

Burgos, Alexander N

Subject: FW: Final versions of temporary rules

From: Seavers, Dennis <dennis.seavers@nc.gov>

Sent: Tuesday, May 9, 2023 10:57 AM

To: Rules, Oah <oah.rules@oah.nc.gov>

Cc: Liebman, Brian R <brian.liebman@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: Final versions of temporary rules

Please see the attached final rules for the temporary rules being considered by the RRC next week.

Please note: the board is withdrawing two rules originally submitted for consideration by the RRC: 21 NCAC 06O .0202 and .0203.

Thanks,
Dennis

Dennis Seavers
Executive Director
NORTH CAROLINA BOARD OF BARBER AND ELECTROLYSIS EXAMINERS
(919) 814-0641 (Office)
(919) 981-5068 (Fax)
7001 Mail Service Center
Raleigh, NC 27699-7000
www.barbers.nc.gov | www.ncbee.com
barbers@nc.gov | electrolysis@nc.gov

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1 21 NCAC 06O .0201 is adopted under temporary procedures with changes as follows:

2
3 **SECTION .0200 – ELECTROLYSIS**

4
5 **21 NCAC 06O .0201 ELECTROLOGY APPRENTICESHIP PROGRAM**

6 (a) The presumptive civil penalty for an individual operating an electrology apprenticeship program without Board
7 approval:

- 8 (1) 1st offense \$300.00
9 (2) 2nd offense \$400.00
10 (3) 3rd offense \$500.00

11 (b) The presumptive civil penalty for an electrology apprenticeship program if that program ~~accepting~~ accepts tuition
12 from or enrolling enrolls a student before the Board has issued a student permit:

- 13 (1) 1st offense \$300.00
14 (2) 2nd offense \$400.00
15 (3) 3rd offense \$500.00

16 (c) The presumptive civil penalty for an individual engaging as a student in an electrology apprenticeship program
17 before the Board has issued a student permit:

- 18 (1) 1st offense \$200.00
19 (2) 2nd offense \$300.00
20 (3) 3rd offense \$500.00

21 (d) The presumptive civil penalty for an electrology apprenticeship program failing to comply with the facility
22 requirements as set forth in 21 NCAC 06Z .0103:

- 23 (1) 1st offense \$250.00
24 (2) 2nd offense \$400.00
25 (3) 3rd offense \$500.00

26 (e) The presumptive civil penalty for an electrology apprenticeship program providing practical training without the
27 student permit displayed at the electrology station:

- 28 (1) 1st offense \$100.00
29 (2) 2nd offense \$150.00
30 (3) 3rd offense \$250.00

31 (f) The presumptive civil penalty for an electrology apprenticeship program providing training without an instructor
32 present:

- 33 (1) 1st offense \$150.00
34 (2) 2nd offense \$300.00
35 (3) 3rd offense \$500.00

36 (g) The presumptive civil penalty for an electrology apprenticeship program failing to maintain records required by
37 this Chapter, 21 NCAC 06Z .0101 or 21 NCAC 06Z .0104:

1 (1) 1st offense \$200.00

2 (2) 2nd offense \$250.00

3 (3) 3rd offense \$500.00

4 (h) The presumptive civil penalty for an electrology apprenticeship program falsifying records required by ~~this~~
5 ~~Chapter: 21 NCAC 06U .0106, 21 NCAC 06U .0107, or 21 NCAC 06Z .0104~~ is \$500.00.

6 (i) The presumptive civil penalty for an electrology apprenticeship program failing to submit records required by ~~this~~
7 ~~Chapter: 21 NCAC 06U .0107 or 21 NCAC 06Z .0104:~~

8 (1) 1st offense \$200.00

9 (2) 2nd offense \$350.00

10 (3) 3rd offense \$500.00

11 (j) The presumptive civil penalty for an electrology apprenticeship program allowing an individual to instruct without
12 an instructor authorization:

13 (1) 1st offense \$200.00

14 (2) 2nd offense \$300.00

15 (3) 3rd offense \$500.00

16 (k) The presumptive civil penalty for an individual instructing without authorization from the Board at an electrology
17 apprenticeship program:

18 (1) 1st offense \$200.00

19 (2) 2nd offense \$300.00

20 (3) 3rd offense \$500.00

21 (l) The presumptive civil penalty for an individual failing to submit the required notification set forth in 21 NCAC
22 06Z .0106(c):

23 (1) 1st offense \$50.00

24 (2) 2nd offense \$100.00

25 (3) 3rd offense \$200.00

26

27 *History Note: Authority G.S. 86B-10; 86B-65;*

28 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0101 is amended under temporary procedures with changes as follows:

2

3 **21 NCAC 06U .0101 FEES**

4 (a) The following fees are payable to the Board for licensure as an electrologist:

| | | | |
|---|-----|---------------------------|----------|
| 5 | (1) | Application for licensure | \$150.00 |
| 6 | (2) | Initial licensure | \$125.00 |
| 7 | (3) | Renewal of licensure | \$125.00 |

8 (b) The following fees are payable to the Board for licensure as a laser hair practitioner:

| | | | |
|----|-----|---------------------------|----------|
| 9 | (1) | Application for licensure | \$125.00 |
| 10 | (2) | Initial licensure | \$125.00 |
| 11 | (3) | Renewal of licensure | \$150.00 |

12 (c) The following fees are payable to the Board for certification as an instructor:

| | | | |
|----|-----|--|----------|
| 13 | (1) | Application for Electrology instructor | \$150.00 |
| 14 | (2) | Renewal of Electrology instructor | \$125.00 |
| 15 | (3) | Application for laser hair practitioner instructor | \$150.00 |
| 16 | (4) | Renewal of laser hair practitioner instructor | \$125.00 |

