

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

AGENCY: N.C. Board of Nursing

RULE CITATION: 21 NCAC 36 .0228

DEADLINE FOR RECEIPT: November 6, 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: Throughout the rule the Board is governing itself. "The Board shall approve..." I think the Board is attempting to establish prerequisites for application or licensure. Here the Board is restricting itself. While not objectionable on this basis, this rule is oddly written.

Page 1, Line 5: Is this regulatory scheme an approval for someone to become a clinical nurse specialist (CNS), or for a previously approved CNS to be approved to perform "advanced practice registered nursing activities"?

21 NCAC 36 .0120 (6) "Advanced Practice Registered Nurse (APRN)" means a nurse practitioner, nurse anesthetist, nurse-midwife, or clinical nurse specialist.

Accordingly, any clinical nurse specialist is also an APRN.

Can any APRN perform the "activities listed in Paragraph (f)" or only those that are a CNS?

Page 1, Line 8, and Page 3, Line 5: What does the Board mean by "unencumbered"? Pursuant to what statute or rule would a license be "encumbered"?

Page 1, Lines 10-12: As written, a person with a previous license from another state must still have that license. Was that the Board's intention? I think what the Board intended was either that the person was not previously disciplined or at the time of the termination of the license from the other state the license was unrestricted. (Note the word "and" in Line 16 by which each requirement in subparagraph (b)(1)-(4) is required. Accordingly, someone with a spotless out-of-state CNS license who let their expire could not be approved by the Board until they got the out-of-state license back.)

Line 15: It appears that there should either be a comma after "accreditation".

William W. Peaslee
Commission Counsel

Date submitted to agency: October 23, 2023

Page 1, Lines 15-16: Why is the language “and meets the qualifications for ...” necessary when this is required in Paragraph (b)(4)? Can’t the sentence simply end at “Accreditation.”?

Or does the Board mean that an applicant can have a master’s degree without a certification so long as the applicant would meet the qualifications for certification by a Board-approved national credentialing body? In which case, how would the Board tell if the applicant had the qualifications in the absence of a certification?

Page 1, Line 17-18: It add clarity is this subparagraph was written as follow. “has current certification as a clinical nurse specialist from a national credentialing body approved by the Board pursuant to Subparagraph (b)(4) of this rule;” As “national credentialing body” is a defined term it is unnecessary to cite to the definition; however, if the Board feels compelled to cite the definition do so immediately after the term.

Page 1, Line 20: What does the Board mean by “active”?

Page 1, Line 21: What does the Board mean by “related field”?

Page 1, Line 22: Define “new graduates”.

Page 1, Lines 22-25: But for the applicants that meet the qualifications of Paragraph (c), don’t all applicants have all applicants have to meet the qualifications of Subchapter (b)(1) and the requirements of Part (g)(3)(A)? If true, why is this Paragraph necessary?

Page 1, Line 26: Seeking approval for what? A “certified nurse specialist” is already a CNS and accordingly is already an APRN.

Page 1, Lines 26-29: As written, a recently approved CNS would need to take a “refresher course”. Was that the Board’s intention?

Page 1, Line 30: “Limited clinical specialist recognition” is an undefined term and concept, and is only used in the rule. It needs to be defined.

Page 2, Line 19: Is the application a form provided by the Board? If so, by what rule are the contents and substantive requirements prescribed?

Page 2, Lines 20, 22, and 25: What does the Board mean by “evidence”? Would a snapshot of a diploma due? What about an affidavit from the applicant attesting to graduation?

Page 2, Line 24: How can a “registered nurse seeking approval” renew the approval if they have not received approval? If the Board wants the approval to expire after two years, this Subparagraph is not the place to require this.

Page 2, Line 30: It appears that a word is missing prior to “at least”. Perhaps “have” or “possess”?

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Page 2, Lines 29-35, Parts (B) and (C): It is unclear whether the Board is requiring 75 contact hours or 150 contact hours or 225 contact hours.

Page 2, Lines 29-35, Parts (B) and (C): It is unclear whether “every five years” relates to the contact hours or pharmacotherapeutic contact hours.

Page 2, Line 36: Do not use the initialism “CNS” unless it is defined in this rule or in a definition rule.

Page 3, Line 1: What documentation is the Board requiring?

Page 3, Line 1: Five years previous to what? The time of application?

Page 3, Line 2: Consider striking “and” and replacing with “which shall be”.

Page 3, Lines 3-7: As written, the Board is required to approve any national credentialing bodies so long as the body meets the criteria of Subparagraphs (1) and (2) and the Board cannot reject a body for any other reason? Is that the Board’s intention?

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

1 21 NCAC 36 .0228 is adopted as published in NCR 38:01, pages 21-23 as follows:

2
3 **21 NCAC 36 .0228 CLINICAL NURSE SPECIALIST PRACTICE**

4 (a) Only a registered nurse who meets the qualifications outlined in Paragraph (b) of this Rule shall be approved by
5 the Board as a clinical nurse specialist to perform advanced practice registered nursing activities listed in Paragraph
6 (f) of this Rule.

7 (b) The Board shall approve an applicant who:

8 (1) has an active, unencumbered license to practice as a registered nurse in North Carolina or a state
9 that has adopted the Nurse Licensure Compact;

10 (2) has an unrestricted previous approval, registration, or license as a clinical nurse specialist if
11 previously approved, registered, or licensed as a clinical nurse specialist in another state, territory,
12 or possession of the United States;

13 (3) has successfully completed a master's or higher-level degree program that is accredited by a nursing
14 accrediting body approved by the United States Secretary of Education or the Council for Higher
15 Education Accreditation and meets the qualifications for clinical nurse specialist certification by an
16 approved national credentialing body under Subparagraph (b)(4) of this Rule; and

17 (4) has current certification as a clinical nurse specialist from a national credentialing body approved
18 by the Board, as defined in Paragraph (h) of this Rule and 21 NCAC 36 .0120(33).

