

Burgos, Alexander N

Subject: FW: [External] RE: August 2024 RRC - Request for Changes - 14B NCAC 17

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, August 22, 2024 10:11 AM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2024 RRC - Request for Changes - 14B NCAC 17

Jeff,

Looks good to me. Please go ahead and send the final versions of all your rules to oah.rules@oah.nc.gov, copying me and Alex, and we'll be good to go for the meeting.

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Tuesday, August 20, 2024 2:43 PM
To: Liebman, Brian R
Cc: Burgos, Alexander N
Subject: RE: [External] RE: August 2024 RRC - Request for Changes - 14B NCAC 17
Attachments: 14B NCAC 17 .0201 - amended.07.16.24.docx

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Brian:

Revised 14B NCAC 17 .0201 attached.

Jeff

Jeffrey P. Gray

Of Counsel

Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500

P.O. Box 1351

Raleigh, NC 27601 (27602)

Telephone: 919-828-0731

Facsimile: 919-828-6592

E-mail: jgray@bdixon.com

From: Gray, Jeffrey
Sent: Monday, August 19, 2024 4:02 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2024 RRC - Request for Changes - 14B NCAC 17

Brian:

I hope all is well from your hospital stay.

I am thinking how best to re-word .0302, but in the meantime I will have a revised .0201 to you hopefully by tomorrow, but in no instance later than Wednesday's deadline.

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From: Liebman, Brian R <brian.liebman@oah.nc.gov>
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Subject: RE: [External] RE: August 2024 RRC - Request for Changes - 14B NCAC 17

Jeff,

Sorry for the delay in getting back, I was in the hospital last week. Based on your submissions and responses, I believe I can recommend approval of .0203, .0301, .0302, and .0306.

Rule .0201

I spoke to my co-counsel working on the PPSB rule, and he made a good argument for why “good character and reputation” needs not be defined explicitly in your rule, so I will let that go. However, you do have a problem with (d), in that a form (i.e. an application form) must go through rulemaking unless the contents or substantive requirements of the form are described in a rule or statute. Please add the contents of the form here or in another rule.

Rule .0302

Thank you for letting me know about the fee. Perhaps staff keeps asking about it because it isn’t entirely clear from the text that’s what you’re doing. The way it reads, it appears you’re charging an extra fee for multiple registrations. It’s not something I am recommending objection over at this point, but you might consider revising so that it’s clear that the \$10 fee is in lieu of the \$50 fee the next time you go through rulemaking.

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From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Monday, August 12, 2024 3:36 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
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Subject: [External] RE: August 2024 RRC - Request for Changes - 14B NCAC 17

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Brian:

Here are my responses to your questions and requests:

14B NCAC 17 .0201:

Line 14: I have word-searched the Administrative Code and cannot find where any other State agency – occupational licensing board or otherwise – has been required to define the phrase “good character and reputation,” or either word separately. My search also revealed that a number of boards have recently had rules with similar language reviewed and apparently no such request was made. (See, e.g. 21 NCAC 25 .0202, Eff. July 5, 2024; 18 NCAC 07B .0408, Eff. July 1, 2024; 21 NCAC 12A .0308, Eff. December 1, 2023; 21 NCAC 37D .0402, Eff. January 1, 2021.) Further, the Alarm Systems Licensing Board’s “sister board,” the Private Protective Services Board, currently has a rule under review with the identical language and no request for a technical change was received. I would like to keep the two Boards’ rules consistent.

Subsection (d): No, it is not.

14B NCAC 17 .0203:

Subsection (b): Revised rule attached.

14B NCAC 17 .0302:

Line 10: This is a reduction of the fee for each registration authorized by G.S. 74D-7(e)(4) (i.e. instead of \$50.00 + \$50.00 it is \$50.00 + \$10.00.) This question has been asked by staff each time this rule has been reviewed. Please see the Request for Technical Change form with my file notes for a 2018 amendment, attached.