17 (d) The following fees are payable to the Board for certification as a Board approved school:

| | | | |
|----|-----|---|----------|
| 18 | (1) | IN STATE SCHOOL | |
| 19 | (A) | Application for certification as an Electrology school | \$250.00 |
| 20 | (B) | Renewal of certification as an Electrology school | \$150.00 |
| 21 | (C) | Application for certification as a laser, light source, | |
| 22 | | or pulse light treatment school | \$250.00 |
| 23 | (D) | Renewal of certification for a laser, light source, | |
| 24 | | or pulse light treatment school | \$150.00 |
| 25 | (2) | OUT-OF-STATE SCHOOL | |
| 26 | (A) | Application for certification as an Electrology school | \$400.00 |
| 27 | (B) | Initial certification as an Electrology school | \$100.00 |
| 28 | (C) | Renewal of certification for an Electrology school | \$100.00 |
| 29 | (D) | Application for certification as a laser, light source, | |
| 30 | | or pulse light treatment school | \$350.00 |
| 31 | (E) | Initial certification as a laser, light source, | |
| 32 | | or pulse light treatment school | \$75.00 |
| 33 | (F) | Renewal of certification as a laser, light source, | |
| 34 | | or pulse light treatment school | \$100.00 |

35 (e) The following other fees are payable to the Board:

| | | | |
|----|-----|--|-------------------------------------|
| 36 | (1) | Electrologist Examination or reexamination | \$125.00 <u>\$150.00</u> |
| 37 | (2) | Office inspection or re-inspection | |

| | | | |
|----|-----|--|----------|
| 1 | (A) | Electrologist – per licensee, for each office site | \$100.00 |
| 2 | (B) | Laser Hair Practitioner – per licensee, for each office site | \$100.00 |
| 3 | (C) | <u>Electrology apprenticeship program facility</u> | \$100.00 |
| 4 | (3) | License by reciprocity | \$125.00 |
| 5 | (4) | Late renewal charge | \$50.00 |
| 6 | (5) | Reinstatement of expired license | \$250.00 |
| 7 | (6) | Reinstatement of instructor licensure | \$250.00 |
| 8 | (7) | Reactivation of license | \$150.00 |
| 9 | (8) | Reactivation of instructor licensure | \$150.00 |
| 10 | (9) | Duplicate license | \$25.00 |

11 (f) All fees shall be paid only by ~~check~~ check, cashier check, official check, teller check, or money order, made
 12 payable to "~~The North~~ "North Carolina Board of Barber and Electrolysis Examiners."

13 (g) Renewal fees required for Subparagraphs (a)(3), (b)(3), (c)(2), (c)(4), (e)(2), and (e)(9) of this Rule shall be waived
 14 for licensees under this Chapter ~~that~~ who are exempt from renewal fees under G.S. 93B-15.

15

16 *History Note:* Authority G.S. ~~88A-9;~~ **86B-70;** 93B-15;
 17 *Temporary Adoption Eff. December 1, 1991 for a period of 62 days to expire on February 1, 1992;*
 18 *Eff. January 1, 1992;*
 19 *Temporary Amendment Eff. September 17, 2001;*
 20 *Amended Eff. September 1, 2015; October 9, 2010; December 4, 2002;*
 21 *Readopted Eff. September 1, 2019;*
 22 *Recodified from 21 NCAC 19 .0201 Eff. January 1, ~~2023;~~ 2023;*
 23 *Temporary Amendment Eff. June 1, 2023.*

1 21 NCAC 06U .0106 is adopted under temporary procedures with changes as follows:
2

3 **21 NCAC 06U .0106 STUDENT PERMIT FOR ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) The electrology apprenticeship program shall file an application for a student permit ~~shall be filed for~~ to request
5 permission to enroll in an electrology apprenticeship program. The application requires the following:

- 6 (1) the name, address, social security number, and birth date of the applicant;
- 7 (2) the name, address, email address, and website address of the electrology business where the
8 apprenticeship program will occur;
- 9 (3) the name and license number of the electrologist under whom the applicant will study;
- 10 (4) the name of the owner of the electrology business where the apprenticeship program will occur, if
11 the owner is different from the person listed in Subparagraph (3) of this Paragraph; and
- 12 (5) the date when the apprenticeship program will begin.

13 (b) The electrology apprenticeship program shall submit the application ~~shall be submitted~~ to the Board at the ~~address~~
14 ~~in 21 NCAC 06A .0102,~~ mailing address in 21 NCAC 06A .0102(a) or website address in 21 NCAC 06A .0102(c).

15
16 *History Note: Authority G.S. 86B-65; 93B-14;*
17 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0107 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06U .0107 MONTHLY REPORTS FOR ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) The monthly report for an electrology apprenticeship program is a Board-prescribed form that shall be filed by
5 the program instructor or facility ~~owner.~~ owner at any address in 21 NCAC 06A .0102. The form shall be available
6 at the website addresses listed in 21 NCAC 06A .0102.

7 (b) The monthly report shall ~~include~~ contain the following information:

8 (1) the name of the electrology apprenticeship program;

9 (2) the name of the student;

10 (3) the month and year for which the report is filed; and

11 (4) the dates and number of hours of the student's attendance, with the hours broken down by the topics
12 in the curriculum set forth in 21 NCAC 06Z .0102.

13 (c) The monthly report shall be signed by the instructor, who shall attest that the contents of the report are accurate.

14

15 *History Note: Authority G.S. 86B-65;*

16 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0108 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06U .0108 APPLICATION FOR INSTRUCTOR IN ELECTROLOGY APPRENTICESHIP**
4 **PROGRAM**

5 (a) An application shall be filed by an individual who seeks Board authorization as an instructor in an electrology
6 apprenticeship program. The application requires the following:

7 (1) the name, address, and birth date of the applicant;

8 (2) the applicant's current electrology license number; and

9 (3) ~~Evidence~~ evidence that the applicant has completed ~~of completing the Board approved~~ continuing
10 education as set forth in ~~G.S. 86B-65(d)(3)~~ G.S. 86B-65(d)(3) and approved under 21 NCAC 06Y
11 .0102. This continuing education shall be separate from continuing education received for other
12 licenses issued by the Board.

