

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: February 4, 2013
Presenter: Chairman Barry Swindell
Attachment: Yes

ITEM TITLE: APPOINTMENT TO EAST CAROLINA BEHAVIORAL HEALTH
(ECBH) BOARD

SUMMARY: Hyde County currently has a vacancy on the ECBH Board due to the departure of former commissioner Sharon Spencer.

RECOMMEND: Discussion and appointment.

Motion Made By: ___ Barry Swindell ___ Dick Tunnell ___ Anson Byrd ___ John Fletcher ___ Earl Pugh, Jr.
Motion Seconded By: ___ Barry Swindell ___ Dick Tunnell ___ Anson Byrd ___ John Fletcher ___ Earl Pugh, Jr.
Vote: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.

January 2, 2013

Commissioner Barry Swindell, Chair
Hyde County Board of Commissioners
P. O. Box 188
Swan Quarter, NC 27885

Dear Commissioner Swindell:

In the 2011 Session, the North Carolina General Assembly enacted legislation that will require significant changes to the composition of the Board of Directors of East Carolina Behavioral Health (ECBH). I have attached a copy of the ratified bill, S.L. 2012-151, for your review along with a one-page summary of the changes prepared by ECBH staff and an analysis of the legislation prepared by Mark Botts with the UNC School of Government.

Currently the ECBH Board of Directors is a 24-member board, comprised of nineteen (19) county commissioners, one from each county we serve, along with five (5) members of the public chosen by the County Commissioner board members. The new legislation limits the board size to no more than 23 members: 21 voting members and 2 mandatory non-voting members. More significantly, it requires at least eleven (11) members to meet specific membership criteria and limits the number of county commissioners that may serve on the Board. The counties comprising ECBH must still appoint the members of the Board, but must do so within the requirements established by the legislation. The new Board must be in place no later than October 1, 2013.

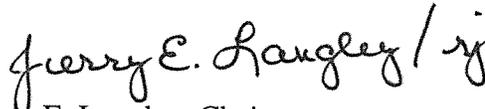
I am aware that the Association of County Commissioners may seek to make changes to this legislation in the upcoming Session of the General Assembly. However, in case changes are not made, we must begin to plan for how the ECBH Board will be reconstituted to come into compliance with the new requirements. As you know, ECBH became the third Local Management Entity in the State to implement the 1915(b)(c) managed care Medicaid Waiver on April 1, 2012. The waiver has significantly increased the staff size and budget of ECBH and, accordingly, increases the importance of having a strong, functioning Board of Directors focused on policy and governance.

Please discuss this matter with the members of your Board of Commissioners. Hyde County currently has a Commissioner vacancy on the ECBH Board due to the departure of Sharon Spencer. I would encourage you to appoint a current Commissioner to our Board promptly so that your county's input may be considered as we plan for this change. We plan to

discuss this matter in the ECBH Board over the coming months and develop an implementation proposal for the counties to consider by June 2013.

Thank you for your attention to this important matter. Please contact your Commissioner member of the ECBH or me if you have any questions.

Sincerely,

Handwritten signature of Jerry E. Langley in cursive script, followed by a vertical line and the initials 'ij'.

Jerry E. Langley, Chair
ECBH Board of Directors
Beaufort County Board of Commissioners

JL/lw

cc: County Manager - *Barry Swindell, Interior Co. Mgr.*
ECBH Board of Directors
Leza Wainwright
Rita Joyner

**GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2011 SESSION LAW 2012-151
SENATE BILL 191**

S191-v-6

AN ACT TO MAKE CHANGES IN GOVERNANCE OF LOCAL MANAGEMENT ENTITIES WITH RESPECT TO THE IMPLEMENTATION OF STATEWIDE EXPANSION OF THE 1915(B)/(C) MEDICAID WAIVER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-115(a) reads as rewritten:

"§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and cities.

(a) A county shall provide mental health, developmental disabilities, and substance abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver through an area authority or through a county program established pursuant to G.S. 122C-115.1. Beginning July 1, 2012, the catchment area of an area authority or a county program shall contain a minimum population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority or a county program shall contain a minimum population of at least 500,000. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control."

SECTION 2.(a) G.S. 122C-116 reads as rewritten:

"§ 122C-116. Status of area authority; status of consolidated human services agency.

(a) An area authority is a local political subdivision of the State except that a single county area authority is considered a department of the county in which it is located for the purposes of Chapter 159 of the General Statutes.State.

(b) A consolidated human services agency is a department of the county."

SECTION 2.(b) G.S. 122C-115.1(i) reads as rewritten:

"(i) Except as otherwise specifically provided, this Chapter applies to counties that provide mental health, developmental disabilities, and substance abuse services through a county program. As used in the applicable sections of this Article, the terms "area authority", "area program", and "area facility" shall be construed to include "county program". The following sections of this Article do not apply to county programs:

- (1) G.S. 122C-115.3, 122C-116, 122C-117, and 122C-118.1.
- (2) G.S. 122C-119 and G.S. 122C-119.1.
- (3) G.S. 122C-120 and G.S. 122C-121.
- (4) G.S. 122C-127.
- (5) G.S. 122C-147.
- (6) G.S. 122C-152 and G.S. 122C-153.
- (7) G.S. 122C-156.
- (8) G.S. 122C-158."

SECTION 3.(a) G.S. 122C-118.1 reads as rewritten:

"§ 122C-118.1. Structure of area board.

(a) An area board shall have no fewer than 11 and no more than 25 members. However, the area board for a multicounty area authority consisting of eight or more counties may have up to 30 members. In a single-county area authority, the members shall be appointed by the board of county commissioners. Except as otherwise provided, in areas consisting of more than one county, each board of county commissioners within the area shall appoint one commissioner as a member of the area board. These members shall appoint the other members. The boards of county commissioners

within the multicounty area shall have the option to appoint the members of the area board in a manner other than as required under this section by adopting a resolution to that effect. The boards of county commissioners in a multicounty area authority shall indicate in the business plan each board's method of appointment of the area board members in accordance with G.S. 122C-115.2(b). These appointments shall take into account sufficient citizen participation, representation of the disability groups, and equitable representation of participating counties. Individuals appointed to the board shall include two individuals with financial expertise, an individual with expertise in management or business, and an individual representing the interests of children. A member of the board may be removed with or without cause by the initial appointing authority. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term. An area board shall have no fewer than 11 and no more than 21 voting members. The board of county commissioners, or the boards of county commissioners within the area, shall appoint members consistent with the requirements provided in subsection (b) of this section. The process for appointing members shall ensure participation from each of the constituent counties of a multicounty area authority. If the board or boards fail to comply with the requirements of subsection (b) of this section, the Secretary shall appoint the unrepresented category. The boards of county commissioners within a multicounty area with a catchment population of at least 1,250,000 shall have the option to appoint members of the area board in a manner or with a composition other than as required by this section by each county unanimously adopting a resolution to that effect and receiving written approval from the Secretary by January 1, 2013. A member of the board may be removed with or without cause by the initial appointing authority. The area board may declare vacant the office of an appointed member who does not attend three consecutive scheduled meetings without justifiable excuse. The chair of the area board shall notify the appropriate appointing authority of any vacancy. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term.

