

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0203

DEADLINE FOR RECEIPT: Friday, September 9, 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 paragraph (b), what is the standard used to determine when the examinations will be held? The language, "will be scheduled based on the number of applications received", is vague and does not provide a sufficient basis upon which this determination will be made.

In paragraph (b), line 9, remove the comma after "advance", after the following "and" insert "shall publish", and delete "shall be published" to use an active verb and avoid any confusion.

Since the Physiotherapy examination is first mentioned in paragraph (c), either use the same language found in subparagraphs (e)(2) and (3) for paragraph (c) for uniformity or use the same language in those subparagraphs for paragraph (c) then switch the subparagraphs to the language in paragraph (c). In short, "and the elective examination termed 'Physiotherapy,'" should come first as a descriptive term.

In paragraph (e), "SPEC" should have the full-term Special Purpose Examination for Chiropractic ("SPEC") since it is the first time used. Also, remove the full-term from paragraph (f).

In paragraph (e), lines 32-33, G.S. 90-143.3 and .0202 are confusingly placed within the sentence. Based on the substance of the statute and rule, the sentence reads the applicant shall take and pass the exams pursuant to the criminal records check for applicants and application requirements for licensure. It would read better as "Examination. An applicant who qualifies for a waiver of any Nation Board score shall maintain compliance with G.S. 90-143.3 and Rule .0202 of this Chapter."

What is being required in paragraph (g)? Is there any way to provide more information regarding the examination or cross-reference?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

1 21 NCAC 10 .0203 is amended as published in 36:22 NCR 1798-1799 as follows:

2
3 **21 NCAC 10 .0203 NORTH CAROLINA EXAMINATION**

4 (a) Eligibility. Only those applicants who meet the requirements of this Rule and G.S. 90-143 or, in the case of
5 reciprocity applicants, G.S. 90-143.1, and who have submitted a written application and paid the non-refundable
6 application fee pursuant to Rule 21 NCAC 10 .0202 shall be allowed to take the North Carolina examination.

7 (b) Dates of Examination. The North Carolina examination shall be given at least four times during the calendar year
8 and will be scheduled based on the number of applications received. The Board shall announce an examination date
9 not less than 30 days in advance, and the date of upcoming examinations shall be published on the Board's website,
10 www.ncchiroboard.com. The Board shall also individually notify each eligible applicant of the date of the next
11 examination after the applicant's non-refundable application fee has been paid and the written application completed.

12 (c) National Boards. Except as provided in Paragraph (e) of this Rule, in order to take the North Carolina examination,
13 an applicant who has never been licensed in this State or who is not a reciprocity applicant shall first achieve a score
14 of 375 or higher on Parts I-IV ~~of the examinations~~ and the Physiotherapy examination given by the National Board of
15 Chiropractic Examiners.

16 (d) Report of Scores. The applicant shall arrange for his or her test results from any National Board examination to
17 be reported to the North Carolina Board. Failure to comply with this Paragraph shall be a basis for delaying the
18 issuance of a license.

19 (e) Waiver of National Boards. Notwithstanding the requirements of Paragraph (c) of this Rule, an applicant who
20 submits National Board examinations in conformity with the following schedule shall not be disqualified from
21 licensure in North Carolina:

- 22 (1) An applicant who graduated from chiropractic college before July 1, 1966 shall not be required to
23 submit a score from any National Board examination.
- 24 (2) An applicant who graduated from chiropractic college between July 1, 1966 and June 30, 1986 shall
25 be required to submit scores of 375 or higher on National Board Part I, Part II, and the elective
26 examination termed "Physiotherapy," but shall not be required to submit a score on Part III (WCCE)
27 or Part IV.
- 28 (3) An applicant who graduated from chiropractic college between July 1, 1986 and June 30, 1997 shall
29 be required to submit scores of 375 or higher on National Board Part I, Part II, the elective
30 examination termed "Physiotherapy," and Part III, but shall not be required to submit a score on Part
31 IV.

32 In order to receive a license, an applicant who qualifies for a waiver of any National Board score shall take and pass
33 the SPEC examination and the North Carolina Examination pursuant to G.S. 90-143.3 and Rule .0202 of this Chapter.

34 (f) SPEC Examination. In order to take the North Carolina examination, a reciprocity applicant, a waiver applicant
35 pursuant to Paragraph (e) of this Rule, or an applicant previously licensed in this State whose license has been
36 cancelled pursuant to G.S. 90-155 for more than 180 days shall first take and pass the Special Purpose Examination
37 for Chiropractic ("SPEC"). The SPEC exam is administered by the National Board of Chiropractic Examiners. The

1 passing score shall be 375 or higher. Reciprocity applicants and waiver applicants pursuant to Paragraph (e) of this
2 Rule who have achieved a score of 375 or higher on Part IV of the National Board examination shall not be required
3 to take and pass the SPEC exam prior to licensure.

4 (g) Nature of Examination. The North Carolina examination shall be a test of an applicant's knowledge of North
5 Carolina chiropractic jurisprudence. The passing grade shall be 75 percent.

6
7 *History Note: Authority G.S. 90-142; 90-143; 90-143.1; 90-143.3; 90-144; 90-145; 90-146;*
8 *Eff/ February 1, 1976;*
9 *Readopted Eff. January 27, 1978;*
10 *Amended Eff. January 1, 1983; October 17, 1980;*
11 *Legislative Objection Lodged Eff. January 31, 1983;*
12 *Curative Amendment Eff. February 18, 1983;*
13 *Temporary Amendment Eff. May 1, 1998;*
14 *Amended Eff. October 1, 2018; April 1, 2018; February 1, 2009; July 1, 2004; August 1, 2000;*
15 *August 1, 1995; December 1, 1988;*
16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27,*
17 *2019;*
18 *Amended Eff. October 1, 2022; July 1, 2021.*

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

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0503

DEADLINE FOR RECEIPT: Friday, September 9, 2022

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

In paragraph (a), what is the Board's Practice Act? What are the relevant procedures and standards of violations of the Board's Practice Act? Where can they be found? Also, who is the person or what is the entity making the determination for possible violations of the Board's Practice Act? What is the Investigative Report, and how is it generated (i.e., by what procedure)?