13 (b) The form shall include the applicant's attestation that the information in the form is correct.

14

15 *History Note: Authority G.S. 86B-65;*

16 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0109 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06U .0109 POST-APPRENTICESHIP APPLICATION FOR LICENSURE**

4 (a) The post-apprenticeship application for licensure shall be filed by an individual who has completed an
5 electrology apprenticeship program as set forth in ~~S.L. 2022 72, s. 2, and this Section.~~ G.S. 86B-65 and Subchapter
6 Z of this Chapter. The application requires the following information:

- 7 (1) the name, address, social security number, and birthdate of the applicant;
- 8 (2) the name and address of the electrology apprenticeship program;
- 9 (3) the name of the instructor of the electrology apprenticeship program;
- 10 (4) the names and addresses of the two electrologist offices where the applicant visited, as well as the
11 dates when the visits occurred, as required by ~~S.L. 2022 72, s. 2;~~ G.S. 86B-65(a)(2);
- 12 (5) ~~a passport acceptable photograph~~ color photograph of the applicant that is two inches by two inches
13 and has been taken within the past two years; and
- 14 (6) proof of age as evidenced by a copy of a current:
- 15 (A) driver license or identification card issued by a state or territory in the United States;
- 16 (B) United States passport or passport card;
- 17 (C) United States permanent resident card;
- 18 (D) United States employment authorization document card;
- 19 (E) birth certificate issued by a state, county, municipal authority, or outlying territory of the
20 United States;
- 21 (F) consular report of birth abroad, certification of birth abroad issued by the United States
22 Department of State, or certification of report of birth issued by the United States
23 Department of State; or
- 24 (G) Native American tribal document.

25 (b) The fee in Rule .0101 of this Section shall be submitted with the application.

26 (c) The application form shall include the applicant's attestation that the information in the form is correct.

27

28 *History Note: Authority G.S. 86B-65; 93B-14;*

29 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0110 is adopted under temporary procedures with changes as follows:
2

3 **21 NCAC 06U .0110 APPLICATION FOR APPROVAL AS AN ELECTROLOGY APPRENTICESHIP**
4 **PROGRAM**

5 (a) An application shall be filed by a facility that wishes to offer an electrology apprenticeship program. The
6 application requires the following:

- 7 (1) the name and address of the business;
8 (2) the names, addresses, and authorization numbers of the instructors for the electrology apprenticeship
9 program;
10 (3) the names and addresses of the owners of the electrology apprenticeship program, if different from
11 the information provided under Subparagraph (2) of this Paragraph;
12 (4) ~~the business hours;~~ business's hours of operation;
13 (5) the physical dimension of the training area;
14 (6) the number of treatment tables; and
15 (7) the date the business will be ready for inspection.

16 (b) The fee required by Rule .0101 of this Section shall accompany the application.

17 (c) The application shall include the applicant's attestation that the information in the form is correct.
18

19 *History Note: Authority G.S. 86B-65;*

20 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0101 is adopted under temporary procedures with changes as follows:

2
3 **SUBCHAPTER 06Z – ELECTROLOGY APPRENTICESHIP PROGRAM**

4
5 **21 NCAC 06Z .0101 ENROLLMENT REQUIREMENTS AND STUDENT PERMITS**

6 (a) An electrology apprenticeship program shall not accept tuition from or enroll a student unless the ~~student~~
7 electrology apprenticeship program has submitted the application for a student permit required by 21 NCAC 06U
8 .0106 and ~~been the Board has~~ issued a student permit ~~by the Board.~~ to the student.

9 (b) The student permit shall only be valid for a specific electrology apprenticeship program and cannot be used in
10 another location.

11 (c) ~~A~~ The electrology apprenticeship program shall file a new application for a student permit ~~shall be filed~~ with the
12 Board for a student who drops out of the program and later re-enrolls.

13 (d) Before accepting tuition or enrolling a student, the apprenticeship program shall notify a student applicant of the
14 minimum qualifications for licensure as an electrologist as set forth in G.S. 86B-53, including the minimum-age
15 requirement. The apprenticeship program shall have the applicant sign and date the notice indicating that the applicant
16 has been informed of the qualifications. The apprenticeship program shall retain the signed and dated notice for at
17 least one year after the student terminates from the program.

18
19 *History Note: Authority G.S. 86B-65;*
20 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0102 is adopted under temporary procedures as follows:

2

3 **21 NCAC 06Z .0102 CURRICULUM**

4 (a) The curriculum for an electrology apprenticeship program shall consist of 625 hours of technical instruction and
5 practical training as set below:

| | <u>Hours</u> |
|--|--------------|
| <u>Electrology Fundamentals I</u> | |
| <u>Clinical techniques</u> | 50 |
| <u>Infectious agents and sterilization</u> | 24 |
| <u>Histology of the cell and skin</u> | 24 |
| <u>Histology of the hair</u> | 24 |
| <u>Modalities: galvanic, thermolysis, blend, and epilators</u> | 44 |
| <u>Electrology Fundamentals II</u> | |
| <u>Endocrine system</u> | 20 |
| <u>Disease and disorders of the skin</u> | 24 |
| <u>Electricity</u> | 10 |
| <u>Anatomy and physiology</u> | 20 |
| <u>Business procedures and regulations</u> | 10 |
| <u>Onsite Practical Training</u> | |
| <u>General orientation</u> | |
| <u>Rules of the program</u> | 1 |
| <u>Personal hygiene and dress</u> | 1 |
| <u>Professional ethics and office rules</u> | 1 |
| <u>Laws governing electrolysis</u> | 1 |
| <u>Pathology</u> | |
| <u>Sanitation, sterilization, and disinfection</u> | 2 |
| <u>State regulations on pathogen control</u> | 1 |
| <u>Variables</u> | |
| <u>Probes</u> | 1 |
| <u>Intensity</u> | 2 |
| <u>Timing</u> | 2 |
| <u>Depth of insertion</u> | 5 |
| <u>Angle of insertion</u> | 15 |
| <u>General Treatment Procedures</u> | |
| <u>Consultations</u> | 5 |
| <u>Positioning and draping of the client while working</u> | 2 |
| <u>Observation of modalities</u> | |