(b) Except as otherwise provided in this subsection, not more than fifty percent (50%) of the membership of the area board shall reside within the catchment area and represent the following: be composed as follows:

(1) A physician licensed under Chapter 90 of the General Statutes to practice medicine in North Carolina who, when possible, is certified as having completed a residency in psychiatry. At least one member who is a current county commissioner.

(2) A clinical professional from the fields of mental health, developmental disabilities, or substance abuse. The chair of the local Consumer and Family Advisory Committee (CFAC) or the chair's designee.

(3) At least one family member or individual from a citizens' organization composed primarily of consumers or their family members, of the local CFAC, as recommended by the local CFAC, representing the interests of individuals: the following:

a. Individuals with mental illness; illness.

b. Individuals in recovery from addiction; or addiction.

c. Individuals with intellectual or other developmental disabilities.

(4) At least one openly declared consumer member of the local CFAC, as recommended by the local CFAC, representing the interests of the following:

a. Individuals with mental illness; illness.

b. Individuals with intellectual or other developmental disabilities; or disabilities.

c. Individuals in recovery from addiction.

(5) An individual with health care expertise and experience in the fields of mental health, intellectual or other developmental disabilities, or substance abuse services.

- (6) An individual with health care administration expertise consistent with the scale and nature of the managed care organization.
- (7) An individual with financial expertise consistent with the scale and nature of the managed care organization.
- (8) An individual with insurance expertise consistent with the scale and nature of the managed care organization.
- (9) An individual with social services expertise and experience in the fields of mental health, intellectual or other developmental disabilities, or substance abuse services.
- (10) An attorney with health care expertise.
- (11) A member who represents the general public and who is not employed by or affiliated with the Department of Health and Human Services, as appointed by the Secretary.
- (12) The President of the LME/MCO Provider Council or the President's designee to serve as a nonvoting member who shall participate only in Board activities that are open to the public.
- (13) An administrator of a hospital providing mental health, developmental disabilities, and substance abuse emergency services to serve as a nonvoting member who shall participate only in Board activities that are open to the public.

Except as provided in subdivisions (12) and (13) of this subsection, an individual that contracts with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services may not serve on the board of the LME for the period during which the contract for services is in effect. No person registered as a lobbyist under Chapter 120C of the General Statutes shall be appointed to or serve on an area authority board. Of the members described in subdivisions (2) through (4) of this subsection, the boards of county commissioners shall ensure there is at least one member representing the interest of each of the following: (i) individuals with mental illness, (ii) individuals with intellectual or other developmental disabilities, and (iii) individuals in recovery from addiction.

(c) The board of county commissioners may elect to appoint a member of the area authority board to fill concurrently no more than two categories of membership if the member has the qualifications or attributes of the two categories of membership.

(d) Any member of an area board who is a county commissioner serves on the board in an ex officio capacity at the pleasure of the initial appointing authority, for a term not to exceed the earlier of three years or the member's service as a county commissioner. Any member of an area board who is a county manager serves on the board at the pleasure of the initial appointing authority, for a term not to exceed the earlier of three years or the duration of the member's employment as a county manager. The terms of the other members on the area board shall be for three years, except that upon the initial formation of an area board in compliance with subsection (a) of this section, one-third shall be appointed for one year, one-third for two years, and all remaining members for three years. Members, other than county commissioners and county managers, Members shall not be appointed for more than two consecutive terms. Board members serving as of July 1, 2006, may remain on the board for one additional term. This subsection applies to all area authority board members regardless of the procedure used to appoint members under subsection (a) of this section.

(e) Upon request, the board shall provide information pertaining to the membership of the board that is a public record under Chapter 132 of the General Statutes."

SECTION 3.(b) All area boards shall meet the requirements of G.S. 122C-118.1, as amended by subsection (a) of this section, no later than October 1, 2013.

SECTION 4.(a) G.S. 122C-119.1 reads as rewritten:

"§ 122C-119.1. Area Authority board members' training.

All members of the governing body for an area authority shall receive initial orientation on board members' responsibilities and annual training provided by the Department in which shall include fiscal management, budget development, and fiscal accountability. A member's refusal to be trained shall be grounds for removal from the board."

SECTION 4.(b) The North Carolina Department of Health and Human Services, in cooperation with the School of Government and the local management entities, shall develop a standardized core curriculum for the training described in subsection (a) of this section.

SECTION 5. G.S. 122C-170(b) reads as rewritten:

"Part 4A. Consumer and Family Advisory Committees.

"§ 122C-170. Local Consumer and Family Advisory Committees. ...

(b) Each of the disability groups shall be equally represented on the CFAC, and the CFAC shall reflect as closely as possible the racial and ethnic composition of the catchment area. The terms of members shall be three years, and no member may serve more than twothree consecutive terms. The CFAC shall be composed exclusively of:

- (1) Adult consumers of mental health, developmental disabilities, and substance abuse services.
- (2) Family members of consumers of mental health, developmental disabilities, and substance abuse services.

...."

SECTION 6. Area authorities may add one or more additional counties to their existing catchment area by agreement of a majority of the existing member counties.

SECTION 7.(a) Beginning July 1, 2012, and for a period of two years thereafter, the Department of Health and Human Services shall not approve any county's request to withdraw from a multicounty area authority operating under the 1915(b)/(c) Medicaid Waiver. Not later than January 1, 2014, the Secretary shall adopt rules to establish a process for county disengagement that shall at a minimum ensure the following:

- (1) Provisions of service are not disrupted by the disengagement.
- (2) The disengaging county is either in compliance or plans to merge with an area authority that is in compliance with population requirements provided in G.S. 122C-155(a).
- (3) The timing of the disengagement is accounted for and does not conflict with setting capitation rates.
- (4) Adequate notice is provided to the affected counties, the Department of Health and Human Services, and the General Assembly.
- (5) Provisions for distribution of any real property no longer within the catchment area of the area authority.

SECTION 7.(b) G.S. 122C-112.1 is amended by adding a new subdivision to read:

"(38) Adopt rules establishing a procedure for single-county disengagement from an area authority operating under a 1915(b)/(c) Medicaid Waiver."

SECTION 8. G.S. 122C-147(c) reads as rewritten:

"§ 122C-147. Financing and title of area authority property.

...

(c) All real property purchased for use by the area authority shall be provided by local or federal funds unless otherwise allowed under subsection (b) of this section or by specific capital funds appropriated by the General Assembly. The title to this real property and the authority to acquire it is held by the county where the property is located. The authority to hold title to real property and the authority to acquire it, including the area authority's authority to finance its acquisition by an installment contract under G.S. 160A-20, may be held by the area authority or by the contracting governmental entity with the approval of the board or boards of commissioners of all the counties that comprise the area authority. The approval of a board of county commissioners shall be by resolution of the board and may have any necessary or proper conditions, including provisions for distribution of the proceeds in the event of disposition of the property by the area authority. area authority. Real property may not be acquired by means of an installment contract under G.S. 160A-20 unless the Local Government Commission has approved the acquisition. No deficiency judgment may be rendered against any unit of local government in any action for breach of a contractual obligation authorized by this subsection, and the taxing power of a unit of local government is not

and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this subsection.

...."

SECTION 9.(a) G.S. 122C-117 reads as rewritten:

"§ 122C-117. Powers and duties of the area authority.

(a) The area authority shall do all of the following:

...