Line 12: Revised rule attached.

Jeff

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From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Tuesday, August 6, 2024 7:26 PM

To: Gray, Jeffrey <JGray@bdixon.com>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: August 2024 RRC - Request for Changes - 14B NCAC 17

Hi Jeff,

I’m the attorney who reviewed the Rules submitted by the Board for the August 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, August 28, 2024, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If

there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Wednesday August 21, 2024.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

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1 14B NCAC 17 .0201 is amended as published in 38:20 NCR 1319-1322 as follows:

2
3 **14B NCAC 17 .0201 APPLICATION FOR LICENSE**

4 (a) Each applicant for a license shall submit an online application on the website provided by the Board. When this
5 online application is submitted, it shall be accompanied by:

- 6 (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State
7 Bureau of Investigation or one set of classifiable fingerprints on an F.B.I. fingerprint card provided
8 by the Board and mailed separately to the Board's office;
- 9 (2) one head and shoulders digital photograph of the applicant in JPG format of sufficient quality for
10 identification, taken within six months prior to the online submission;
- 11 (3) statements of the results of a statewide criminal history records search by the reporting service
12 designated by the Board pursuant to G.S. 74D-2.1(a) for any state where the applicant has resided
13 within the preceding 60 months;
- 14 (4) a minimum of three letters attesting to the good character and reputation of the applicant using the
15 online character letter submission process; and
- 16 (5) the applicant's application fee, along with ~~a four-dollar (\$4.00)~~ the convenience fee charged by the
17 ~~third-party~~ Board's on-line application vendor and the credit card transaction fee charged by the
18 applicant's credit card provider and collected online.

19 (b) Each applicant shall upload evidence of high school graduation either by diploma, G.E.D. certificate, or other
20 equivalent documentation.

21 (c) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the
22 Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall
23 discuss the provisions of G.S. 74D and the administrative rules in this Chapter during the personal meeting. The
24 applicant shall sign a form provided by the Board stating that the applicant has reviewed the information with the
25 Board's representative and that the applicant understands G.S. 74D and the administrative rules in this Chapter. During
26 a national or State declared state of emergency that restricts or prohibits travel, the personal meeting requirement may
27 be waived if requested by the applicant in favor of alternative means of communication.

28 (d) Each applicant for a branch office license shall submit an online application on the website provided by the Board.
29 Board containing the physical address and telephone number of the branch office, the Qualifying Agent responsible
30 for the branch office, the proposed branch manager, the parameters or scope of duties of the branch office, and the
31 anticipated number of employees. This online application shall be accompanied by the branch office application fee.

32 (e) All photographs, record checks, proof of insurance, explanations of criminal charges, explanations of credit
33 history, or requested documents shall be submitted online through the Board's website by any applicant for a permit,
34 license, registration, or certificate within 60 days of the Board's receipt of the application form or a request from Board
35 staff, whichever is later. Any failure to submit required or requested documents to complete the application process
36 within this 60-day period shall void the application and require re-application.

1 *History Note:* *Authority G.S. 74D-2; 74D-2.1; 74D-3; 74D-5; 74D-7; 74D-8;*
2 *Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984;*
3 *Eff. May 1, 1984;*
4 *Amended Eff. December 1, 2012; February 1, 2012; January 1, 2007; September 1, 2006; March*
5 *1, 1993; July 1, 1987; January 1, 1986;*
6 *Transferred and Recodified from 12 NCAC 11 .0201 Eff. July 1, 2015;*
7 *Amended Eff. December 1, 2017;*
8 *Readopted Eff. June 1, 2018;*
9 *Amended Eff. September 1, 2019;*
10 *Emergency Amendment Eff. June 9, 2020;*
11 *Amended Eff. August 1, 2020;*
12 *Temporary Amendment Eff. August 28, 2020;*
13 *Temporary Amendment Expired Eff. June 12, 2021;*
14 *Amended Eff. September 1, 2024; November 1, 2021.*

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