37

| | | |
|----|--|------------------------|
| 1 | <u>Electrolysis (DC – galvanic)</u> | <u>5</u> |
| 2 | <u>Thermolysis (SW – shortwave)</u> | <u>15</u> |
| 3 | <u>Blend (combination of galvanic and shortwave)</u> | <u>10</u> |
| 4 | <u>Hands-on experience with modalities</u> | |
| 5 | <u>Electrolysis (DC – galvanic)</u> | <u>25</u> |
| 6 | <u>Thermolysis (SW – shortwave)</u> | <u>200</u> |
| 7 | <u>Blend (combination of galvanic and shortwave)</u> | <u>75</u> |
| 8 | <u>Equipment maintenance and upkeep</u> | <u>1</u> |
| 9 | <u>Development of practice: public relations and advertisement, office procedure and management,</u> | |
| 10 | <u>financial recordkeeping, customer service, and office upkeep</u> | <u>5</u> |
| 11 | | <u>Total Hours 625</u> |

12 (b) The student shall complete Electrology Fundamentals I before beginning other parts of the curriculum. The student
13 shall not begin Onsite Practical Training before Electrology Fundamentals II, although the student may do Onsite
14 Practical Training at the same time as Electrology Fundamentals II.

15 (c) The student shall complete Electrology Fundamentals I within a 25-week time frame. The student shall complete
16 both Electrology Fundamentals II and Onsite Practical Training within a 52-week time frame.

17 (d) The electrology apprenticeship program may offer Electrology Fundamentals I and Electrology Fundamentals II
18 online. The program shall only offer Onsite Practical Training, as described in Paragraph (a) of this Rule, in person.

19 (e) The electrology apprenticeship program shall administer exams for each topic under Electrology Fundamentals I
20 and Electrology Fundamentals II, as set forth in Paragraph (a) of this Rule, to determine whether a student has an
21 understanding of the material that is satisfactory to the program.

22 (f) The electrology apprenticeship program shall use the following textbooks:
23 (1) “Milady’s Hair Removal Techniques: A Comprehensive Manual”; and
24 (2) “Milady’s Standard Esthetics.”

25
26 *History Note: Authority G.S. 86B-65;*
27 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0103 is adopted under temporary procedures with changes as follows:

2
3 **21 NCAC 06Z .0103 FACILITY REQUIREMENTS**

4 (a) A North Carolina electrology facility that offers an electrology apprenticeship program shall have the following
5 equipment onsite:

- 6 (1) A high frequency or thermolysis (short wave) machine;
- 7 (2) A galvanic/thermolysis (blend) machine;
- 8 (3) A 13.5 MHz epilator;
- 9 (4) A 27 MHz epilator;
- 10 (5) A treatment table;
- 11 (6) Two stools or adjustable chairs for each treatment table;
- 12 (7) A supply cabinet for each treatment table;
- 13 (8) Six dozen epilation forceps (tweezers) that meet the requirements set forth in 21 NCAC 06V
14 .0105(c)(2);
- 15 (9) At least one holding tank for epilation forceps (tweezers) at each electrology station;
- 16 (10) A sharps container for each electrology station;
- 17 (11) At least one FDA-approved dry heat sterilizer or autoclave;
- 18 (12) At least one ultrasonic cleaner;
- 19 (13) Illumination and magnification equipment to aid with electrology services;
- 20 (14) A sink with running hot and cold water within the office or suite where the electrology
21 apprenticeship program is located and not shared with other businesses;
- 22 (15) Toilet facilities on the same floor as the practical training area;
- 23 (16) An electronic or punch-card time clock to record student hours.

24 (b) ~~With the exception of service dogs, no~~ No animals shall be permitted in an electrology facility. facility except
25 service animals as defined by 28 CFR 36.104, which is hereby incorporated by reference, including subsequent
26 amendments and editions, and is available for no cost at [https://www.ecfr.gov/current/title-28/chapter-I/part-](https://www.ecfr.gov/current/title-28/chapter-I/part-36/subpart-A/section-36.104)
27 36/subpart-A/section-36.104.

28 (c) All bottles and containers that contain electrology equipment and supplies shall have labels that indicate the
29 contents.

30 (d) All electrology personnel and students shall wear the following during training and services:

- 31 (1) ~~Scrubs, Scrubs or lab coats, or medical grade clothing; coats;~~
- 32 (2) Soft-soled shoes;
- 33 (3) Surgical or N95 masks; and
- 34 (4) Latex or nitrile gloves.

35 (e) The electrology facility shall comply with the infection-control rules in 21 NCAC 06V and post them in a
36 conspicuous place. For the purposes of this Rule, “conspicuous place” means a place ~~easily seen by~~ visible to the
37 individuals receiving electrology services.

1

2 *History Note: Authority G.S. 86B-65;*

3 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0104 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0104 STUDENT HOURS AND PERMITS**

4 (a) No practical training shall occur unless the student permit required by Rule .0101 of this Section is displayed at
5 the electrology station.

6 (b) Students shall not earn hours in Onsite Practical Training, as described in Rule .0102 of this Section, unless an
7 instructor is present. This instructor must be authorized under G.S. 86B-65.

8 (c) The ~~school~~ electrology apprenticeship program shall track student hours:

9 (1) by having the students record their start and end time with the time clock required by Rule
10 .0103(a)(16) of this Section; or

11 (2) for online classes, by having software track the student's online attendance.

12 (d) The electrology apprenticeship program shall not credit hours except as reflected in time-clock or online-
13 tracking records as provided in Paragraph (c) of this Rule.

14 (e) The electrology apprenticeship program shall maintain time-clock records during the student's enrollment and
15 for at least one year after the student drops, transfers, or completes the program.