(7) Appoint an area director in accordance with G.S. 122C-121(d). The appointment is subject to the approval of the board of county commissioners except that one or more boards of county commissioners may waive its authority to approve the appointment. The appointment shall be based on a selection by a search committee of the area authority board. The search committee shall include consumer board members, a county manager, and one or more county commissioners. The Secretary shall have the option to appoint one member to the search committee.

...

(17) Have the authority to borrow money with the approval of the Local Government Commission.

...

(c) Within 30 days of the end of each quarter of the fiscal year, the area director and finance officer of the area authority shall provide the quarterly report of the area authority to the county finance officer. The county finance officer shall provide the quarterly report to the board of county commissioners at the next regularly scheduled meeting of the board. The clerk of the board of commissioners shall notify the area director and the county finance officer if the quarterly report required by this subsection has not been submitted within the required period of time. This information shall be presented in a format prescribed by the county. At least twice a year, this information shall be presented in person and shall be read into the minutes of the meeting at which it is presented. In addition, the area director or finance officer of the area authority shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners. delivered to the county and, at the request of the board of county commissioners, may be presented in person by the area director or the director's designee.

...."

SECTION 9.(b) G.S. 122C-115.2 is amended by adding a new subsection to read:

"(e) The Secretary may waive any requirements of this section that are inconsistent with or incompatible with contracts entered into between the Department and the area authority for the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver."

SECTION 10. Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"§ 122C-126.1. Confidentiality of competitive health care information.

(a) For the purposes of this section, competitive health care information means information relating to competitive health care activities by or on behalf of the area authority. Competitive health care information shall be confidential and not a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of an area authority shall be a public record, unless otherwise exempted by law, or the contract contains competitive health care information, the determination of which shall be as provided in subsection (b) of this section.

(b) If an area authority is requested to disclose any contract that the area authority believes in good faith contains or constitutes competitive health care information, the area authority may either redact the portions of the contract believed to constitute competitive health care information prior to disclosure or, if the entire contract constitutes competitive health care information, refuse disclosure of the contract. The person requesting disclosure of the contract may institute an action pursuant to G.S. 132-9 to compel disclosure of the contract or any redacted portion thereof. In any action

brought under this subsection, the issue for decision by the court shall be whether the contract, or portions of the contract withheld, constitutes competitive health care information, and in making its determination, the court shall be guided by the procedures and standards applicable to protective orders requested under Rule 26(c)(7) of the Rules of Civil Procedure. Before rendering a decision, the court shall review the contract in camera and hear arguments from the parties. If the court finds that the contract constitutes or contains competitive health care information, the court may either deny disclosure or may make such other appropriate orders as are permitted under Rule 26(c) of the Rules of Civil Procedure.

(c) Nothing in this section shall be deemed to prevent the Attorney General, the State Auditor, or an elected public body, in closed session, which has responsibility for the area authority, from having access to this confidential information. The disclosure to any public entity does not affect the confidentiality of the information. Members of the public entity shall have a duty not to further disclose the confidential information."

SECTION 11.(a) G.S. 126-5(a) reads as rewritten:

"§ 126-5. Employees subject to Chapter; exemptions.

(a) The provisions of this Chapter shall apply to:

(1) All State employees not herein exempt, and

(2) All employees of the following local entities:

a. Area mental health, developmental disabilities, and substance abuse authorities, except as otherwise provided in Chapter 122C of the General Statutes.

b. Local social services departments.

c. County health departments and district health departments.

d. Local emergency management agencies that receive federal grant-in-aid funds.

An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision.

(3) County employees not included under subdivision (2) of this subsection as the several boards of county commissioners may from time to time determine."

SECTION 11.(b) G.S. 122C-154 reads as rewritten:

"§ 122C-154. Personnel.

Employees under the direct supervision of the area director are employees of the area authority. For the purpose of personnel administration, Chapter 126 of the General Statutes applies unless otherwise provided in this Article. Employees appointed by the county program director are employees of the county. In a multicounty program, employment of county program staff shall be as agreed upon in the interlocal agreement adopted pursuant to G.S. 122C-115.1. Notwithstanding G.S. 126-9(b), an employee of an area authority may be paid a salary that is in excess of the salary ranges established by the State Personnel Commission. Any salary that is higher than the maximum of the applicable salary range shall be supported by documentation of comparable salaries in comparable operations within the region and shall also include the specific amount the board proposes to pay the employee. The area board shall not authorize any salary adjustment that is above the normal allowable salary range without obtaining prior approval from the Director of the Office of State Personnel."

SECTION 11.(c) G.S. 122C-121(a1) reads as rewritten:

"(a1) The area board shall establish the area director's salary under Article 3 of Chapter 126 of the General Statutes. An area board may request an adjustment to the salary ranges under G.S. 126-9(b). The request shall include specific information supporting the need for the adjustment, including comparative salary and patient caseload data for other LMEs, and shall also include the specific amount the area board proposes to pay the director. The area board shall not request a salary adjustment that is more than ten percent (10%) above the normal allowable salary range as determined by the State Personnel Commission. Notwithstanding G.S. 126-9(b), an area director may be paid a salary that is in excess of the salary ranges established by the State Personnel

Commission. Any salary that is higher than the maximum of the applicable salary range shall be supported by documentation of comparable salaries in comparable operations within the region and shall also include the specific amount the board proposes to pay the director. The area board shall not authorize any salary adjustment that is above the normal allowable salary range without obtaining prior approval from the Director of the Office of State Personnel."

SECTION 12.(a) G.S. 122C-122 is repealed.

SECTION 12.(b) G.S. 35A-1202(4) reads as rewritten:

"§ 35A-1202. Definitions.

When used in the Subchapter, unless a contrary intent is indicated or the context requires otherwise:

...

(4) "Disinterested public agent" means:

a. The director or assistant directors of a local human services agency, or county department of social services.

b. An adult officer, agent, or employee of a State human services agency. Except as provided in G.S. 35A-1213(f), the fact that a disinterested public agent is employed by a State or local human services agency that provides financial assistance, services, or treatment to a ward does not disqualify that person from being appointed as guardian.

...."

SECTION 12.(c) G.S. 35A-1213 reads as rewritten:

"§ 35A-1213. Qualifications of guardians.

(a) The clerk may appoint as guardian an adult individual, a corporation, or a disinterested public agent. The applicant may submit to the clerk the name or names of potential guardians, and the clerk may consider the recommendations of the next of kin or other persons.

(b) A nonresident of the State of North Carolina, to be appointed as general guardian, guardian of the person, or guardian of the estate of a North Carolina resident, must indicate in writing his willingness to submit to the jurisdiction of the North Carolina courts in matters relating to the guardianship and must appoint a resident agent to accept service of process for the guardian in all actions or proceedings with respect to the guardianship. Such appointment must be approved by and filed with the clerk, and any agent so appointed must notify the clerk of any change in the agent's address or legal residence. The clerk shall require a nonresident guardian of the estate or a nonresident general guardian to post a bond or other security for the faithful performance of the guardian's duties. The clerk may require a nonresident guardian of the person to post a bond or other security for the faithful performance of the guardian's duties.

