

SUBCHAPTER 41H - VITAL RECORDS

SECTION .0100 - GENERAL PROVISIONS

10A NCAC 41H .0101 ADMINISTRATION

The staff of the Vital Records Section of the Division of Public Health is authorized to administer the statewide vital records program outlined in Article 4 of Chapter 130A of the North Carolina General Statutes.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990; January 1, 1984.*

10A NCAC 41H .0102 DEFINITIONS

As used in Article 4 of Chapter 130A of the General Statutes and in these Rules:

- (1) "Vital events" means births, deaths, fetal deaths, marriages, divorces;
- (2) "Vital statistics" or "vital records" means records of birth, death, fetal death, marriage, divorce, and data related thereto;
- (3) "Filing" means the presentation of a certificate, report, or other record provided for by the statute or these regulations of a birth, death, fetal death, adoption, marriage, or divorce for registration;
- (4) "Registration" means the acceptance and the incorporation in official records of certificates, reports or other records provided for in the statutes or these regulations of births, deaths, fetal deaths, adoptions, marriages, or divorces;
- (5) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;
- (6) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles;
- (7) "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it reasonably may be concluded that a death has occurred;
- (8) "Final disposition" means the burial, interment, cremation, or other disposition of a dead body or fetus;
- (9) "Physician" means a person authorized or licensed to practice medicine pursuant to the laws of North Carolina.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. January 1, 1984.*

10A NCAC 41H .0103 FORMS

All forms, certificates, and reports used in the registration of vital events are the property of the State Registrar and shall be surrendered to him on demand. The forms prescribed and distributed by the State Registrar for reporting vital events shall be used only for official purposes. No forms shall be used in the reporting of vital events except those furnished or approved by the State Registrar.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.*

10A NCAC 41H .0104 GENERAL REQUIREMENTS FOR PREPARATION OF CERTIFICATES

In order for certificates to be considered complete and acceptable for registration, each certificate shall:

- (1) be filed on forms prescribed and distributed by the State Registrar,
- (2) not be marked "copy" or "duplicate",

- (3) not be a duplicate copy except for marriage and divorce certificates,
- (4) not contain improper or inconsistent data,
- (5) be prepared in conformity with these regulations, or instructions issued by the State Registrar.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990.

10A NCAC 41H .0105 MONTHLY VITAL STATISTICS REPORT

The local registrar shall include with each mailing of vital records to the State Registrar, a monthly vital statistics report on a form prescribed by the State Registrar which will be a tally of all records by type of record, by month and year of occurrence, and other information directly related to the registration of vital events.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

SECTION .0200 - LOCAL REGISTRARS, DEPUTY REGISTRARS, SUBREGISTRARS

10A NCAC 41H .0201 APPOINTMENTS OF LOCAL, DEPUTY LOCAL, AND SUBREGISTRARS

- (a) All appointments of deputy and sub-registrars shall be made in accordance with G.S. 130A-96.
- (b) Each local registrar shall be notified in writing of his appointment, and shall inform the State Registrar in writing of his acceptance of the appointment.
- (c) Each local registrar shall notify the State Registrar in writing of his appointed deputy.
- (d) Each local registrar, subject to the written notification and approval of the State Registrar, may appoint subregistrars.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. October 1, 1984.

10A NCAC 41H .0202 REMOVAL/RESIGNATION OF LOCAL: DEPUTY: OR SUBREGISTRAR

- (a) Failure to carry out the provisions of the law relating to vital statistics and regulations adopted thereunder or conduct that may impair operation of the vital statistics system shall be considered reasonable cause for removal of a local registrar, deputy registrar, or subregistrar.
- (b) The termination of employment of a local registration official shall constitute the termination of his position of local registrar, deputy registrar, or subregistrar.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990.

SECTION .0300 - BIRTH REGISTRATION

10A NCAC 41H .0301 GENERAL REQUIREMENTS

In addition to the requirements specified in 10A NCAC 41H .0104, no birth certificate shall be considered complete, correct, and acceptable for registration:

- (1) that does not have the certifier's name typed or printed legibly under his signature,
- (2) that does not supply all items of information called for thereon or satisfactorily account for their omission, and
- (3) that contains any data relative to the putative father of a child born out of wedlock unless it is accompanied by the written consent of both parents under oath or a certified copy of a decree determining paternity.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

10A NCAC 41H .0302 LATE CERTIFICATES NOT SIGNED BY ATTENDANT

Certificates of birth filed after ten days but within one year from the date of birth which are signed by someone other than the attendant must be accompanied by a statement from the local registrar stating why the certificate cannot be signed by the attendant. The State Registrar may require additional evidence in support of the facts of birth or an explanation for the delay in filing.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. February 1, 1990; April 1, 1982.