16 (f) ~~For~~ Except as required by Rule .0108(a) of this Section, each electrology student, the instructor or owner shall
17 submit the monthly report as set forth in 21 NCAC 06U .0107 to the Board at ~~the~~ any address listed in 21 NCAC
18 06A .0102 by the 15th day of each month. The monthly report shall include the hours accrued for the previous
19 month.

20

21 *History Note: Authority G.S. 86B-65;*

22 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0105 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0105 PROGRAM HANDBOOKS AND ENROLLMENT AGREEMENTS**

4 (a) Every electrology apprenticeship program shall provide a program handbook to its students upon enrollment.

5 The program handbook shall contain the following information:

6 (1) ~~Enrollment~~ enrollment agreement;

7 (2) ~~Schedule~~ schedule of fees, including any monetary penalties;

8 (3) ~~Reimbursement~~ reimbursement policies;

9 (4) ~~School~~ program rules and requirements;

10 (5) ~~Tardiness~~ tardiness and absenteeism policies;

11 (6) A a copy of the curriculum as set forth in Rule .0102 of this Section;

12 (7) ~~An~~ an explanation of how the curriculum content will be delivered, such as through online modules;

13 and

14 (8) ~~The~~ the grading system for the curriculum.

15 (b) The electrology apprenticeship program shall submit a copy of the program handbook to the Board at ~~the~~ any

16 address listed in 21 NCAC 06A .0102 before enrolling students. An updated copy of the handbook shall be

17 submitted to the Board within 30 days of any amendment or revision.

18

19 *History Note: Authority G.S. 86B-65;*

20 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0106 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0106 INSTRUCTORS IN AN ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) The Board shall issue ~~an~~ written authorization to an instructor in an electrology program if he or she:

5 (1) meets the requirements in G.S. 86B-65, and 21 NCAC 06U .0108; and

6 (2) makes a score of at least 85 on the written exam.

7 (b) The authorization in Paragraph (a) of this Rule shall only apply to a specific electrology apprenticeship program
8 and cannot be transferred to another program.

9 (c) An instructor in an electrology apprenticeship program shall notify the Board in writing at ~~the~~ any address in 21
10 NCAC 06A .0102 if he or she is no longer working as an instructor in the electrology apprenticeship program. The
11 instructor shall submit this notification within 15 days of the end of his or her work as an instructor in the program.

12 (d) The Board shall revoke the authorization in Paragraph (a) for the following reasons:

13 (1) falsification of documents related to the electrology apprenticeship program;

14 (2) failure to maintain an electrology license;

15 (3) failure to provide oversight required by ~~Board statute and rule~~ Rule .0104 of this Subchapter to
16 students enrolled in an electrology apprenticeship program; or

17 (4) termination of the electrology apprenticeship program.

18

19 *History Note: Authority G.S. 86B-65;*

20 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0107 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0107 TRANSFERS**

4 Students attending electrology apprenticeship programs in North Carolina may transfer to another program in North
5 Carolina and receive credit for attendance at each of the programs where the student was enrolled. The electrology
6 apprenticeship program shall meet the requirements in Rule .0101 of this Subchapter before accepting tuition from
7 or enrolling the transfer student.

8

9 *History Note: Authority G.S. 86B-65;*

10 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0108 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0108 PROGRAM COMPLETION**

4 (a) Within 15 days of a student completing an electrology apprenticeship program, the instructor or facility owner
5 shall submit the report set forth in 21 NCAC 06U .0107, notwithstanding the requirement in Rule .0104(e) of this
6 Section to submit the report by the 15th day of the following month.

7 (b) The report in Paragraph (a) shall be accompanied by a ~~sworn~~ notarized statement by the instructor or facility
8 owner that the hours reported are accurate and that the student has completed the requirements of the curriculum set
9 forth in Rule .0102 of this Section.

10 (c) The documentation required by this Rule shall be submitted to the Board at ~~the~~ any address listed in 21 NCAC
11 06A .0102.

12

13 *History Note: Authority G.S. 86B-65;*

14 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0109 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0109 POST-APPRENTICESHIP ELECTROLOGY LICENSE**

4 An individual who attended an electrology apprenticeship program and wishes to be licensed shall:

5 (1) submit the post-apprenticeship application as set forth in 21 NCAC 06U .0109 to the Board at the
6 mailing address in 21 NCAC 06A .0102(a) or the website address listed in ~~21 NCAC 06A .0102~~; 21
7 NCAC 06A .0102(c); and

8 (2) make a score of at least 70 on the clinical examination.

9

10 *History Note: Authority G.S. 86B-65;*

11 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0110 is proposed for adoption under temporary procedures with changes as follows:

2
3 **21 NCAC 06Z .0110 APPROVAL AS AN ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) To receive approval as an electrology apprenticeship program, a business must:

- 5 (1) submit the application as set forth in ~~21 NCAC 06N .0110~~; 21 NCAC 06U .0110;
- 6 (2) pass a facility inspection that assesses whether the program complies with requirements set forth in
7 Rule .0103 of this Section; and
- 8 (3) employ an instructor for an electrology apprenticeship program who is approved under Rule .0106
9 of this Section.

10 (b) Within five business days of determining that an electrology apprenticeship program meets the requirements in
11 Paragraph (a) of this Rule, the Board shall issue ~~an~~ written approval to the program.

12 (c) No electrology apprenticeship program shall operate without first receiving the approval in Paragraph (b) of this
13 Rule.

14 (d) If a business is not ready for the facility inspection on a scheduled date, the owner or instructor shall notify the
15 Board at ~~the~~ any address or phone number listed in 21 NCAC 06A .0102 at least one business day before the
16 scheduled inspection. The business shall forfeit the inspection fee if it fails to provide timely notice to the Board.