(c) A corporation may be appointed as guardian only if it is authorized by its charter to serve as a guardian or in similar fiduciary capacities. A corporation shall meet the requirements outlined in Chapters 55 and 55D of the General Statutes. A corporation will provide a written copy of its charter to the clerk of superior court. A corporation contracting with a public agency to serve as guardian is required to attend guardianship training and provide verification of attendance to the contracting agency.

(d) A disinterested public agent who is appointed by the clerk to serve as guardian is authorized and required to do so; provided, if at the time of the appointment or any time subsequent thereto the disinterested public agent believes that his role or the role of his agency in relation to the ward is such that his service as guardian would constitute a conflict of interest, or if he knows of any other reason that his service as guardian may not be in the ward's best interest, he shall bring such matter to the attention of the clerk and seek the appointment of a different guardian. A disinterested public agent who is appointed as guardian shall serve in that capacity by virtue of his office or employment, which shall be identified in the clerk's order and in the letters of appointment. When the disinterested public agent's office or employment terminates, his successor in office or employment, or his immediate supervisor if there is no successor, shall succeed him as guardian without further proceedings unless the clerk orders otherwise.

(e) Notwithstanding any other provision of this section, an employee of a treatment facility, as defined in G.S. 35A-1101(16), may not serve as guardian for a ward who is an inpatient in or resident of the facility in which the employee works; provided, this subsection shall not apply to or affect the validity of any appointment of a guardian that occurred before October 1, 1987.

(f) An individual who contracts with or is employed by an entity that contracts with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services may not serve as a guardian for a ward for whom the individual or entity is providing these services, unless the individual is a parent of that ward. The prohibition provided in this subsection shall not apply to a member of the ward's immediate family who is under contract with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services and is serving as a guardian as of January 1, 2013. For the purposes of this subsection, the term "immediate family" is defined as a spouse, child, sibling, parent, grandparent, or grandchild. The term also includes stepparents, stepchildren, stepsiblings, and adoptive relationships."

SECTION 12.(d) G.S. 35A-1292(a) reads as rewritten:

"§ 35A-1292. Resignation.

(a) Any guardian who wishes to resign may apply in writing to the clerk, shall file a motion with the clerk setting forth the circumstances of the case. If a general guardian or guardian of the estate, at the time of making the application, also exhibits his final account for settlement, and if the clerk is satisfied that the guardian has fully accounted, the clerk may accept the resignation of the guardian and discharge him and appoint a successor guardian, but the guardian. The guardian so discharged and his sureties are still liable in relation to all matters connected with the guardianship before the discharge. discharge and shall continue to ensure that the ward's needs are met until the clerk officially appoints a successor. The guardian shall attend the hearing to modify the guardianship, if physically able."

SECTION 12.(e) In order to achieve continuity of care and services, any successor guardian shall make diligent efforts to continue existing contracts entered into under the authority of G.S. 122C-122 where consistent with the best interest of the ward as required by Chapter 35A of the General Statutes.

SECTION 13.(a) Section 1(a)(3) of S.L. 2011-264 reads as rewritten:

"(3) Designate a single entity an area authority for mental health, developmental disabilities, and substance abuse services to assume responsibility for all aspects of Waiver management. The following operational models are acceptable options for Local Management Entity (LME) applicants: acceptable:

a. Merger model: A single larger LME is formed from the merger of two or more LMEs.

b. Interlocal agreement among LMEs: A single LME is identified as the leader for all Waiver operations, financial management, and accountability for performance measures."

SECTION 13.(b) Section 1(c) of S.L. 2011-264 reads as rewritten:

"SECTION 1.(c) The Department shall require LMEs that have not been approved by the Department to operate a 1915(b)/(c) Medicaid Waiver by January 1, 2013, to merge with or be aligned through an interlocal agreement with an LME that has been approved by the Department to operate a 1915(b)/(c) Medicaid Waiver. If any LME fails to comply with this requirement, or fails to meet performance requirements of an approved contract with the Department to operate a 1915(b)/(c) Medicaid Waiver, the Department shall assign responsibility for management of the 1915(b)/(c) Medicaid Waiver on behalf of the noncompliant LME to an LME that is successfully operating the Waiver and successfully meeting performance requirements of the contract with the Department. Those LMEs approved to operate the 1915(b)/(c) Medicaid Waiver under an interlocal agreement must have a single LME entity designated as responsible for all aspects of Waiver operations and solely responsible for meeting contract requirements."

SECTION 14. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

s/ Walter H. Dalton

President of the Senate

s/ Thom Tillis

Speaker of the House of Representatives

s/ Beverly E. Perdue

Governor

Approved 4:05 p.m. this 12th day of July, 2012

General Assembly Changes County Requirements for Appointing LME Boards

Thursday, July 5, 2012

By Mark Botts

In North Carolina, public mental health, developmental disabilities, and substance abuse services are provided through local government agencies called area authorities (also called “local management entities” or “LMEs”). Each board of county commissioners, either singly or jointly with other boards of county commissioners, must establish and fund an area authority to serve their citizens. (G.S. 122C-115). They also must appoint the “area board” (or, LME board), the body that governs the area authority. (G.S. 122C-118.1). Earlier this week, the General Assembly enacted Senate Bill 191 that, among other things, changes the compositional requirements that counties must adhere to when appointing LME board members.

Background

After enacting legislation in 2011 that requires LMEs to reorganize themselves as managed care organizations under a federal Medicaid Waiver (S.L. 2011-264) and that, directly or indirectly, increases the responsibilities, budgets, geographic service area, and personnel and infrastructure needs of LMEs, the North Carolina General Assembly turned its attention to the LME board. The leadership of the Joint Health and Human Services Oversight Committee established a time-limited LME Governance Subcommittee that, among other things, examined the question of whether the statute governing the composition of LME boards prescribed the kind of professional expertise and community representation necessary for successful governance of public managed care organizations. The subcommittee’s work product, Senate Bill 191, was enacted on July 3, 2012, and becomes effective upon the Governor’s signature.

Before 2006, at least fifty percent of the LME board had to be composed of a physician, a clinical professional, three consumers of services, and three family members of consumers, guaranteeing that at least half of the board members would be appointed from these constituent groups. Legislation enacted in 2006 (S.L. 2006-142) deleted these requirements and, instead, required each LME to establish an advisory committee to the LME board composed exclusively of consumers and family members. Many, if not most, LME boards retained consumer and family representation and some professional health care expertise. But as LMEs began reorganizing themselves and their boards in response to S.L. 2011-264, counties began to look anew at the statutory requirements for LME boards and what kind of membership would be appropriate in the era of Medicaid managed care.

Since 2006 and until this week, G.S. 122C-118.1 prescribed very little in terms of LME board composition, requiring only that an LME board include two individuals with “financial expertise,” one with “management or business” expertise, and one representing

the “interests of children.” Business expertise could include the owner of a small bakery, or the CEO of a large healthcare corporation, as the statute did not require that the business expertise be relevant to LME functions. Beyond these very general compositional requirements, the statute seemed to encourage counties to aspire to other compositional elements by “taking into account” sufficient citizen participation, representation of the disability groups, and equitable representation of participating counties. But, no particular professional expertise or consumer representation was required.

The New Requirements

Board size: Senate Bill 191 reduces the maximum size of the LME board from 25 to 21 members, while keeping the minimum size at eleven members.

Term limits: Recognizing the need to retain experienced board members, the act increases the statutory limit on terms of service from 2 to 3.

