

21 NCAC 10 .0208 is amended as published in 36:11 NCR 970-972 as follows:

21 NCAC 10 .0208 ACUPUNCTURE

~~(a) Until July 1, 2008, in~~ In order to perform acupuncture, a licentiate or applicant for licensure ~~must~~ shall first certify to the Board that he or she has completed a minimum of ~~100 hours' coursework in acupuncture meridian therapy, including sterile needle technique, theory of acupuncture and differential diagnosis of clinical indications. 200 hours of instruction sponsored or given by a chiropractic college accredited by the Council on Chiropractic Education or a college or university accredited by an accrediting body recognized by the US Department of Education. The 200 hours of instruction must contain at least 30 percent practical, hands-on hours. Individual classes can only be taken once for credit. To perform acupuncture, a licentiate shall also take the National Board of Chiropractic Examiners Acupuncture Examination and receive a passing score of 375 or greater. This coursework must be offered as either part of the curriculum leading to the Doctor of Chiropractic degree or at the post doctoral level, and by a college accredited pursuant to G.S. 90-143(b). Beginning July 1, 2008, in order to perform acupuncture, a licentiate or applicant for licensure must first certify to the Board that he has completed a minimum of 200 hours of the above-described coursework; provided, that this requirement of 200 hours' coursework shall apply only to a licentiate or applicant for licensure whose initial certification date falls on or after July 1, 2008. Any licentiate certified prior to July 1, 2008 may continue to perform acupuncture without obtaining additional education.~~

(b) Prior to performing acupuncture, a licentiate or applicant for licensure must provide the Board with the following:

(1) An official transcript from an accredited acupuncture program demonstrating completion of the 200 hours of instruction described in this Rule; and

(2) Proof of successful completion of the acupuncture examination described in this Rule.

(c) Licentiates holding an active license as of December 31, 2022 and who have received prior approval from the Board to perform acupuncture are not required to meet the requirements of this rule. However, if a licentiate grandfathered under this rule subsequently allows his or her license to lapse or if the license is subsequently subject to active suspension or placed in a status other than active, the licentiate shall be required to comply with this rule before being permitted to perform acupuncture.

History Note: Authority G.S. 90-142; 90-143; 90-151;

Eff. February 1, 2004;

Amended Eff. July 1, 2006;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019, 2019;

Amended Eff. July 1, 2022.

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

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0217

DEADLINE FOR RECEIPT: Friday, June 10, 2022.

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, are you relying on the provisions of Ch 55B for authority to regulate the names of professional entities? I see you've cited to 55B-12 which gives the licensing board the authority to adopt rules implementing 55B, but which specific sections of 55B are you relying on? Please add them to your History Note.

With respect to (a), where is your statutory authority for the Board to approve articles of incorporation or organization?

With respect to (b) and (c), where is your statutory authority to define and regulate "misleading" names? I'm particularly concerned in light of the changes made by SL 2021-120 to G.S. 90-154(b)(1) deleting "Advertising services in a false or misleading manner" as a grounds for disciplinary action.

In (b), lines 8-9, does this conflict with G.S. 90-154.2(4) which states that it is unethical conduct to fail to use the words "Chiropractic Physician, Chiropractor or the initials D.C. in conjunction" with the chiropractor's name on all signs, advertising, etc.?

In (b), line 10, "misleading" is defined as "possessing the capacity or tendency to create a mistaken understanding or impression." A mistaken understanding or impression of what?

Also in (b), line 11, what exactly is the "scope of practice"? Where in Art. 8, Ch. 90 is this defined? Does your regulated public know what services fall outside the scope?

In (c), line 13, please define "similar in name."

In (c), line 14, please define or delete "primary".

In (c)(2), line 18, from whom should the entity obtain permission to use the name of a deceased or retired owner?

Brian Liebman
Commission Counsel
Date submitted to agency: June 1, 2022

In (f), where is your statutory authority to regulate assumed names?

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

21 NCAC 10 .0217 is adopted as published in 36:11 NCR 970-972 as follows:

21 NCAC 10 .0217 PROFESSIONAL ENTITIES

(a) A chiropractor who seeks to deliver chiropractic services through a professional corporation or professional limited liability company shall obtain Board approval for such entity's Articles of Incorporation/Organization prior to filing such Articles with the Secretary of State.

(b) No proper names of persons other than licensees may be included in the name and all professional entities must include the word "Chiropractor," "Chiropractic," or the name of a licensed chiropractor who is an owner of the professional entity. The name of a professional entity shall not be false or misleading. For the purposes of this rule, "misleading" is defined as possessing the capacity or tendency to create a mistaken understanding or impression. Misleading includes a name that implies services beyond the scope of practice set forth in Art. 8, Chapter 90 of the NC General Statutes.

(c) The professional entity may not be identical or so similar in name to an existing registered business entity as to be misleading. Business entities organized for the primary purpose of providing professional chiropractic services shall not contain the name of an individual unless:

(1) The named individual is licensed under this statute; or

(2) The named individual is either a deceased or retired owner of the business, provided that the professional entity has permission to use the name of the deceased or retired owner.

(d) The professional entity shall specify its business structure in all printed material and social media by use of the designation "P.C.," "P.A.," or "P.L.L.C."

(e) If a living owner of a professional entity whose surname appears in the entity name becomes a "disqualified person" as defined in G.S. 55B-2, the name of the professional entity shall be changed to comply with G.S. 55B.

(f) A professional entity shall not change its name or operate under an assumed name without first applying to the Board for a determination that the proposed name meets the requirements of this Rule. Requests for name changes and requests to operate under an assumed name shall be submitted in writing to the Board. Requests shall contain the following:

(1) Name, email address, and phone number of the requesting person;

(2) Name, email address, and phone number of the incorporating licensee;

(3) Requested name of the professional corporation; and

(4) Mailing address of the professional corporation.

Use of an assumed name that has not been registered pursuant to Art. 14A of G.S. 66 shall be prima facie evidence of using a misleading name.

*History Note: Authority G.S. 90-154.2; 90-157.3; 55B-12;
 Eff. July 1, 2022.*