10A NCAC 41H .0303 PHYSICIAN'S SIGNATURE

A birth certificate must be completed and signed by the physician or other person in attendance at birth within ten days after birth. If the certificate has not been completed by the physician or other person in attendance within ten days, the hospital administrator may complete and sign the certificate.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. February 1, 1990; April 1, 1982.

10A NCAC 41H .0304 MOTHER'S SIGNATURE

Certificates of live birth shall be completed by the hospital and signed by the mother before she is discharged unless she is physically unable to sign, the child is going to be given up for adoption, or unless she refuses to sign. After signing, the mother shall be given a carbon copy of the certificate. In no cases shall the mother be asked to sign a blank certificate except that she may sign the certificate before the attendant has signed it if the attendant's name is typed or printed in the proper location.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

10A NCAC 41H .0305 MEDICAL AND HEALTH INFORMATION

The local registrar shall delete all information labeled "For Medical and Health Use Only" from the copies of Certificates of Live Births which are to be forwarded to the registers of deeds.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

SECTION .0400 - DELAYED REGISTRATION OF BIRTHS

10A NCAC 41H .0401 GENERAL REQUIREMENTS

All certificates registered one or more years after the date of birth are to be registered on a Delayed Certificate of Birth Form prescribed by the State Registrar. Any living person born in this state whose birth is not recorded, or his parent, or guardian may apply to the register of deeds in the county of birth on a form prescribed by the State Registrar. Such completed application form shall be retained by the register of deeds.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;

Amended Eff. July 1, 1992; June 16, 1980.

10A NCAC 41H .0402 DOCUMENTARY EVIDENCE: FACTS TO BE ESTABLISHED

(a) The minimum facts which must be established by documentary evidence shall be:

- (1) the full name of the person at the time of birth;
- (2) the date and place of birth;
- (3) the full maiden name of the mother; and
- (4) the full name of the father, except for births as specified in G.S. 130A-101(f).

Documents presented, other than personal affidavits, to establish these facts must be from independent sources and shall be in the form of an original official record (record created by or for a business or publically-funded agency or organization during the normal course of business) or a duly certified copy thereof or a signed statement from the custodian. These documents must have been established at least five years prior to the date of application. However, documents established less than five years prior to date of application shall be accepted if created prior to the applicant's fifth birthday.

(b) An affidavit of personal knowledge, to be acceptable, must be signed by one of the parents, or a person older than the registrant having knowledge of the facts of birth before an official authorized to administer oaths.

(c) For applicants, three pieces of evidence are required, only one of which may be an affidavit. All three must prove name and date of birth, two must prove place of birth, and one must prove parentage.

(d) All evidence shall be abstracted or included with the application and must be signed by the appropriate official. The application and affidavits of personal knowledge shall be retained by the register of deeds for one year. Other supporting documents may be returned to the applicant upon completion of the certificate.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1992; September 1, 1990; June 16, 1980.*

10A NCAC 41H .0403 COMPLETION OF THE CERTIFICATE

(a) Upon proper submission of application and supporting evidence, the register of deeds shall abstract on the delayed certificate of birth a description of each document submitted to support the facts shown on the delayed birth certificate. The description shall include:

- (1) the title or description of the document;
- (2) the name and address of the affiant, if the document is an affidavit; or of the custodian, if the document is an original or certified copy of a record or a signed statement;
- (3) the date of the original filing of the document being abstracted; and
- (4) the information regarding the birth facts supported by the document.

(b) Each delayed certificate of birth shall be signed and sworn to before an official authorized to administer oaths by the person whose birth is to be registered if such person is 18 years of age and is competent to sign. Otherwise, the certificate shall be signed and sworn to by one of the parents or guardians of the registrant.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. July 1, 1992.*

10A NCAC 41H .0404 FINAL CERTIFICATION

(a) The register of deeds shall, by his signature, certify that he has reviewed the evidence submitted to establish the facts of birth and that the abstract of the evidence appearing on the delayed certificate of birth accurately reflects the nature and content of the document. He shall enter the date of his signature.