Appointment Process: The new law deletes provisions that specified a particular process for appointing LME board members. That process permitted each county board of commissioners to appoint one commissioner to serve as an LME board member, with the resulting group of county commissioner LME board members then responsible for appointing the rest of the board. The law allowed counties to either follow this process or jointly agree to a different manner of appointment. If counties chose to utilize the process specified in the law, and most did, a nineteen-county LME would end up with 19 county commissioners on the LME board and a three-county LME would have at least 3 county commissioners on the LME board. As amended, the statute is now silent as to the method or manner of appointment, leaving counties that participate in a multicounty area authority the discretion to devise and agree to their own appointment process, with no fall back or de facto process.

Composition: The new law leaves counties much less discretion when it comes to board composition, prescribing the following:

- At least one member who is a current county commissioner.
- The chair of the LME’s Consumer and Family Advisory Committee (CFAC) or he chair’s designee.
- At least one family member of the CFAC, as recommended by the CFAC, representing the interests of individuals with mental illness, in recovery from addiction, or with intellectual or other developmental disabilities.
- At least one openly declared consumer member of the CFAC, as recommended by the CFAC, representing the interests of individuals with mental illness, in recovery from addiction, or with intellectual or other developmental disabilities. (The appointment of consumer and family members as set forth in items 2 through 4 must provide for at least one member representing each of the three disability groups: mental health, intellectual or other developmental disabilities, and addiction.)

- An individual with health care expertise and experience in the fields of mental health, intellectual or other developmental disabilities, or substance abuse services.
- An individual with health care administration expertise consistent with the scale and nature of the managed care organization.
- An individual with financial expertise consistent with the scale and nature of the managed care organization.
- An individual with insurance expertise consistent with the scale and nature of the managed care organization.
- An individual with social services expertise and experience in the fields of mental health, intellectual or other developmental disabilities, or substance abuse services.
- An attorney with health care expertise.
- A member who represents the general public and who is not employed by or affiliated with the Department of Health and Human Services, as appointed by the Secretary of HHS.
- The president of the LME's Provider Council or the president's designee to serve as a nonvoting member and who shall participate only in open meetings.
- An administrator of a hospital providing mental health, developmental disabilities, and substance abuse emergency services to serve as a nonvoting member and who shall participate only in open meetings.

While the board must include representation from all of the categories identified above, it is possible for one board member to fill multiple roles. (G.S. 122C-118.1(c)).

LME boards must meet these compositional requirements by October 1, 2013, and if the boards of county commissioners responsible for board appointments do not comply, the Secretary of Health and Human Services must appoint the unrepresented categories. There is, however, one important exception. Boards of county commissioners within a multicounty area with a catchment area population of 1,250,000 or more may depart from the compositional requirements of the new law if each county board unanimously adopts a resolution to that effect and receives written approval of the Secretary by January 1, 2013.

**Board Composition Changes
SL 2012-151 (SB 191)**

Board must be in compliance with new requirements no later than October 1, 2013

Current ECBH Board Composition

- 24 members
 - 1 Commissioner from each of the 19 counties
 - 5 members of the public, selected by the ECBH Board

Revised Board Composition

- No fewer than 11 and no more than 21 members – 13 prescribed positions, but a person can serve in 2 “slots”
 1. One county commissioner
 2. Chair (or designee) of the Consumer and Family Advisory Committee
 3. One family member – from the CFAC
 4. One consumer – from the CFAC
 5. One person with health care expertise in MH/DD or SA
 6. One person with health care administration experience
 7. One individual with financial expertise
 8. One person with insurance expertise
 9. One person with social services expertise in MH/DD or SA
 10. An attorney with healthcare expertise
 11. One member appointed by the Secretary of DHHS
 12. President of the ECBH Provider Council (nonvoting)
 13. Administrator of a hospital providing MH/DD/SA services (nonvoting)
 - Process of appointment must ensure “participation from each of the constituent counties” – but no requirement that there be a **member** from each county. “Boards of county commissioners within the area” appoint all members.
 - If the counties do not appoint someone in a category, the Secretary will appoint for that category.
 - No lobbyists and no one under contract with the LME except for categories 12 and 13, who are nonvoting members
 - All members must live within the catchment area
 - Every member of the Board, including Commissioners, limited to three 3-year terms
- 1 each: MH/DD/SA
- “Consistent with scale and nature of the MCO”

**Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET**

Meeting Date: February 4, 2013
Presenter: Clint Berry
Attachment: Yes

ITEM TITLE: Cross Connection Plan

SUMMARY: Public Water Supply requires an implemented Cross Connection Plan after your system has 6 or Cross Connection devices.

RECOMMEND: Approve updated Rules And Regulations.

Motion Made By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.
Motion Seconded By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.
Vote: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.

Attachment A

Hyde County Water Department Cross-Connection Control Program

Hyde County Water Department
1059 Main St.
Swan Quarter, NC 27885

DATE Approved _____

I. Purpose

- A. To protect the public potable water supply served by the Hyde County Water Department from the possibility of contamination or pollution by isolating, within its customers internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the public water system.
- B. To promote the elimination or control of existing cross connections, actual or potential, between its customers in-plant potable water system, and non-potable systems.
- C. To provide for the maintenance of a continuing program of cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross connection.

II. Authority

- A. The Federal Safe Drinking Water Act of 1974, statutes of the State of NC Title 15A, Sub Chapter 18C, Section .0406 and Appendix B of the NC Administrative code the water purveyor has the primary responsibility for preventing water from unapproved sources, or any other substances, from entering the public potable water system.
- B. Hyde County Water Department, Rules and Regulations, adopted.

III. Responsibility

The Utilities Director and The Cross Connection ORC shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or backsiphonage of contaminants or pollutants through the water service connection. If, in the judgment of the Utilities Director and Cross Connection ORC, an approved backflow device is required at the county's water service connection to any customer's premises, the Director, or his delegated agent, shall give notice in writing to said customer to install an approved backflow prevention device at each service connection to his premises. The customer shall, within 90 days install such approved device, or devices, at his own expense, and failure or refusal, or inability on the part of the customer to install said device or devices within ninety (90) days, shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

IV. Administration

A. The Department will operate a cross-connection control program, to include the keeping of necessary records, which fulfills the requirements of the Commission's Cross-Connection Regulations and is approved by the Commission.

B. The Owner shall allow his property to be inspected for possible cross-connections and shall follow the provisions of the Department's program and the Commission's Regulations if a cross-connection is permitted.

C. If the Department requires that the public supply be protected by containment, the Owner shall be responsible for water quality beyond the outlet end of the containment device and should utilize fixture outlet protection for that purpose.

He may utilize public health officials, or personnel from the Department, or their delegated representatives, to assist him in the survey of his facilities and to assist him in the selection of proper fixture outlet devices, and the proper installation of these devices.

V. Requirements

A. Department

1. On new installations, the Department will provide onsite evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, will issue permit, and perform inspection and testing.

2. For premises existing prior to the start of this program, the Department will perform evaluations and inspections of plans

and/or premises and inform the owner by letter of any corrective action deemed necessary, the method of achieving the correction, and the time allowed for the correction to be made. Ordinarily, ninety (90) days will be allowed, however, this time period may be shortened depending upon the degree of hazard involved and the history of the device(s) in question.

