

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Licensed Clinical Mental Health Counselors

RULE CITATION: 21 NCAC 53 .1001

DEADLINE FOR RECEIPT: Monday, January 12, 2026.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (4), lines 15-16, thank you for the change in response to pre-review feedback. Unfortunately, “may lead to conduct constituting grounds for discipline as set forth in G.S. 90-340” is unclear and ambiguous. The language of “hinders” through “services” seems to already encompass the “grounds for discipline” described in G.S. 90-340(a)(9)-(12).

Please delete the unclear language or consider using, “that causes conduct constituting grounds for discipline as set forth in G.S. 90-340.” However, I’m not sure if “that causes conduct” provides a clear nexus to the “Impairment.” You may want to consider referencing 21 NCAC 53 .1003-.1004 that speaks to the “investigation” or “Screening” of an “Impairment”.

In (8), line 26, add “(11)” after “90-340”.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis C. Wiggs
RRC Commission Counsel
Submitted to Agency: December 23, 2025

21 NCAC 53 .1001 is adopted as published in 40:06 NCR 578-79 as follows:

SECTION .1000—IMPAIRED PROFESSIONALS PROGRAMS

21 NCAC 53 .1001 DEFINITIONS

(a) The following definitions apply to this Section:

- (1) "Applicant" means a person who has submitted an application to the Board, paid the application fee, and received confirmation of receipt of the application from the Board.
- (2) "Board" means the North Carolina Board of Licensed Mental Health Counselors as defined in G.S. 90-330(1a).
- (3) "Former Licensee" means a person who formerly held a license issued by the Board and whose license was not permanently surrendered, revoked, or suspended.
- (4) "Impairment" means a condition or disorder caused by substance use, burnout, compassion fatigue, or other mental health issue that hinders professional competence or the ability to provide or supervise clinical mental health counseling services, or may lead to conduct constituting grounds for discipline as set forth in G.S. 90-340.
- (5) "Imminent danger" means any condition, disorder, conduct, or practice that poses a risk of death or serious physical, mental, or emotional harm if not abated.
- (6) "Independent Provider" means a mental health or medical provider that the Program has recommended as a service provider to a Participant or a Potential Participant but is not employed by or affiliated with the Program.
- (7) "Licensee" means a person holding an active license issued by the Board.
- (8) "Monitoring" means oversight by Program staff, volunteers, and Independent Providers of Participant's compliance with a Recovery Plan, the purpose of which is to support the Participant's well-being, recovery from Impairment, and ability to practice clinical mental health counseling with reasonable skill and safety in accordance with G.S. 90-340.
- (9) "Participant" means a Licensee, Former Licensee, Potential Applicant, or an Applicant who has executed a Participation Agreement.
- (10) "Participation Agreement" means a written assessment, treatment, or monitoring contract or agreement between the Program and a Participant.
- (11) "Potential Applicant" means a person who has completed a qualifying graduate training program as defined in Rule .0701 of this Chapter and provides an attestation of their intention to apply for licensure by the Board within two years. The attestation form is available on the Board's website at <https://www.ncblcmhc.org/Licensure/Applying>.
- (12) "Potential Participant" means a Licensee, Former Licensee, Potential Applicant, or an Applicant about whom information concerning suspected impairment has been provided to the Board or the

1 Program, including an individual the Board has referred to the Program, or an individual who has
2 self-referred to the Program.

3 (13) "Program" means an impaired professionals program established by the Board or with whom the
4 Board has an agreement or otherwise made arrangements to provide Screening and Monitoring to
5 Potential Participants or Participants who have or may have an Impairment.

6 (14) "Recovery Plan" means a comprehensive strategy to address a Participant's Impairment, including
7 Monitoring and Recovery Services.

8 (15) "Recovery Services" mean services provided to Participants or Potential Participants from
9 Independent Providers, including assessment, substance testing, referrals, treatment, and follow-up
10 care.