(b) The State Registrar has final authority to determine acceptability of evidence. Upon receipt and approval, the State Registrar or his designated representative, shall, by his signature, certify that no prior birth certificate is on file for the person whose birth is to be recorded. He shall also enter the date of his signature.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.*

10A NCAC 41H .0405 DISMISSAL AFTER ONE YEAR

Applications for delayed certificates which are not completed within one year may be dismissed at the discretion of the register of deeds. Upon dismissal, all documents may be returned to the applicant.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.*

10A NCAC 41H .0406 DELAYED BIRTH CERTIFICATES FOR DECEASED PERSONS

Applications for delayed birth certificates shall not be accepted and delayed birth certificates shall not be filed for persons who have died.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.*

SECTION .0500 - DEATH REGISTRATION

10A NCAC 41H .0501 HOSPITAL ASSISTANCE IN PREPARATION OF DEATH CERTIFICATES

Hospitals and institutions shall establish and follow a procedure for assisting funeral directors in completing death certificates. As a minimum, the procedure will ensure that the funeral director is provided with the name of the deceased, the name of the attending physician or medical examiner who is responsible for the medical certification, and the date of death.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990.*

10A NCAC 41H .0502 ACCEPTANCE OF INCOMPLETE DEATH CERTIFICATE

If the funeral director is unable to obtain the personal information about the deceased within the prescribed statutory time period, the funeral director shall file a death certificate form completed with all available information, except that no certificate shall be filed without proper medical certification and signature of attending physician or medical examiner. The information missing shall be provided to the local registrar by the funeral director as soon as possible, but in all cases within 30 days. Such information shall be entered by the local registrar on the original death certificate or forwarded to the State Registrar.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.*

10A NCAC 41H .0503 DEATH REGISTRATION: MEDICAL CERTIFICATION

Except for deaths caused by conditions under the jurisdiction of the medical examiner, the physician who last treated the deceased is responsible for completing the medical certification of the death certificate, unless there is evidence or indication that the cause of death is unrelated to the previous diagnosis and treatment. If the attending physician is unavailable, the certificate shall be signed by the physician who pronounced death (if he can reasonably determine the cause) or by an associate physician or physician on call for the attending physician if medical records of the deceased are available and if the cause of death is reasonably ascertainable from the records and circumstances preceding death.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990.*

10A NCAC 41H .0504 NO DEATH CERTIFICATE FOR MISSING PERSONS

No death certificate shall be filed nor shall any death certificate be accepted for filing by a local registrar or the State Registrar unless there is a body or some remains such as ashes or decomposed organic substance determined to be human. Deaths in which bodies are lost in lakes, rivers, and oceans may not be registered until and unless the body is recovered.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

10A NCAC 41H .0505 DISINTERMENT-REINTERMENT PERMITS

A permit for disinterment-reinterment shall be issued by the local registrar or deputy registrar only upon receipt of a written authorization signed by:

- (1) the spouse if living; otherwise,
- (2) by the next-of-kin and the person who is to perform the disinterment; or
- (3) upon receipt of an order of a court of competent jurisdiction directing such disinterment.

A dead body which has been deposited in a receiving vault shall not be considered a disinterment when removed from the vault for final burial.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990; November 1, 1978.

10A NCAC 41H .0506 REMOVAL OF BODIES

Before removing a dead body or fetus from the place of death, the funeral director or person acting as such shall:

- (1) obtain assurance from the attending physician that death is from natural causes and that the physician will assume responsibility for certifying to the cause of death or fetal death, or
- (2) notify the medical examiner if the case comes within his jurisdiction and receive authorization from him to remove the body.

History Note: Authority G.S. 130A-92(7);
Eff. October 1, 1977;
Readopted Eff. November 15, 1977.

SECTION .0600 - CERTIFIED COPIES

10A NCAC 41H .0601 BIRTH CERTIFICATES

(a) There shall be three forms of copies of birth certificates:

- (1) a photocopy of the original record excluding medical and health related information with facsimile of the signature of the State Registrar and raised seal and date issued; and
- (2) a typed copy prepared on a form printed on safety paper with facsimile of the signature of the State Registrar and raised seal; the form shall provide at least the following items of information:
 - (A) name and sex of child;
 - (B) date and place of birth;
 - (C) names, ages (at time of birth), and birthplaces of father and mother;
 - (D) date filed with local registrar;
 - (E) certificate number; and
 - (F) date of issue; and
- (3) a typed wallet-size card with facsimile of the signature of the State Registrar providing as a minimum the following items of information:
 - (A) name and sex of child;
 - (B) date and place of birth;
 - (C) date filed with local registrar;
 - (D) certificate number;
 - (E) date of issue; and

- (F) changes of names by court order noted on back for persons older than 15 years unless good cause (including cases of illegitimacy, fostercare, etc., but not necessarily limited to those cases) is shown for deleting the notation.
- (b) A wallet-size card shall be issued when specifically requested.
- (c) A typed copy shall be issued when specifically requested, when the original certificate cannot be photocopied, when the original has been corrected or amended, or when the record is that of an adopted or legitimated person.
- (d) A photocopy shall be issued when specifically requested or whenever it is most convenient except in cases in which a typed copy is required.
- (e) In cases when the individual is known to be deceased, the word "DECEASED" shall be added to the certificate in a prominent location. This procedure shall apply to copies issued by the Vital Records Section and to each register of deeds or local health department that issues certified copies of birth certificates.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Amended Eff. October 1, 1977;
Readopted Eff. November 15, 1977;
Amended Eff. July 1, 1992; January 1, 1992; May 1, 1991.