3. The Department will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested to insure satisfactory operation.

4. The Department shall inform the Owner by letter, of any failure to comply, by the time of the first re-inspection. The Department will allow an additional fifteen (15) days for the correction. In the event the Owner fails to comply with the necessary correction by the time of the second re-inspection, the Department will inform the Owner by letter, that the water service to the Owner's premises will be terminated within a period not to exceed five (5) days. In the event that the Owner informs the Department of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Department but in no case will exceed an additional thirty (30) days.

5. If the Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.

6. The Department shall have on file, a list of Private Contractors who are certified backflow device testers. All charges for these tests will be paid by the Owner of the building or property.

7. The Department will begin initial premise inspections to determine the nature of existing or potential hazards, following the approval of this program by the Commission, during the calendar year 2013. Initial focus will be on high hazard industries and commercial premises.

B. Owner

1. The Owner shall be responsible for the elimination or protection of all cross-connections on his premises.

2. The Owner, after having been informed by a letter from the Department, shall at his expense, install, maintain, and test, or

have tested, any and all backflow preventers on his premises.

3. The Owner shall correct any malfunction of the backflow preventer which is revealed by periodic testing.
4. The Owner shall inform the Department of any proposed or modified cross-connections and also any existing cross connections of which the Owner is aware but has not been found by the Department.
5. The Owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.
6. The Owner shall install backflow preventers in a manner approved by the Department.
7. The Owner shall install only backflow preventers approved by the Department or the Commission.
8. Any Owner having a private well or other private water source, must have a permit if the well or source is cross-connected to the Department's system. Permission to cross-connect may be denied by the Department. The Owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the Department's system.
9. In the event the Owner installs plumbing to provide potable water for domestic purposes which is on the Department's side of the backflow preventer, such plumbing must have its own backflow preventer installed.
10. The Owner shall be responsible for the payment of all fees for permits, annual or semi-annual device testing, retesting in the case that the device fails to operate correctly, and second reinspections for non-compliance with Department or Commission requirements.

VI. Degree of Hazard

The Department recognizes the threat to the public water

system arising from cross-connections. All threats will be classified by degree of hazard and will require the installation of approved reduced pressure principle backflow prevention devices or double check valves.

VII. Permits

The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

A. Cross-connection permits that are required for each backflow prevention device are obtained from the Department.

B. Permits shall be renewed every year and are non-transferable. Permits are subject to revocation and become immediately revoked if the Owner should so change the type of cross-connection or degree of hazard associated with the service.

C. A permit is not required when fixture isolation is achieved with the utilization of a non-testable backflow preventer such as an air gap.

VII. Existing in-use backflow prevention devices.

Any existing backflow preventer shall be allowed by the Department to continue in service unless the degree of hazard is such as to supercede the effectiveness of the present backflow preventer, or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure principle device, or a reduced pressure principle device must be installed in the event that no backflow device was present.

IX. Periodic Testing

A. Reduced pressure principle backflow devices shall be tested and inspected at least semi-annually.

B. Periodic testing shall be performed by the Department's certified tester or his delegated representative. This testing will be done at the owner's expense.

C. The testing shall be conducted during the Department's regular business hours. Exceptions to this, when at the request of the owner, may require additional charges to cover the increased costs to the Department.

D. Any backflow preventer which fails during a periodic

test will be repaired or replaced. When repairs are necessary, upon completion of the repair the device will be re-tested at owners expense to insure correct operation. High hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than thirty (30) days after the test date will be established. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two (2) devices is an effective means of the owner insuring that uninterrupted water service during testing or repair of devices and is strongly recommended when the owner desires such continuity.

E. Backflow prevention devices will be tested more frequently than specified in A. above, in cases where there is a history of test failures and the Department feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional tests will be born by the owner.

X. Records and Reports

A. Records

The Department will initiate and maintain the following:

1. Master files on customer cross-connection tests and/or inspections.
2. Master files on cross-connection permits.
3. Copies of permits and permit applications.
4. Copies of lists and summaries supplied to the Commission.

B. Reports

The Department will submit the following to the Commission.

1. Initial listing of low hazard cross-connections to the State.
2. Initial listing of high hazard cross-connections to the State.
3. Annual update lists of items 1 and 2 above.
4. Annual summary of cross-connection inspections to the State.

XI. Fees and Charges

The Department will publish a list of fees or charges for the following services or permits:

1. Testing fees
2. Re-testing fees
3. Fee for re-inspection
4. Charges for after-hours inspections or tests.

Definitions

A. Approved

Accepted by the Utilities Director and Cross Connection ORC as meeting an applicable specification stated or cited in this regulation, or as suitable for the proposed use.

B. Auxiliary Water Supply

Any water supply, on or available, to the premises other than the purveyor's approved public potable water supply.

C. Backflow

The flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

D. Backflow Preventer

A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bib vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.

D.1 Air Gap

A physical separation sufficient to prevent backflow between the free-flowing discharge end of the potable water system and any other system. Physically defined as a distance equal to twice the diameter of the supply side pipe diameter but never less than one (1) inch.

D.2 Atmospheric Vacuum Breaker

A device which prevents backsiphonage by creating an

atmospheric vent when there is either a negative pressure or subatmospheric pressure in a water system.

D.3 Barometric Loop

A fabricated piping arrangement rising at least thirty five (35) feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage.

D.4 Double Check Valve Assembly

An assembly of two (2) independently operating spring loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

D.5 Double Check Valve with Intermediate Atmospheric Vent

A device having two (2) spring loaded check valves separated by an atmospheric vent chamber.

D.6 Hose Bibb Vacuum Breaker

A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.

D.7 Pressure Vacuum Breaker

A device containing one or two independently operated spring loaded check valves and an independently operated spring loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).

D.8 Reduced Pressure Principle Backflow Preventer

An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

D.9 Residential Dual Check

An assembly of two (2) spring loaded, independently operating check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device.

E. Backpressure

A condition in which the owners system pressure is greater

than the suppliers system pressure.

F. Backsiphonage

The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

G. Commission

The State of NC Control Commission.

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H. Containment

A method of backflow prevention which requires a backflow prevention preventer at the water service entrance.

I. Contaminant

A substance that will impair the quality of the water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

J. Cross-Connection

Any actual or potential connection between the public water supply and a source of contamination or pollution.

K. Department

Hyde County Water Department.

L. Fixture Isolation

A method of backflow prevention in which a backflow preventer is located to correct a cross connection at an in-plant location rather than at a water service entrance.

M. Owner

Any person who has legal title to, or license to operate or inhabit in, a property upon which a cross-connection inspection is to be made or upon which a cross-connection is present.

N. Person

Any individual, partnership, company, public or private corporation, political subdivision or agency of the State Department, agency or instrumentality of the United States or any other legal entity.

O. Permit

A document issued by the Department which allows the use of a backflow preventer.

P. Pollutant

A foreign substance, that if permitted to get into the public water system, will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably effect such water for domestic use.

Q. Water Service Entrance

That point in the owners water system beyond the sanitary control of the District; generally considered to be the outlet end of the water meter and always before any unprotected branch.

R. Utilities Director

The Director, or his delegated representative in charge of the Utilities Department, is invested with the authority and responsibility for the implementation of a cross connection control program and for the enforcement of the provisions of the Ordinance.