17 (e) The Board shall terminate approval of an electrology apprenticeship program for the following reasons:

- 18 (1) the program no longer has an instructor;
- 19 (2) after receiving a written warning, the facility fails to comply with the requirements in Rule .0103
20 of this Section;
- 21 (3) the Board determines that the program has falsified documents related to the program, and
22 revocation of the instructor authorization as set forth in Rule .0106(d) of this Section will not
23 prevent further falsification of documents; or
- 24 (4) the Board determines that the program has failed to provide the oversight required by Board
25 statute and rule to students enrolled in the program, and revocation of the instructor authorization
26 as set forth in Rule .0106(d) of this Section will not prevent further failures.

27
28 *History Note: Authority G.S. 86B-65;*
29 *Temporary Adoption Eff. June 1, 2023.*

Burgos, Alexander N

Subject: FW: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

From: Seavers, Dennis <dennis.seavers@nc.gov>
Sent: Tuesday, May 9, 2023 10:52 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

Great! Thanks for working on these, and I'll send that email now

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, May 9, 2023 10:52 AM
To: Seavers, Dennis <dennis.seavers@nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

No worries. Everything looks good to me.

Can you please gather the final versions of all rules you're not withdrawing, and then send those to oah.rules@oah.nc.gov, and copy me and Alex? Also, don't forget to send that email about formally withdrawing those 06O rules.

Thanks!
Brian

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

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

From: Seavers, Dennis <dennis.seavers@nc.gov>
Sent: Tuesday, May 9, 2023 10:48 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

Hi, Brian,

Sorry, when I reverted the language in 06Z .0103(b), I forgot to change "dogs" to "animals." And I forgot to attach 06Z .0106 but have attached here.

If I missed anything else, please let me know

Dennis

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

Sent: Tuesday, May 9, 2023 10:36 AM

To: Seavers, Dennis <dennis.seavers@nc.gov>

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

Subject: RE: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

Hi Dennis,

Thanks for the edits and comments. I will recommend approval of 06O .0201, 06U .0106, 06U .0108, 06Z .0101, and 06Z .0110. I can also recommend approval of 06Z .0103, but I think you need to change “service dog” to “service animal” as that’s the term defined in the CFR. Last, I didn’t see a new draft of 06ZZ .0106, but if you’re making the change suggested there, I’ll be able to approve it.

Best,
Brian

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

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

From: Seavers, Dennis <dennis.seavers@nc.gov>

Sent: Tuesday, May 9, 2023 9:46 AM

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

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

Subject: RE: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

Hi, Brian,

Thanks for the additional comments. I’ve attached revisions to rules 06O .0201, 06Z .0101, 06Z .0103, 06Z .0106, and 06Z .0110.

- For 06O .0101, I will submit the change you suggested to the Codifier.
- For 06U .0106, thanks for noting the inconsistencies. The idea is that the program submits the application, not the student, though I understand that isn’t what you might initially expect. I made the changes in Subchapter Z to make sure there isn’t any inconsistency.
- For 06U .0108, it’s an understandable question. The additional hour of CEU could be in any topic approved by the board under 21 NCAC 06Y .0102, whether or not it deals with instructing particularly. If that doesn’t address your question, please let me know.
- For 06Z .0108, yes that’s correct – instructor makes the monthly attestation, but instructor or owner makes final notarized statement.

If I missed anything or need to make additional changes, please let me know.

Dennis

Burgos, Alexander N

Subject: FW: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

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

Sent: Monday, May 8, 2023 12:47 PM

To: Seavers, Dennis <dennis.seavers@nc.gov>

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

Subject: RE: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

Hi Dennis,

Thanks for your edits. I have a few minor follow ups on several of these Rules. Also, with respect to the rules you're withdrawing, if you could, please just email me separately (copying Alex) saying that you'd like to withdraw those rules, so it's crystal clear to anyone reviewing our online agenda that these rules were withdrawn.

I'm recommending approval of Rules 06U .0101, .0107, .0109, .0110, 06Z .0102, .0104, .0105, .0107, .0108 (see below), and .0109.

06O .0201

I think the language in 06O .0101 addresses my concerns vis a vis "presumptive". I would urge you to change the citation to Chapter 86A in Rule .0101; I think this is something you can do through the Codifier under 150B-21.5(a).

Looking at your edits with respect to "owner or manager," I have some concerns with "manager". I don't see that term anywhere else in your statutes or rules. Especially given the Commission's objections over that term in the last batch of temporary rules, I think out of caution I'd suggest omitting it here. And in fact, I think I'd conform (b) to the rest of the rules and just say "the program" rather than "the owner or manager".

06U .0106

To be clear, the program submits the application for a student permit, not the student? I had assumed the student would file the application, and in fact 06Z .0101(a) says the student will submit the application required by this Rule.

06U .0108

With respect to (a)(3), I think I'm still unclear on what is being required, and maybe that's because my change request was unclear itself. The statute requires inspector applicants to have taken "at least one hour" of CE. You already require 10 CEUs per license period in 06Y .101. My question is, does the instructor applicant just need 11 CEUs in any topic, or does that 1 extra hour of CE to meet the statutory requirement have to be on any particular topic relevant to instructing?

06Z .0101

This touches on 06U .0106 as well. There's a conflict here between (a) and (c). In (a), the Rule says the student will file the application, and in (c), the rule says the program will file the application. Please clarify and revise. Also check any other rule referring to this application to make sure they're consistent.

06Z .0103

The incorporation by reference unfortunately has to follow the formula in 21.6 pretty closely. I'd suggest this: "No animals shall be permitted in an electrology facility except service animals as defined by 28 CFR 36.104, which is hereby

incorporated by reference including subsequent amendments and editions, and is available at [insert URL here] for no cost.”

06Z .0106

I think the word “authorization” is ok, but I was thinking more concretely. What is the thing that you’re issuing? A letter? Verbal authorization? I think something like “the Board shall issue written authorization...” would work if you haven’t decided what form you’re going to use.

06Z .0108

Just to clarify, the instructor has to make the monthly attestation that the hours are correct, but the instructor or the owner can make the final notarized statement that the hours are accurate, correct? As long as that’s correct, I can recommend approval.

06Z .0110

Just like in .0106, I was thinking more concretely about “an approval”. What is the thing you’re issuing? Like .0106, I think “the Board shall issue written approval” might work.