10A NCAC 41H .0602 DELAYED BIRTH CERTIFICATES

A certified copy of a birth certificate shall be a photocopy unless it cannot be copied. If not reproducible, a typed copy shall be made, giving all data which appears on the original certificate, on a form similar to the form on which the original certificate was filed.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

10A NCAC 41H .0603 BIRTH CERTIFICATES FOR OUT-OF-WEDLOCK BIRTHS

When issuing a certified copy of a birth certificate for a child born out of wedlock, which names the father of the child without the father's acknowledgment of paternity and without judicial determination of paternity, the information pertaining to the father shall not be included except in cases when the person named on the certificate specifically requests that the copy show the father's name and when the person named on the certificate properly identifies the name of the father as shown on the original certificate of birth.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

10A NCAC 41H .0604 DEATH CERTIFICATES

Whenever it is physically possible, a certified copy of a death certificate shall be a photocopy. Otherwise, it shall be typed on a form which approximates the form on which the original certificate was filed. When supplemental causes of death are attached, the information contained thereon shall be included.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

SECTION .0700 - FEES AND REFUNDS

10A NCAC 41H .0701 ROUTINE REQUESTS FOR CERTIFIED COPIES

(a) The fee for a non-expedited search for a certificate of birth, death, marriage or divorce is twenty-four dollars (\$24.00), which includes the cost of a search of the year indicated and if necessary the year immediately prior to and subsequent to the indicated year. This fee also covers issuance of a copy if the record is found. If the record is not located, the fee shall be retained for providing the search.

(b) If expedited service is specifically requested, an additional fee of fifteen dollars (\$15.00), in addition to all shipping and commercial charges, shall be charged in accordance with G.S. 130A-93.1(a)(2).

History Note: Authority G.S. 130A-92(a)(7); 130A-93; 130A-93.1;
Eff. February 1, 1976;
Amended Eff. October 1, 1977;
Readopted Eff. November 15, 1977;
Amended Eff. August 24, 2009; June 1, 2005; January 1, 1992; October 1, 1985;
Emergency Amendment Eff. September 14, 2009;
Temporary Amendment Eff. December 1, 2009;
Amended Eff. November 1, 2010.

10A NCAC 41H .0702 RESEARCH REQUESTS

(a) The State Registrar may permit the use of data from vital records for research purposes. The State Registrar shall require the applicant to specify in writing the conditions under which the records or data will be used, stored, and disposed of; the purpose of the research; the research protocol; access limitations; and security precautions.

(b) A fee of twenty-four dollars (\$24.00) shall be charged per name searched. If expedited service is specifically requested, an additional fee of fifteen dollars (\$15.00), in addition to all shipping and commercial charges, shall be charged in accordance with G.S. 130A-93.1(a)(2).

(c) Vital records or data provided under this Rule shall be used only for the purposes described in the application.

History Note: Authority G.S. 130A-92(a)(7); 130A-93; 130A-93.1;
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. August 24, 2009; June 1, 2005; February 1, 1994; February 1, 1992; September 1, 1990;
October 1, 1985;
Emergency Amendment Eff. September 14, 2009;
Temporary Amendment Eff. December 1, 2009;
Amended Eff. November 1, 2010.

10A NCAC 41H .0703 FEES FOR CORRECTIONS AND AMENDMENTS

The fee for correcting or amending a birth or death certificate shall be fifteen dollars (\$15.00) per request. No fee shall be charged for amending a cause of death on a death certificate.

History Note: Authority G.S. 130A-92(a)(7); 130A-118;
Eff. February 1, 1976;
Amended Eff. October 1, 1977;
Readopted Eff. November 15, 1977;
Amended Eff. June 1, 2005; August 1, 1991; October 1, 1985.

10A NCAC 41H .0704 FEES FOR PREPARING NEW CERTIFICATE: ADOPTION AND LEGITIMATION

A fee of fifteen dollars (\$15.00) shall be charged for preparing a new birth certificate for adoptions and legitimations.

History Note: Authority G.S. 48-9-107; 130A-92(a)(7); 130A-118;
Eff. February 1, 1976;
Amended Eff. October 1, 1977;
Readopted Eff. November 15, 1977;
Amended Eff. June 1, 2005; August 1, 1991; October 1, 1985.

