this requirement for training be added.

Chairperson Weinert stated that she supports required training; however, she expressed concern over requiring it for every staff member at a center because of her feeling that there is no way to accommodate the amount of training that would be required to achieve this mandate. Vice Chairperson Campbell stated his opinion that the Commission should remove the language for now and revisit the requirement and training necessary at a later time. Ms. Gruber suggested that the Commission could add language that would require training only for staff members listed on the emergency medical form and administering medication. Dr. Brownlee expressed his belief that there should be a distinction between staff members who are allowed to administer emergency

medication only, and the full training required for administering daily and non-emergency medication.

10A NCAC 09 .0804 Infectious and Contagious Diseases

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review and there was no further discussion from the Commission.

10A NCAC 09 .0806 Toileting, Clothing and Linens

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review. Chairperson Weinert stated that the Commission should table voting on this rule until it receives all documentation of what the training entails and the data on the level of medical administration infractions that are occurring in child care centers across the state.

10A NCAC 09 .0901-.0903 Nutrition Standards

10A NCAC 09 .0901 General Nutrition Requirements

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review. Mr. Blades asked for clarification about Subparagraph (d)(2) “*the parent shall not opt out of specific meals or days based on menu options*”, specifically related to the difficulty in providers trying to tell parents what they can and cannot do. Ms. Gruber stated that the Commission could rephrase that portion of the rule to read that “*the ability to opt out of specific meals or days based on menu options is not available*” to remove the responsibility for limiting parents from the provider.

10A NCAC 09 .0902 General Nutrition Requirements for Infants

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review and there was no further discussion from the Commission.

10A NCAC 09 .0903 Requirements for Children Aged 24 months and older

Ms. Gruber discussed the proposed changes to the rules already suggested through staff review and there was no further discussion from the Commission.

Commission Action: **Ms. Vandevender motioned to approve language for 10A NCAC 09 .0901-.0903 as amended. Mr. Everhart seconded. The motion carried with a majority. Ms. Humphreys opposed the motion to approve.**

Prior to adjourning the meeting, Chairperson Weinert expressed her concern over the danger of “groupthink” and stated that she believes that candid discussion is vital to the mission of the Commission.

Chairperson Weinert adjourned the meeting at 3:00 p.m.

Next meeting:

May 17, 2016
Special Rules Meeting

Dix Grill
1101 Cafeteria Drive
Employee Center
Raleigh, NC 27603
9:00 a.m. - 4:00 p.m.

Future Meeting Dates:

July 25, 2016 - First Quarter Meeting
July 26, 2016 - Special Rules Meeting
September 26, 2016 - Special Rules Meeting
September 27, 2016 - Special Rules Meeting
October 24, 2016 - Special Rules Meeting
December 12, 2016 - Second Quarter Meeting
December 13, 2016 - Special Rules Meeting