If you could, please get these edits back no later than 5:00 PM on Friday 5/12.

Best,
Brian

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

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Burgos, Alexander N

Subject: FW: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

Attachments: 21 NCAC 06U .0101 - RRC revision.docx; 21 NCAC 06U .0106 - RRC revision.docx; 21 NCAC 06U .0107 - RRC revision.docx; 21 NCAC 06U .0108 - RRC revision.docx; 21 NCAC 06U .0109 - RRC revision.docx; 21 NCAC 06U .0110 - RRC revision.docx; 21 NCAC 06Z .0101 - RRC revision.docx; 21 NCAC 06Z .0103 - RRC revision.docx; 21 NCAC 06Z .0104 - RRC revision.docx; 21 NCAC 06Z .0105 - RRC revision.docx; 21 NCAC 06Z .0106 - RRC revision.docx; 21 NCAC 06Z .0107 - RRC revision.docx; 21 NCAC 06Z .0108 - RRC revision.docx; 21 NCAC 06Z .0109 - RRC revision.docx; 21 NCAC 06Z .0110 - RRC revision.docx; 21 NCAC 06O .0201 - RRC revision.docx; 05.2023 - Barber Examiners Temporary Rules Request for Technical Changes.docx

From: Seavers, Dennis <dennis.seavers@nc.gov>

Sent: Wednesday, May 3, 2023 10:12 AM

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

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

Subject: RE: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC

Hi, Brian,

Attached are responses to your questions or comments. I've also attached 16 rules with revisions.

If I overlooked anything or didn't address your concerns, please let me know.

Dennis

**Request for Changes Pursuant to
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day;; and”
 - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06O .0201

DEADLINE FOR RECEIPT: Friday, 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:

Throughout the Rule (and in several others throughout this packet), the Board states that a penalty is “presumptive” without defining the term. The ordinary meaning of the term suggests that the amount could be challenged and that upon some kind of showing the Board could assess a different amount, yet there appears to be no process for that described or referenced in this Rule. If this process is described elsewhere, please cross-reference it here. Otherwise, I think you need to describe what the term “presumptive” means here.

We offer some information in 21 NCAC 06O .0101 that may address your concern. Please let me know if you still have concerns.

In (a) and (b), against whom is the penalty assessed? Please specify in the Rule.

I added clarifying language

In (g), line 36, (h), p.2, line 4, and (i) line 6, I think you need a more specific cross-reference than “this Chapter”, particularly where there are several subchapters and sections.

I added clarifying language. For Paragraph (h), I also made the change you suggested in 21 NCAC 06O .0202.

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06O .0202

DEADLINE FOR RECEIPT: Friday, 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 your Findings of Need form for this Rule, the Board states that adherence to the notice and hearing requirements is contrary to the public interest and the immediate adoption of the rule is required because the “new Board determined that a civil penalty needed to be established for noncompliance” with the new Chapter 86B after the GA transferred jurisdiction from the old board. Looking at the Session Law, it doesn’t appear that anything relating to the penalty for unlicensed practice was changed, other than the recodification. Thus, if the old board had jurisdiction and could have created this Rule, and the only change made by the SL here is to jurisdiction, I’m not sure that I understand your argument for why the notice and hearing requirements are contrary to the public interest. Can you provide some additional information or justification for engaging in temporary rulemaking for this Rule?

I can understand your perspective. We’ll withdraw this rule and go through the permanent rulemaking process.

Throughout the Rule (and in several others throughout this packet), the Board states that a penalty is “presumptive” without defining the term. The ordinary meaning of the term suggests that the amount could be challenged and that upon some kind of showing the Board could assess a different amount, yet there appears to be no process for that described or referenced in this Rule. If this process is described elsewhere, please cross-reference it here. Otherwise, I think you need to describe what the term “presumptive” means here.

Please see my comment in response to the changes you requested for Rule .0202.

On line 5, I think rather than a colon between “license” and the penalty, you should just say “is”. The colon seems more appropriate for a list, while this is just a single sentence.

I made the suggested change, and I did the same for 21 NCAC 06O .0201(h).

Brian Liebman
Commission Counsel

Date submitted to agency: May 2, 2023

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06O .0203

DEADLINE FOR RECEIPT: Friday, 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 your Findings of Need form for this Rule, the Board states that adherence to the notice and hearing requirements is contrary to the public interest and the immediate adoption of the rule is required because the “new Board determined that a civil penalty needed to be established for noncompliance” with the new Chapter 86B after the GA transferred jurisdiction from the old board. Looking at the Session Law, it doesn’t appear that anything relating to the penalty for unlicensed practice was changed, other than the recodification. Thus, if the old board had jurisdiction and could have created this Rule, and the only change made by the SL here is to jurisdiction, I’m not sure that I understand your argument for why the notice and hearing requirements are contrary to the public interest. Can you provide some additional information or justification for engaging in temporary rulemaking for this Rule?

I can understand your perspective. We’ll withdraw this rule and go through the permanent rulemaking process.

Throughout the Rule (and in several others throughout this packet), the Board states that a penalty is “presumptive” without defining the term. The ordinary meaning of the term suggests that the amount could be challenged and that upon some kind of showing the Board could assess a different amount, yet there appears to be no process for that described or referenced in this Rule. If this process is described elsewhere, please cross-reference it here. Otherwise, I think you need to describe what the term “presumptive” means here.

Please see my comment in response to the changes you requested for Rule .0202.

In (a), line 4, against whom is this penalty enforced? The other paragraphs state that the penalty is “for a school...” indicating that the school itself would be responsible for paying the penalty. Here, you say the penalty is for “operating” the school, which suggests an owner. Please revise for clarity.

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

I inserted clarifying language

In (c), line 15, I think you need a more specific cross-reference than “this Chapter”, particularly where there are several subchapters and sections. Also, please consider removing the colon and substituting “is” just to make this a complete sentence.