SECTION .0800 - CHANGE OF NAMES

10A NCAC 41H .0801 NORTH CAROLINA COURT ORDERS

For court orders changing a name issued under the authority of North Carolina law, and if the name has not been previously changed, the name on the certificate shall be lined out, and the new name entered. The face of the certificate shall be noted,

"Name changed by court order" with the date of the change. The register of deeds in the county of occurrence shall be notified.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

10A NCAC 41H .0802 OUT-OF-STATE COURT ORDERS

If the court order originates in another state and the name has not been previously changed by court order, the change shall be made in the same manner as those originating in North Carolina. If the name has been previously changed by court order, the statutory authority for the second change from the other state shall be required.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990; May 15, 1979.

10A NCAC 41H .0803 FEDERAL WITNESS PROTECTION PROGRAM

When a court order is issued under the United States Department of Justice Witness Protection Program the certification of birth shall be amended and the court order shall be placed in the sealed file. The register of deeds in the county of birth shall not be notified of changes made pursuant to this Regulation.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. May 15, 1979.

10A NCAC 41H .0804 FILING COURT ORDERS

If the court order is submitted on a form furnished by the State Registrar, it shall be attached to the back of the certificate. Otherwise, the court order shall be retained in permanent files.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. May 15, 1979.

10A NCAC 41H .0805 JUDICIAL DETERMINATION OF PATERNITY

For cases in which a court determines the paternity of an illegitimate child, the father's name shall be added and a copy of the amended certificate shall be forwarded to the register of deeds in the county where the birth occurred. In cases where the mother is married and the court determines the husband is not the father, the husband's name will be lined out, and if also determined by the court, the natural father's name will be added.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Amended Eff. October 1, 1977;
Readopted Eff. November 15, 1977;
Amended Eff. August 1, 1991.

SECTION .0900 - CORRECTIONS AND AMENDMENTS

10A NCAC 41H .0901 ERRORS

(a) The State Registrar may correct errors by his own observation and by request from the individual or institution responsible for filing the original certificate, the informant, or the local registrar or his/her deputized agent. The register of deeds or other office of that county that maintains and certifies records shall be provided all such corrections either by the State Registrar or through the local registrar as provided in Paragraph (b) of this Rule.

(b) Prior to such time as the certificate has been officially registered by the Vital Records Section, each local registrar or his/her deputized agent is empowered to and shall correct errors on a certificate. After such time as the certificate has been officially registered by the Vital Records Section, only the Vital Records Section is empowered to correct errors on a certificate. The local registrar or his/her deputized agent shall be responsible for determining whether the record has been officially registered by the Vital Records Section.

(c) In order to ensure that the county copy of the certificate provides the same information as the original certificate filed in the Vital Records Section, the local registrar or the State Registrar, whomever makes the correction, shall file with the local register of deeds or local health department, whichever maintains and certifies the records, a copy of the certificate in its corrected form. Although the county copies of certificates corrected in this manner shall not be marked "Amended," the words "Corrected Certificate" shall be placed upon the face of the corrected certificate along with a notation indicating the items or sections corrected; the date of the correction; and the signature of the local registrar, the local registrar's deputized agent, or the State Registrar as appropriate.

(d) When a certificate has been corrected as provided in this Rule and has been filed in the appropriate county office, that certificate shall become the official county record. Only the official county record may then be certified.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. January 1, 1992.

10A NCAC 41H .0902 MINOR CORRECTIONS

The following items may be corrected by the State Registrar upon written application on forms provided by the State Registrar properly dated, notarized, and signed by the registrant if of legal age, or one or both of the parents or guardians of a minor child:

- (1) any obvious clerical error,
- (2) addresses,
- (3) occupation,
- (4) birth order,
- (5) spelling of informant's name, and
- (6) spelling of given names of child within four years of birth.

Records corrected as above shall not be marked "amended" but the notarized amendment application will be attached to the back of the original certificate.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

10A NCAC 41H .0903 CORRECTIONS REQUIRING PROOF

The following items may be corrected upon written request on forms prescribed by the State Registrar properly notarized and signed by the registrant if of legal age or by one or both parents or guardians of a minor child provided that the request is supported by at least one piece of documentary evidence:

- (1) state of birth (deaths),
- (2) birthplace of parents (births),
- (3) county of birth,
- (4) spelling of given names of child (births) after four years of birth,
- (5) spelling of father's or mother's name,
- (6) age of parents,
- (7) sex of child if incorrectly recorded,
- (8) date of birth, and
- (9) hour of birth.

For these corrections, except sex of child and hour of birth, the certificates shall be marked "amended" as shall certified copies subsequently issued. All available evidence including any which might not have been submitted by the applicant shall be evaluated by the State Registrar. The existence of inconsistent or conflicting evidence may be considered cause for denying any request for correction in which case the applicant shall be duly advised.

History Note: Authority G.S. 130A-92(a)(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. February 1, 1994; July 1, 1992.