19 (c) An applicant certified as a clinical nurse specialist by a national credentialing body prior to January 1, 2007 who
20 has maintained that certification and active clinical nurse specialist practice and holds a master's or higher degree in
21 nursing or a related field shall be approved by the Board as a clinical nurse specialist.

22 (d) New graduates seeking first-time clinical nurse specialist approval in North Carolina shall hold a master's or
23 higher-level degree or a post-graduate certificate from a clinical nurse specialist program accredited by a nursing
24 accrediting body approved by the United States Secretary of Education or the Council for Higher Education
25 Accreditation and shall meet all requirements in Subparagraph (b)(1) and Part (g)(3)(A) of this Rule.

26 (e) A certified clinical nurse specialist seeking Board approval who has never practiced as a clinical nurse specialist
27 or has not practiced in more than two years shall complete a clinical nurse specialist refresher course approved by the
28 Board in accordance with 21 NCAC 36 .0220(o) and (p), consisting of common conditions and their management
29 related to the clinical nurse specialist's area of education and certification. A clinical nurse specialist refresher course
30 participant shall be granted limited clinical nurse specialist recognition that is specific to clinical activities taught in
31 the refresher course.

32 (f) The scope of practice of a clinical nurse specialist shall incorporate the basic components of nursing practice as
33 defined in Rule .0224 of this Section as well as the understanding and application of nursing principles at an advanced
34 practice registered nurse level in the area of clinical nursing specialization in which the clinical nurse specialist is
35 educationally prepared and for which competency is maintained, including:

36 (1) assessing clients' health status, synthesizing and analyzing multiple sources of data, and identifying
37 alternative possibilities as to the nature of a healthcare problem;

- 1 (2) diagnosing and managing clients' acute and chronic health problems within the essential core
- 2 competencies for professional nursing education;
- 3 (3) assessing for and monitoring the usage and effect of pharmacologic agents within the essential core
- 4 competencies for professional nursing education;
- 5 (4) formulating strategies to promote wellness and prevent illness;
- 6 (5) prescribing and implementing therapeutic and corrective non-pharmacologic nursing interventions;
- 7 (6) planning for situations beyond the clinical nurse specialist's expertise and consulting with or
- 8 referring clients to other health care providers as appropriate;
- 9 (7) promoting and practicing in collegial and collaborative relationships with clients, families, other
- 10 health care professionals, and individuals whose decisions influence the health of individual clients,
- 11 families, and communities;
- 12 (8) initiating, establishing, and using measures to evaluate health care outcomes and modify nursing
- 13 practice decisions;
- 14 (9) assuming leadership for the application of research findings for the improvement of health care
- 15 outcomes; and
- 16 (10) integrating education, consultation, management, leadership, and research into the clinical nurse
- 17 specialist role.

18 (g) A registered nurse seeking approval by the Board as a clinical nurse specialist shall:

- 19 (1) submit a completed application that includes the following:
 - 20 (A) evidence of a master's or higher-level degree or a post-graduate certificate, as set out in
 - 21 Subparagraph (b)(3) or Paragraph (d) of this Rule; and
 - 22 (B) evidence of current certification in a clinical nursing specialty from a national credentialing
 - 23 body, set out in Subparagraph (b)(4) of this Rule.
- 24 (2) renew the approval every two years at the time of registered nurse renewal; and
- 25 (3) submit evidence of the following:
 - 26 (A) initial certification and re-certification by a national credentialing body at the time such
 - 27 occurs in order to maintain Board recognition, consistent with Paragraphs (b) and (h) of
 - 28 this Rule; or
 - 29 (B) if recognized by the Board as a clinical nurse specialist without national certification prior
 - 30 to April 1, 2023, at least 1,000 hours of practice and 75 contact hours of continuing
 - 31 education with 25 contact hours of pharmacotherapeutics as a portion of the mandatory 75
 - 32 contact hours every five years; or
 - 33 (C) if recognized by the Board as a clinical nurse specialist without national certification prior
 - 34 to April 1, ~~2024~~, 2023, 150 contact hours of continuing education with 50 contact hours of
 - 35 pharmacotherapeutics as a portion of the 150 contact hours every five years.

36 Part (B) and (C) of this Subparagraph does not apply to first time CNS' renewing their application
37 for the first time.

1 (4) maintain documentation of clinical practice hours and continuing education for the previous five
2 years and made available upon request of the Board.

3 (h) The Board shall approve those national credentialing bodies offering certification and recertification in a clinical
4 nursing specialty that have established the following minimum requirements for applicants:

5 (1) active unencumbered licensure as a registered nurse; and

6 (2) certification as a clinical nurse specialist that is limited to applicant prepared with a master's or
7 higher-level degree or a post-graduate certificate.

8

9 *History Note: Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21(d)(4); 90-171.23(b); 90-171.42(b);*

10 *Eff. April 1, 1996;*

11 *Amended Eff. January 1, 2015; April 1, 2008; January 1, 2007; November 1, 2005; August 1, 2005;*

12 *April 1, 2003;*

13 *Readopted Eff. January 1, 2019;*

14 *Amended Eff. December 1, 2023; April 1, 2023; November 1, 2020.*