11 (16) "Screening" means to meet with a Potential Participant, conduct an investigation of a Potential
12 Participant, gather pertinent personal, professional, physical, and mental health information, and
13 interview collateral sources, when necessary, to determine if a potential Impairment exists and, if
14 so, provide recommendations for a Recovery Plan.

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16 History Note: Authority G.S. 90-334(l);
17 Eff. February 1, 2026.
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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Licensed Clinical Mental Health Counselors

RULE CITATION: 21 NCAC 53 .1002

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In reviewing this Rule, the staff recommends the following changes be made:

Thank you for the changes in response to my pre-review feedback.

On line 4, add "(l)" after "G.S. 90-334".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis C. Wiggs
RRC Commission Counsel
Submitted to Agency: December 23, 2025

21 NCAC 53 .1002 is adopted as published in 40:06 NCR 579 as follows:

21 NCAC 53 .1002 BOARD AGREEMENTS WITH PROGRAMS

(a) The Board may enter into agreements with Programs pursuant to G.S. 90-334.

(b) To meet the Board's requirements to enter into an agreement, a Program shall have staff, volunteers, policies, procedures, and other resources to provide the following services:

(1) Performing Screening of Potential Participants and Monitoring of Participants;

(2) Formulating and Implementing Recovery Plans for Participants;

(3) Conducting evaluations and recommendations of Independent Providers of Recovery Services;

(4) Maintaining the confidentiality of information, documentation, and records received concerning Potential Participants and Participants in accordance with Rule .1005 of this Section;

(5) Submitting reports and information to the Board consistent with Rules .1004 and .1005 of this Section; and

(6) Providing a process by which Participants and Potential Participants may challenge or appeal a determination by the Program regarding the Participant or Potential Participant.

(c) The Board shall conduct an annual review of the operations of any Program under an agreement to receive referrals of Potential Participants and Participants to determine the Program's compliance with the requirements in Paragraph (b) of this Rule and the Program's agreement with the Board.

(d) In connection with the annual review, the Program shall provide the Board with a report of an annual financial audit for the preceding year.

History Note: Authority G.S. 90-334(l); 90-340

Eff. February 1, 2026.

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AGENCY: Board of Licensed Clinical Mental Health Counselors

RULE CITATION: 21 NCAC 53 .1005

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In reviewing this Rule, the staff recommends the following changes be made:

In (c), line 16, "without delay" is ambiguous. Please be more specific.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis C. Wiggs
RRC Commission Counsel
Submitted to Agency: December 23, 2025

21 NCAC 53 .1005 is adopted as published in 40:06 NCR 580 as follows:

21 NCAC 53 .1005 CONFIDENTIALITY

(a) The Program shall maintain records on all Potential Participants and Participants, and the records, including those obtained from Independent Providers, treating professionals, and other third parties concerning Potential Participants or Participants, shall remain confidential in accordance with G.S. 90-340(f).

(b) Information and documentation received by the Program regarding a Potential Participant or Participant shall remain confidential and shall not be released to the Board, except as set forth in Rule .1004 of this Section, unless the Program determines that the Potential Participant or Participant:

(1) constitutes an Imminent Danger to client care, the public, or himself or herself for any reason;

(2) is unable to practice clinical mental health counseling with reasonable skill and safety consistent with G.S. 90-340(a)(11); or

(3) refuses to cooperate with the Program, including failing to submit to assessment or treatment recommended by the Program or failing to comply with the terms of a Participation Agreement.

(c) Information and documentation about a Participant who meets any of the criteria of Subparagraphs (b)(1) through (b)(3) of this Rule shall be provided without delay to the Board along with evidence of the events leading to the report.

(d) Becoming a Participant or consenting to Screening by the Program shall not create a clinical or treatment relationship between the Program and Participants or Potential Participants.

History Note: Authority G.S. 90-334(l); G.S. 90-340
Eff. February 1, 2026.