10A NCAC 41H .0904 ADDING NAMES

(a) If a birth certificate does not indicate a given name, the State Registrar shall add the name when requested on a form prescribed by the State Registrar, properly notarized and signed by the registrant if of legal age or by one or both parents or guardians of a minor child. If a person is over five years of age, the request must be supported by at least one piece of documentary evidence. If a person is five years old or younger, the documentary evidence shall be requested but shall not be required if medical or school records have not been established.

(b) If a birth certificate does not indicate a surname, the State Registrar shall add the surname on receipt of a request properly notarized and signed by both parents or guardians if the child was born in wedlock or by the mother or both guardians if born out of wedlock. If the request is supported by documentary evidence, only one signature shall be required. After the child has reached his sixth birthday, documentary evidence of the established surname shall be required to add the surname.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. April 1, 1982.

10A NCAC 41H .0905 CORRECTING FALSIFIED BIRTH CERTIFICATES

(a) For cases in which the mother claims to have falsified information for the birth certificate regarding her marital status or the name of her husband, she shall be required to sign an affidavit to the effect that the original information given at birth was false and provide appropriate proof of the facts to be added to the record. The State Registrar reserves the right to withhold issuance of copies of records known to be falsified (except to a court or other official agency) until the necessary corrections have been made.

(b) If the mother alleges that she was not married at the time of conception or birth the marital status shall be changed, information regarding the father shall be lined through, and the child shall be given the established surname.

(c) If the mother alleges that she had a different husband from the one on the original birth certificate, and the whereabouts of the true husband is unknown or he is dead, the name of the husband shall be lined through and the child will be given the established surname, provided that the mother shows proof of the marriage and proof that the child has been using the surname to be added. The name of the alleged father may be added if his sworn statement that he was married to the mother at the time of conception or birth is furnished, and if no objection is raised by the man who was originally named as the father.

(d) A copy of all such corrected records will be forwarded to the register of deeds in the county of birth.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Amended Eff. October 1, 1977;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990; April 1, 1982.

10A NCAC 41H .0906 AMENDED CAUSES OF DEATH

When the physician or medical examiner who signed the original death certificate chooses to change or add information regarding the cause of death, the information will be submitted on a form provided for that purpose by the State Registrar. For medical examiner cases, the State Medical Examiner or a member of his staff authorized by him, may sign and submit changes to the cause of death using the same form. Upon receipt of the form, properly signed, the State Registrar will mark the face of the certificate "cause amended" and the date, and affix the form to the back of the original death certificate. The State Registrar will send a photocopy of the amended death certificate to the register of deeds in the county where death occurred.

Whenever a certified copy of an amended death certificate is issued by the State Registrar, the copy will include the original certificate and all amendments attached thereto.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;

Readopted Eff. November 15, 1977.

10A NCAC 41H .0907 CORRECTIONS TO DELAYED BIRTH CERTIFICATES

- (a) Except for the year of birth, items on delayed birth certificates may be corrected in accordance with the procedures described in 10A NCAC 41H .0901 to .0903. The year of birth cannot be changed on a delayed birth certificate which was established from records submitted at the time of filing.
- (b) If the year of birth is disputed, the State Registrar may cancel the original delayed birth certificate and file a new one based on new evidence, all of which was established prior to the filing date of the first delayed certificate. The applicant may be required to present such proof directly to the State Registrar.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.*

10A NCAC 41H .0908 PROCEDURES FOR HANDLING DUPLICATE CERTIFICATES

- (a) When two or more certificates for the same event are detected before numbering, determination must be made as to which one is the most complete and accurate. The register of deeds shall be notified as to which one is not to be filed. If duplicates are identical, the one with the earliest filing date will be retained.
- (b) When duplicates are detected after the records are numbered, one must be voided. A note shall be made on the certificate indicating "Void," the date and reason for voiding, and the certificate number of the record which supersedes it.
- (c) For cases in which the record must be filed under a different number, a blank certificate shall be placed where the certificate was removed, and the following items shall be noted on the blank certificate; registration district number, certificate number, name, the word "Void," the date and reason for voiding, and the certificate number of the record which supersedes it.
- (d) A note shall be made on the back of any certificate which supersedes another record referencing the certificate number of the superseded record.

*History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.*

10A NCAC 41H .0909 AMENDMENTS TO BIRTH CERTIFICATES REQUIRING COURT ORDER

Unless otherwise provided by law or regulation, the following amendments may be made on a birth certificate only upon receipt of an order from a court of competent jurisdiction:

- (1) change in the surname of the registrant,
- (2) change in parentage.