In paragraph (a), line 32, what party to the violation is being referenced for the informal conference?

For what reason is the rule and paragraph .0103(c) referenced in subparagraph (b)(2) of this Rule? It seems unrelated since that subparagraph does not specifically reference the election and is the only part of the election rule being cited.

In subparagraph (d)(2), what does the Non-Disciplinary Letter of Caution entail? What are the procedures and effects of the letter?

G.S. § 90-142 should be added to the authority section.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: September 2, 2022

1 21 NCAC 10 .0503 is amended with changes as published in 36:17 NCR 1436-1437 as follows:

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3 **21 NCAC 10 .0503 DETERMINATION OF PROBABLE CAUSE**

4 ~~(a) General. Complaints deemed likely to have occurred, based on the findings of the Investigative Report, shall be~~
5 ~~referred to the Chiropractic Review Committee. The committee shall hold a hearing to determine whether there is~~
6 ~~probable cause to believe a violation of the laws governing Chiropractic has occurred.~~

7 ~~(b) Composition of Chiropractic Review Committee. The committee shall be composed of:~~

8 (1) ~~the secretary of the Board of Examiners. If the secretary is unable to attend a specific probable cause~~
9 ~~hearing, he or she may designate another physician member of the Board to serve and assume his~~
10 ~~or her duties at said hearing;~~

11 (2) ~~an alternate Board member. "Alternate Board member" means:~~

12 (A) ~~a former Board member selected by the secretary;~~

13 (B) ~~a current Board member selected by the secretary; or~~

14 (C) ~~a licensee selected by the secretary from among those who, at any election held pursuant~~
15 ~~to Rule .0103(e) of this Chapter, have been elected nominees for Board membership but~~
16 ~~not appointed to the Board.~~

17 ~~(c) Notice of hearing. The secretary shall provide notice of the probable cause hearing in accordance with G.S. 150B-~~
18 ~~38(b).~~

19 ~~(d) Conduct of Probable Cause Hearing. The secretary, or designee per Subparagraph (b)(1) of this Rule, shall preside~~
20 ~~over the probable cause hearing. The Chiropractic Review Committee may consider evidence at the probable cause~~
21 ~~hearing that would not be admissible if offered at the hearing in a contested case.~~

22 ~~(e) Action by the Chiropractic Review Committee. After examining the evidence presented at the probable cause~~
23 ~~hearing, the Chiropractic Review Committee shall dispose of each charge in a complaint as follows:~~

24 (1) ~~If no probable cause exists to believe that a violation of G.S. 90-154 has occurred, the charge shall~~
25 ~~be dismissed;~~

26 (2) ~~If probable cause exists to believe that a violation of G.S. 90-154 has occurred, and if the Committee~~
27 ~~and licensee at issue fail to resolve the matter through settlement, the case shall be considered a~~
28 ~~"contested case" and set for hearing before either the Board, or an Administrative Law Judge at the~~
29 ~~NC Office of Administrative Hearings, in accordance with G.S. 150B-40.~~

30 (a) General. Complaint allegations [deemed likely to have occurred,] that could be considered violations of the Board's
31 Practice Act, based on the findings of the Investigative Report, shall be referred to the Disciplinary Review Committee
32 (DRC). The DRC shall conduct an informal conference with the party in order to consider the possibility of resolving
33 the complaint.

34 (b) Composition of the DRC. The DRC shall be composed of:

35 (1) The Board Secretary; and

1 (2) Either a former Board member or a licensee from among those who, at any election held pursuant
2 to Rule .0103(c) of this Chapter, have been elected nominees for Board membership but not
3 appointed to the Board. The Board Secretary shall select the second DRC member.

4 (c) The Board Secretary shall preside over the conference.

5 (d) Action by the DRC. The DRC shall dispose of each complaint charge as follows:

6 (1) Dismissal of the complaint with no action;

7 (2) Non-Disciplinary Letter of Caution;

8 ~~(2)~~(3) Resolution by settlement; or

9 ~~(3)~~(4) Scheduling for contested case hearing and whether the case shall be set before either the Board or an
10 Administrative Law Judge in accordance with G.S. 150B-40(e).

11
12 *History Note: Authority G.S. 90-141; 90-143; 90-154;*
13 *Eff. December 1, 1988;*
14 *Amended Eff. October 1, 2016;*
15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27,*
16 *2019;*
17 *Amended Eff. October 1, 2022; January 1, 2020.*

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

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0803

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

G.S. § 90-142 and 90-149 should be added to the History Note: Authority section.

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: September 2, 2022

1 21 NCAC 10 .0803 is adopted as published in 36:17 NCR 1436-1437 as follows:

2

3 **21 NCAC 10 .0803 FEE SCHEDULE**

4 (a) The Board shall charge the following fees:

5 (1) License application: \$300.00;

6 (2) License renewal: \$300.00;

7 (3) Certification of Competence: \$35.00;

8 (4) Renewal of Certification of Competence: \$50.00;

9 (5) Corporate registration: \$50.00;

10 (6) Corporate registration renewal: \$25.00; and

11 (7) Predetermination request: \$45.00.

12 (b) All fees charged by the Board are non-refundable.

13

14 *History Note: Authority G.S. 55B-10; 55B-11; 90-143.2; 90-143.4; 90-155; 93B-8.1;*

15 *Eff. October 1, 2022.*