

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

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32B .1002

DEADLINE FOR RECEIPT: May 12, 2023

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:

Generally, to the Rule: Explain the Board's authority to adopt the Rule when G.S. 90-5.1, which is cited as authority, limits the Board's authority to rulemaking for Article 1 of Chapter 90 of the North Carolina General Statutes. Further, G.S. 90-178.4(b)(5) authorizes the "joint subcommittee" of G.S. 90-18.2 to adopt rules for "(5) The procedure for establishing physician supervision" required by Article 10A of Chapter 90, more specifically G.S. 90-178.3(b).

In Paragraph (a)(2), "be accountable" is unclear and ambiguous.

In Paragraph (a)(3), the manner in which a physician is to "assure" the nurse midwife is qualified is unclear and ambiguous.

In Paragraph (a)(3), it is also unclear what educational and competency standards the physician is to assure. Consider a reference to clear and unambiguous qualifications contained in a statute or another rule would suffice.

In Paragraph (a)(3) and Paragraph (b), it is unclear what the Board means by "medical acts". While the term is used in G.S. 90-178.2, this does not appear to be a defined term in either the Board's rules or the General Statutes.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: May 3, 2023

1 21 NCAC 32B .1002 is adopted as published in 37:12 NCR 902-203 as follows:

2

3 **21 NCAC 32B .1002 PHYSICIAN SUPERVISION OF NURSE MIDWIVES**

4 (a) A physician wishing to serve as a supervising physician for a certified nurse midwife shall exercise supervision
5 of the nurse midwife in the following manner:

6 (1) Comply with the procedures for establishing physician supervision as set out in 21 NCAC 33 .0104.

7 (2) Be accountable for the certified nurse midwife’s activities and professional conduct.

8 (3) Assure that the certified nurse midwife is qualified by education, training, and competence to
9 perform all medical acts.

10 (b) For purposes of this Rule, “supervision” shall mean the physician’s function of overseeing the medical acts
11 performed by the certified nurse midwife.

12

13 *History Note: Authority G.S. 90-5.1(a)(3);*

14 *Eff. June 1, 2023.*

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

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32M .0107

DEADLINE FOR RECEIPT: May 12, 2023

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 general, please explain the Medical Board's authority to amend the Rule in the absence of the approval of the North Carolina Board of Nursing pursuant to G.S. 90-8.2(a).

Page 1, Line 6: Is "continuing education" the same as "Continuing Education Activity" pursuant to 21 NCAC 36 .0120? If so, please use "continuing education activity" throughout the rule. If not, define "continuing education".

Page 1, Line 7-8: What is "advance practice nursing population focus on the NP role"? This is unclear.

Page 1, Line 8: As the ANCC is a national credentialing body as defined in 21 NCAC 36 .0801, consider removing its specific mention as it is redundant.

Page 1, Lines 9-10: Define "relevant courses". How do "relevant courses" "approve" "hours"?

Page 1, Line 11: Either define "controlled substances" or make reference to another rule. Eg. "Every nurse practitioner who prescribes controlled substances pursuant to Rule 21 NCAC 36 ___ shall..."

Page 1, (b), Lines 11-15: Is (b) notwithstanding (c)? In other words, if a NP has a national certification, do they still need the one hour of CE required in (b) to prescribe controlled substances?

Page 1, (b), Lines 11-15: If it meets the Boards' intentions, consider:

"(b) Prior to prescribing controlled substances as the same are defined in _____, nurse practitioners shall have completed a minimum of one CE hour within the preceding 12 months on one or more of the following topics:

William W. Peaslee
Commission Counsel

Date submitted to agency: May 3, 2023

- (1) Controlled substances prescription practices;
- (2) Prescribing controlled substances for chronic pain management;
- (3) Recognizing signs of controlled substance abuse or misuse; or
- (4) Non-opioid treatment options as an alternative to controlled substances.

The one hour of CE required by this paragraph supplants and is not in addition to, the CE required by Paragraph (a).”

Page 1, (c), Lines 16-17: What is the Boards’ authority to replace CE hours with a national certification. Please see G.S. 90-14(a)(15)?

Page 1, (c), Lines 16-17: Consider whether paragraph (c) should just be a part of (a).

Page 1, (d), Lines 18-19: Consider: “Documentation of all CE completed within the previous five years shall be maintained by the NP and made available upon request.”

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

William W. Peaslee
Commission Counsel

Date submitted to agency: May 3, 2023

1 21 NCAC 32M .0107 is amended as published in 37:12 NCR 902-203 as follows:

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

21 NCAC 32M .0107 CONTINUING EDUCATION (CE)

(a) In order to maintain nurse practitioner approval to practice, the nurse practitioner shall ~~maintain certification as a nurse practitioner by a national credentialing body identified in Rule .0101(8) of this Subchapter and~~ earn 50 contact hours of continuing education ~~each year, every two years,~~ beginning with the first renewal after initial approval to practice has been granted. A minimum of 20 hours of the required 50 hours must be in the advanced practice nursing population focus of the NP role for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), other national credentialing bodies, or practice-relevant courses in an institution of higher learning.

(b) Every nurse practitioner who prescribes controlled substances shall complete at least one hour of the total required continuing education (CE) hours annually consisting of CE designed specifically to address controlled substance prescribing practices and controlled substance prescribing for chronic pain management. CE that includes recognizing signs of the abuse or misuse of controlled substances, or non-opioid treatment options shall qualify for the purposes of this Rule.

(c) A nurse practitioner who possesses a current national certification by a national credentialing body shall be deemed in compliance with the requirement of Paragraph (a) of this Rule.

~~(d)~~ Documentation of all continuing education shall be maintained by the nurse practitioner for the previous five calendar years and made available upon request to either Board.

*History Note: Authority G.S. 90-5.1(a)(3); 90-8.2; 90-18(c)(14); S.L. 2015-241, s. 12F;
Eff. January 1, 1996;
Amended Eff. August 1, 2004; May 1, 1999;
Recodified from Rule .0106 Eff. August 1, 2004;
Amended Eff. December 1, 2009; April 1, 2008;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;
Amended Eff. May 1, 2023; June 1, 2021; March 1, 2017; June 1, 2023.*