*History Note: Authority G.S. 130A-92(7);
Eff. October 1, 1977;
Readopted Eff. November 15, 1977;
Amended Eff. November 1, 1978.*

10A NCAC 41H .0910 VITAL RECORDS AMENDMENT PROCEDURES

- (a) A representative of the State Registrar shall evaluate the evidence submitted in support of any amendment of a vital record. He may accept or reject the amendment. If the amendment is rejected, he shall advise the applicant of the reasons for this action. The existence of inconsistent or conflicting evidence may be considered cause for denying any request for amendment.
- (b) If a request to amend a record is rejected, the applicant may request an opportunity to meet with the State Registrar to present data in support of the requested amendment. The applicant may be represented by legal counsel.
- (c) Examples of documentary evidence which may be used to support vital record amendment requests are: early school records, census records, marriage certificates, birth certificates of family members, rolls of federal or state recognized Indian tribes, baptismal records.
- (d) The Head of the Vital Records Section after reviewing all the evidence, both written and oral, presented on behalf of the applicant to support a vital record amendment shall render a decision and shall inform the applicant in writing of the decision

and the reasons therefor within 45 days. If the decision rendered is not in favor of the applicant, the applicant may request a hearing under the provisions of the North Carolina Administrative Procedure Act.

History Note: Authority G.S. 130A-92(7);
Eff. November 1, 1978;
Amended Eff. December 6, 1991; January 1, 1984.

SECTION .1000 - NEW CERTIFICATES

10A NCAC 41H .1001 NEW CERTIFICATES OF BIRTHS FOLLOWING ADOPTIONS

(a) When a new certificate of birth is prepared by the State Registrar as prescribed in G.S. 48-29, all copies of the original certificate and all other information concerning the original certificate in the possession of any register of deeds shall be forwarded to the State Registrar, who shall file them in accordance with the provisions of G.S. 48-29. In the event such data have been computerized or otherwise automated, a paper copy of the identifying data shall be prepared and sent to the State Registrar. The automated data shall then be removed from the index or otherwise rendered unusable in a manner approved by the State Registrar.

(b) The record pertaining to an adoption shall not be sealed until after the adopting parents are furnished a full certified copy or until they or their legal representatives are notified of the information entered on the new certificate, so that errors can be identified or corrected prior to the sealing of the file. After the file is sealed, corrections and amendments shall be made in accordance with same rules which pertain to birth records of non-adopted persons, except that a copy of the adoption order will be required to correct the name.

History Note: Authority G.S. 48-29(c); 130A-92(7); 130A-118(e);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. May 1, 1991.

10A NCAC 41H .1002 NEW CERTIFICATES OF BIRTH FOLLOWING LEGITIMATIONS

When a new certificate of birth is prepared by the State Registrar as prescribed in G.S. 49-13 and G.S. 130A-118, the register of deeds in the county where birth occurred shall send the original birth certificate to the State Registrar for filing in the sealed file and shall replace it with a copy of the new certificate prepared by the State Registrar.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. October 1, 1984.

10A NCAC 41H .1003 ADOPTIONS AND LEGITIMATIONS: NEW DELAYED CERTIFICATES

For persons whose births are filed on Delayed Certificate of Birth forms who are adopted or legitimated, new Delayed Certificates of Birth shall be prepared by the State Registrar in the same manner as prescribed for regular birth certificates. When certified copies are issued, they shall be typed on regular certified copy forms with the term "Delayed" added.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

10A NCAC 41H .1004 ACCESS TO ORIGINAL RECORDS

Sealed files of adoptions or legitimations shall be opened by the State Registrar upon receipt of a court order or may be opened to verify that the correct record has been placed in the file if there is reason to suspect that the wrong record was placed in the sealed file.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977.

SECTION .1100 - LEGITIMATIONS

10A NCAC 41H .1101 GENERAL

For all legitimations, a new birth certificate shall be prepared. The new birth certificate may reflect a new surname when the conditions of G.S. 130A-118(c) have been met. The new birth certificate shall reflect the mother's or father's surname unless otherwise directed by court order. A copy shall be forwarded to the register of deeds of the county of occurrence who shall return the original copy to the Vital Records Section. All materials pertaining to the legitimation shall be placed in a sealed file.

History Note: Authority G.S. 49-13; 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990.