NORTH CAROLINA INSTRUCTION 1933-A.1
Guide 3

Rules and Regulations
Of
Hyde County Water System

I. Classification of Service

All services are classified under three categories to include residential and churches, commercial, and institutional users.

- A. Residential and Churches
- B. Commercial
- C. Institutional

II. Rate Schedule and Tap On Fees

A. Rate Schedule: Residential and Churches

(1) First 2000 gallons	@	\$25.00 minimum
2,001 - 15,000 gallons	@	\$6.00/ 1,000
all over 15,000	@	\$7.00/ 1,000

(2) Trailer Courts and Multi-dwelling units served through one meter. "Trailer Court" shall mean any rental or sales of trailer spaces or trailer being used for any purpose. These installations shall be billed as per the County's regular published rates or \$25.00 per user, per month, whichever is greater.

B. Rate Schedule: Commercial

(1) First 2000 gallons	@	\$32.00 minimum
2001 - 15,000	@	\$7.00/ 1,000
15,001 - 30,000	@	\$8.00/ 1,000
All over 30,000	@	\$9.00/ 1,000

C. (2) Institutional Rate

First 1,000,000	@	\$10,000.00 minimum
All over 1,000,000 gal.	@	\$11.00/1,000

Tap-on Fee:

- (1) Prior to loan closing:
 - a.. For one meter-\$50.00
 - b. All additional meters above one-\$50.00 each

- (2) During construction:
\$100.00 (Equivalent to bid cost to corporation plus 10%)
- (3) After completion of the facility, the regular tap-on fee will be:

Meter Size	Cost
3/4"	\$1,000.00
1"	Actual cost + \$900.00
2"	Actual cost + \$1,500.00

III. Application For Service

- A. Service will be supplied only to those who have become Members.
- B. Consumers will make application for service, in person, at the office of the county and at the same time make the deposit guarantee required below.
- C. The County may reject any application for service not available under a standard rate or which involves excessive service cost or which may effect the supply of service to other customers or for other good and sufficient reasons.
- D. The County may reject any application for service when the applicant is delinquent in payment of bills incurred for service previously supplied at any location, provided that when the owner of the premises has been served water and has not paid for the same, the County shall not be required to render service to anyone at said location where the water was used until said water bill has been paid.

IV. Deposit

- A. All members will make a minimum cash deposit of \$100.00. Deposit shall not draw interest.
- B. The individual in whose name the deposit is made shall be responsible for payment of all bills incurred in connection with the service furnished.
- C. A separate deposit is required for each meter installed.
- D. The deposit receipt is not negotiable and can be redeemed only at the County offices.
- E. Where the County finds that the request for a deposit refund is questionable, the County may require the applicant for refund to produce the deposit receipt properly endorsed.
- F. All Tenant Dwelling will be required to pay a minimum

cash deposit of \$150.00 to have service connected.

V. Initial or Minimum Charge

- A. The initial or minimum charge, as provided in the rate schedule shall be made for each meter installed, regardless of location. Each meter requires a separate meter reading sheet, and each meter reading sheet shall cover a separate and individual account.
- B. In resort areas, where service is furnished to a consumer during certain months only, the minimum charge per service for the period of non-use shall be regular minimum as set out in the published rates of the county.
- C. Water furnished for a given lot shall be used on that lot only. Each consumer's service must be separately metered at a single delivery and metering point. Each commercial unit and each storeroom or stall used for business purposes shall have a separate meter. All commercial use, including storerooms and stalls for business purposes, shall be metered separately from any residential use and vice versa, whether or not in service or to be installed in the future.

VI. County's Responsibility and Liability

- A. The county shall run a service line from its distribution line to the property line where the distribution line runs immediately adjacent and parallel to the property to be served and for which a tap-on fee then in effect for each size of meter will be charged.
- B. The County may install its meter at the property line or at the County's option, on the consumer's property or in a location mutually agreed upon.
- C. When two or more meters are to be installed on the same premises for different consumers, they shall be closely grouped and each clearly designated to which consumer it applies.
- D. The County does not assume the responsibility of inspecting the consumer's piping or apparatus and will not be responsible therefor.
- E. The County reserves the right to refuse service unless the consumer's lines or piping are installed in such a manner as to prevent cross-connections or backflow.
- F. The County shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the consumer's premises unless such damage results directly from negligence on the part of the County. The County shall not be responsible for any damage done by or resulting from any defect in the piping, fixtures, or

appliances on the consumer's premises. The County shall not be responsible for negligence of third persons or forces beyond the control of the County resulting in any interruption of service.

- G. Under normal conditions, the consumer will be notified of any anticipated interruption of service.

VII. Consumer's Responsibility

- A. Piping on the consumer's premises must be so arranged that the connections are conveniently located with respect to the County's lines or mains.
- B. If the consumer's piping on consumer's premises is so arranged that the County is called upon to provide additional meters, each place of metering will be considered as a separate and individual account.
- C. Where meter is placed on premises of a consumer, a suitable place shall be provided by consumer for placing such meter unobstructed and accessible at all times to the meter reader.
- D. The consumer shall furnish and maintain a private cutoff valve on the consumer's side of the meter; the County to provide a like valve on the County's side of such meter.
- E. The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense in a safe and efficient manner and in accordance with the County's rule and regulations and in full compliance with the sanitary regulations of the North Carolina Department of Human Resources.
- F. The consumer shall guarantee proper protection for the County's property placed on the consumer's premises and shall permit access to it only by authorized representatives of the County.
- G. In the event that any loss or damage to the property of the County or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the consumer, his agents or employee, the cost of the necessary repairs or replacements shall be paid by the consumer to the county; and any liability otherwise resulting shall be assumed by the consumer.
- H. The amount of such loss or damage or the cost of repairs shall be added to the consumer's bill; and if not paid, service may be discontinued by the County.

- I. In the event that your service requires a cross connection device you will have to comply with Attachment A.

VIII. Extensions To Mains and Services

- A. The County may construct extensions to its water lines to points within its service area but the County shall not be required to make such installations unless the consumer makes application for service and advanced payment to the County for the entire cost of the installation.
- B. All line extensions shall be evidenced by contract signed by the County and the person advancing funds for said extension, but each contract shall be null and void unless approved by the county Board of Commissioners.
- C. No refund shall be made for any revenue received from any lines leading up to or beyond the particular line extension covered by contract.
- D. It is understood that the County may, at it's option, at any time within the one-year period refund, in full, the difference between the amount that has already been refunded and the amount deposited.
- E. Water distribution lines to serve undeveloped subdivisions will be handled as follows:
 - (1) The developer will submit plans for review and approval by the County, its engineer and the State Board of Health.
 - (2) The developer will install the lines in accordance with the approved plans.
 - (3) Upon completion of the new extension, the developer will deed the complete facility, to include all right-of-ways, easements, permits, franchises and authorizations or other instruments needed, for the operation and maintenance of the facility, to the County. The County will not reimburse the developer for the extension.

IX. Access To Premises

- A. Duly authorized agents of the County shall have access at all reasonable hours to the premises of the consumer for the purpose of installing or removing County property, inspecting piping, reading or testing meters or for any other purpose in connection with the county's service and facilities.
- B. Each consumer shall grant or convey or shall cause to be granted or conveyed, to the County a perpetual easement and right of way across any property owned or controlled by the consumer wherever said perpetual easement and

right of way is necessary for the County water facilities and lines so as to be able to furnish service to the consumer.