10A NCAC 41H .1102 LEGITIMATION BY SUBSEQUENT MARRIAGE

- (a) Paragraphs (b) through (h) of this Rule establish the requirements for legitimations by subsequent marriage.
- (b) If no name of the father is shown on the original certificate, affidavits of the mother and father on a form provided by the Vital Records Section, necessary information about the father and child, and proof of marriage are required.
- (c) If the father's name appears on the original birth certificate and it is the man whom the mother married, only proof of marriage is required.
- (d) If the father died before signing an affidavit, court determination of paternity or proof shall be required in lieu of the father's affidavit. Such proof may be hospital records, medical records, tax records, service records, or affidavits from close relatives of the father indicating that the man was the reputed father of the child.
- (e) If the birth certificate shows a father other than the one the mother married, a court determination of paternity will be required.
- (f) If the mother is legally married at the time of conception or birth, but claims that another man is the father and she later marries the natural father, a court determination of paternity shall be required in addition to proof of marriage.
- (g) If the parents of an illegitimate child marry after the child reaches the age of six, additional proof of parentage shall be required such as school or medical records showing the child has used the surname of the father, hospital records or bills paid by the reputed father, or affidavits from relatives of the reputed father.
- (h) For legitimating a child under G.S. 49-12 when another man's name appears on the birth record, proof must be submitted showing that the man named on the certificate is not the father of the child or a court order shall be required to remove the name of one man in order to add the name of another.

History Note: Authority G.S. 49-13; 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990.

SECTION .1200 - REMOVAL OF GRAVES

10A NCAC 41H .1201 REGISTRATION OF GRAVES REMOVED

- (a) Removal of Graves Certificate. A Removal of Graves Certificate provided by the State Registrar shall be used to permanently record the facts pertaining to the relocation of graves.
- (b) Preparation and Filing. The party effecting the removal shall:
 - (1) complete the certificate form by typing or writing plainly with black ink;
 - (2) list the name of each decedent if known; otherwise, enter as much identifying information as may be reasonably determined;
 - (3) use continuation sheets of the same format as the list on the certificate to list additional names as necessary;
 - (4) file the certificate with maps and continuation sheets attached with the register of deeds in the county of disinterment and also in the counties of reinterment within 30 days after completion of the reinterment; and
 - (5) pay the register of deeds a fee of one dollar (\$1.00) for each page or portion of a page recorded.
- (c) Maps. The party effecting removal shall prepare a map of both the disinterment and reinterment sites. The map must precisely describe the disinterment and reinterment sites in such a manner that a layman can easily identify the location of each site. The maps shall include county, nearest city or town, public road or intersection of roads in the vicinity, and any

other information which would be helpful in locating the sites. The graves must be noted and numbered. The names must be listed on the certificate by number, which corresponds with the numbers on the map. The map shall be prepared on the same size paper as the certificate whenever possible.

(d) Filing and Indexing. The register of deeds shall:

- (1) place the certificate with attachments in a loose leaf binder or other appropriate medium;
- (2) cross index the certificates by name of cemetery of disinterment and reinterment; This requirement does not preclude additional cross indexing of the Removal of Graves Certificates by name of decedent when known; provided, that such cross indexing shall be an option of the register of deeds and imposes no extra charge to the party effecting removal; and
- (3) retain the certificates and attachments permanently; In counties using microfilm for recording various documents such as deeds and deeds of trust, these certificates may be processed as the other records.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. September 1, 1990.

10A NCAC 41H .1202 FORMS

Source of Forms. The Removal of Graves Certificate may be obtained from the local register of deeds office. Additional supplies of these forms may be ordered from Vital Records Section.

History Note: Authority G.S. 130A-92(7);
Eff. February 1, 1976;
Readopted Eff. November 15, 1977;
Amended Eff. January 1, 1992; September 1, 1990.

SECTION .1300 - ACCESS TO RECORDS

10A NCAC 41H .1301 INFORMATION NEEDED FOR LOCATING RECORDS

A person wishing to obtain a copy of a vital record or obtain a copy therefrom shall be required to furnish at least the minimum amount of information needed to locate the record. The following minimum amount of information is required to locate a record:

- (1) Births. Registrant's name, father's name (if born in wedlock), mother's full maiden name, date of birth and place of birth;
- (2) Deaths. Name of deceased, age, date of death and place of death;
- (3) Marriages. Name of bride or groom, date of marriage and county where license was issued;
- (4) Divorces. Name of plaintiff or defendant, date of divorce and place of divorce.

History Note: Authority G.S. 130A-92(a)(7);
Eff. October 1, 1977;
Readopted Eff. November 15, 1977;
Amended Eff. January 1, 1984;
Transferred and Recodified from 10 NCAC 7G .1301 Eff. April 4, 1990;
Amended Eff. January 1, 2005; May 1, 1991.

10A NCAC 41H .1302 ISSUANCE OF CERTIFIED COPIES

The State Registrar shall require applicants for certified copies of vital records to complete and sign an application form before issuing such copies. Applicants may also be required to produce identification.

History Note: Authority G.S. 130A-92(7);
Eff. October 1, 1977;
Readopted Eff. November 15, 1977;
Transferred and Recodified from 10 NCAC 7G .1303 Eff. April 4, 1990.

SECTION .1400 - DIVORCE AND ANNULMENT