X. Change of Occupancy

- A. Not less than three days notice must be given in person or writing, at the County office, to discontinue service for a change in occupancy.
- B. The Outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longer.

XI. Meter Reading Billing Collecting

- A. Bills for water will be figured in accordance with the County's published rate schedule then in effect and will be based on the amount consumed for the period covered by the meter readings, except where a consumer orders turn-off less than one month after turn-on, the minimum bill to such consumer for such period shall be equal to the minimum charge for one full month's service.
- B. Charge for service commences when meter is installed and connection is made, whether used or not. Thirty (30) days may be allowed for hooking on initial installation of the water system.
 - B.1. After 60 day if minimum payment has not been made on meter not in use, the County has the authority to remove service from consumers property. Upon need a fee of \$150.00 will be charged to reconnect.
- C. Readings from different meters will not be combined for billing, irrespective of the fact that said meters may be for the same or different premises, or for the same or different consumers or for the same or different services.
- D. Bills are due when rendered and become delinquent fifteen(15) days thereafter whereupon a penalty of 10% will be added; and if not paid in twenty-five (25) days, service shall be discontinued by the County.
- E. Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the consumer from payment.

XII. Suspension of Service

- A. When services are discontinued and all bills paid, the deposit will be refunded.
- B. Upon discontinue of service for nonpayment of bills, the

deposit will be applied by the County toward settlement of the account. Any balance will be refunded to the consumer; but if the deposit is not sufficient to cover the bill, the County may proceed to collect the balance in the usual way provided by law for the collection of debts.

- C. Service discontinued for nonpayment of bills will be restored only after bills are paid in full, redeposit made and a service charge of \$150.00 paid for each meter reconnected.
- D. When services are discontinued at the request of property owner or tenant, a service charge of \$150.00 will be required before service can be continued.
- E. The County reserves the right to discontinue its service without notice for the following additional reasons:
 - 1. To prevent fraud or abuse
 - 2. Consumers wilful disregard of the County's rule
 - 3. Emergency repairs
 - 4. Insufficiency of supply due to circumstances beyond the County's control.
 - 5. Legal procedures
 - 6. Direction of public authorities
 - 7. Strike, riot, fire, flood, accident or any unavoidable cause.
- F. The County may, in addition to prosecution by law, permanently refuse service to any consumer who tampers with a meter or other measuring device.

XIII. Complaints-Adjustments

- A. If the consumer believes his bill to be in error, he shall present his claim, in person, at the County's office before the bill becomes delinquent. Such claims, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service as heretofore provided. The consumer may pay such bill under protest and said payment shall not prejudice his claim.
- B. The County will make special meter readings at the request of the consumer for a fee of \$25.00 provided, however that if such special reading discloses that the meter was over read, no charge will be made.
- C. Meters will be tested at the request of the consumer upon payment to the County of the actual cost of making the test provided; however, that if the meter is found to over register beyond 2 per centum of the correct volume, no charge will be made.
- D. If the seal of a meter is broken by other than the county's representative or if the meter fails to

register correctly or is stopped for any cause, the consumer shall pay an amount estimated from the record of this previous bill and/or from other proper data.

XIV. Abridgement or Modification of Rules

- A. No promise, agreement or representation of any employee of the County shall be binding upon the County except as it shall have been agreed upon in writing, signed and accepted by the acknowledged officers of the County.
- B. No modification of rates or any of the rules and regulations shall be made by any agent of the County.

XV. ADOPTION OF RULES

Until further order of the Board of Directors of this County, the Rules and regulations as the same are herein above set out are hereby adopted as of the date hereof to become effective on and after February 4, 2013.

Done this the 4th. day of February, 2013.

ATTEST:

Clerk

By: _____
CHAIRMAN, HYDE COUNTY BOARD
OF COMMISSIONERS

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: February 4, 2013
Presenter: Corrinne Gibbs
Attachment: Yes

ITEM TITLE: MILEAGE REIMBURSEMENT RATE CHANGE

SUMMARY: Currently the Board has approved the mileage reimbursement rate of .555 cents per mile. As of January 1, 2013 the IRS standard mileage rate changed to .565 cents per mile. The county would like the Board to stay with the IRS mileage rate.

RECOMMEND: Discussion and approval.

Motion Made By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.
Motion Seconded By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.
Vote: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.

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Standard Mileage Rates for 2013

R-2012-95, Nov. 21, 2012

WASHINGTON — The Internal Revenue Service today issued the 2013 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Beginning on Jan. 1, 2013, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 56.5 cents per mile for business miles driven.
- 24 cents per mile driven for medical or moving purposes.
- 14 cents per mile driven in service of charitable organizations.

The rate for business miles driven during 2013 increases 1 cent from the 2012 rate. The medical and moving rate is also up 1 cent per mile from the 2012 rate.

The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes is based on the variable costs.

Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

A taxpayer may not use the business standard mileage rate for a vehicle after using any depreciation method under the Modified Accelerated Cost Recovery System (MACRS) or after claiming a Section 179 deduction for that vehicle. In addition, the business standard mileage rate cannot be used for more than four vehicles used simultaneously.

These and other requirements for a taxpayer to use a standard mileage rate to calculate the amount of a deductible business, moving, medical, or charitable expense are in Rev. Proc. 2010-51. [Notice 2012-72](#) contains the standard mileage rates, the amount a taxpayer must use in calculating reductions to basis for depreciation taken under the business standard mileage rate, and the maximum standard automobile cost that a taxpayer may use in computing the allowance under a fixed and variable rate plan.

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Page Last Reviewed or Updated: 13-déc.-2012

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: February 4, 2013
Presenter: Commissioner John Fletcher
Attachment: No

ITEM TITLE: ROAD SIGNS ON OCRACOKE ISLAND AND US 264

SUMMARY: Commissioner Fletcher will discuss the need for “Walk facing Traffic” signs on Ocracoke Island and 45 mph speed limit signs along mainland Hyde County roads.

RECOMMEND: Discussion and approval.

Motion Made By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.
Motion Seconded By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.
Vote: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: February 4, 2013
Presenter: Barry Swindell
Attachment: Yes

ITEM TITLE: CONTRACT FOR INTERIM COUNTY MANAGER

SUMMARY: Contract written by Mr. Swindell and reviewed by County Attorney Fred Holscher to reflect already approved rate of pay, term and duties.

RECOMMEND: Discussion and approval.

Motion Made By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.

Motion Seconded By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.

Vote: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.

Hyde County Board of Commissioners
AGENDA ITEM SUMMARY SHEET

Meeting Date: February 4, 2013
Presenter: Barry Swindell
Attachment: Yes

ITEM TITLE: OCCUPANCY TAX FUNDS FOR LOBBYIST FEES

SUMMARY: After numerous discussions the Board will have to decide whether or not to use funds from both Mainland and Ocracoke occupancy tax funds to pay the Lobbyist contract

RECOMMEND: Discussion and approval.

Motion Made By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.

Motion Seconded By: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.

Vote: Barry Swindell Dick Tunnell Anson Byrd John Fletcher Earl Pugh, Jr.