I inserted clarifying language and made the suggested change

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06U .0101

DEADLINE FOR RECEIPT: Friday, 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 your History Note, the reference to G.S. 88A-9 needs to be changed to account for the recodification. It looks to me like the two paragraphs there were split up, and (a) went to G.S. 86B-6, while (b) went to 86B-70, which I think is probably the correct citation. Please correct.

You're correct – it should be G.S. 86B-70. I've corrected the history note.

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06U .0106

DEADLINE FOR RECEIPT: Friday, 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 (a), line 4, with whom must the application be filed, and who is required to file the application? Please revise in the active tense, which should fix both issues.

I made the requested change. Our intent is to allow the program to determine who should prepare and submit the application. Some programs may have an administrative person handle that, while others may have the electrologist handle it. For that reason, I indicated that the program shall file the application, without specifying a particular individual.

In (b), line 13, same question about who is required to submit the application. Again, please revise in the active tense.

I made the requested change.

Also in (b), you refer to the "address" in 21 NCAC 06A .0102. That rule contains both a physical mailing address and an email address. I think you need to revise and clarify which address you're referring to.

I made the clarification. I realize there are two website addresses in 21 NCAC 06A .0102(c). We're working on a project with Digital Commons to combine them. In the meantime, both websites will have links when that option is available.

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06U .0107

DEADLINE FOR RECEIPT: Friday, 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 (a), lines 4-5, where shall the form be filed? Obviously it's with the Board, but please revise for clarity to say that.

I made the requested change

In (b), line 7, the term "include" connotes an open-ended requirement. Is there anything else that must be on the report or form?

I used a different word. We're not trying to require anything not listed here.

In (c), line 13, the report has to be signed by the instructor, but in (a), you say the report has to be filed by the instructor OR the owner. Was "owner" omitted here intentionally? Adding to the confusion, 06Z .0104(f) and 06Z .0108(a) say that the "instructor" shall submit the report. Also, in 06Z .0108 the instructor is required to submit a "sworn statement" but here an attestation is required. Are these different requirements? Please clarify and revise.

The intent is for the instructor to sign, but the document can be filed by either the instructor or owner. I made changes to the other rules to address the issues you raised about conflicting language.

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06U .0108

DEADLINE FOR RECEIPT: Friday, 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 (a)(2), whose license number are you asking for? The applicant?

Yes, that's right. I added clarifying language.

In (a)(3), line 9, who must complete the CE? The applicant? Please revise for clarity.

I added clarifying language

Also in (a)(3), it isn't clear what kind of CE you're requiring. G.S. 86B-65(d)(3) only states that the applicant shall obtain "one hour of Board-approved continuing education." Beyond stating that "this continuing education" is separate from CE required for other licenses, the Board doesn't say what would or would not make it "Board-approved." If all that is required is that the applicant take an extra hour of any kind of CE, then I think the Rule doesn't state that clearly and needs to be revised. Alternatively, if there's some specific subject matter requirement, you need to say what it is.

I added clarifying language.

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06U .0109

DEADLINE FOR RECEIPT: Friday, 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 (a), line 5, I'm not sure the reference to "this Section" is correct, considering that the apprenticeship is largely governed by Subchapter 06Z. Please clarify and revise if appropriate.

I made the recommended change

In (a)(5), line 12, the reference to 22 CFR 21.26 is incorrect, as this cite doesn't seem to exist in the CFR. Please correct. Also, I think you need to incorporate it by reference pursuant to G.S. 150B-21.6.

I made a change that I think might be simpler and should be suitable for our purposes

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06U .0110

DEADLINE FOR RECEIPT: Friday, 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 (a)(4), line 12, I think "business hours" needs a little clarification – do you mean the "business's hours of operation"?

Yes – I used the suggested phrase

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0101

DEADLINE FOR RECEIPT: Friday, 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 (c), line 11, who is filing the application? Please rewrite in the active tense.

I added clarifying language

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0102

DEADLINE FOR RECEIPT: Friday, 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:

None.

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0103

DEADLINE FOR RECEIPT: Friday, 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 (b), line 24, please incorporate the CFR citation by reference pursuant to G.S. 150B-21.6.

I added language that I think meets the requirements of G.S. 150B-21.6.

In (d)(1), line 29, what is "medical-grade clothing"?

I change the language to obviate the ambiguity.

In (e), line 34, please define "easily seen" or revise.

I made a revision that I think will address the concern.

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0104

DEADLINE FOR RECEIPT: Friday, 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 (c), you refer to “the school”. In other rules you use “the facility”. Given that Chapter 86B, Article 3 seems to differentiate a school from an apprentice program, I think it’s important to clarify your terms here.

I made the clarification

In (e), line 14, I think you need to add “for” between “and” and “at”.

I added the word

In (f), line 16, the Rule requires the instructor to submit the monthly report. However, Rule 06U .0107 requires the instructor or the owner to submit the report. Please make sure you’re being consistent with your requirements.

I made the change

Also in (f), please consider acknowledging the exception to this Rule contained in 06Z .0108(a). For instance, consider beginning (f) by saying “Except as required by Rule .0108(a) of this Section...”

I made the suggested change

Finally, in (f), line 17, you refer to the “address” in 21 NCAC 06A .0102. That rule contains both a physical mailing address and an email address. I think you need to revise and clarify which address you’re referring to.

I added clarifying language

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

Brian Liebman
Commission Counsel

Date submitted to agency: May 2, 2023

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0105

DEADLINE FOR RECEIPT: Friday, 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 the list underneath (a), please put the first word of each item into lowercase.

Fixed the formatting error

In (a)(4), line 9, you refer to “school” rules. In other rules you use “the facility”. Given that Chapter 86B, Article 3 seems to differentiate a school from an apprentice program, I think it’s important to clarify your terms here.

I changed the language

In (b), you refer to the “address” in 21 NCAC 06A .0102. That rule contains both a physical mailing address and an email address. I think you need to revise and clarify which address you’re referring to.

I clarified the language

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0106

DEADLINE FOR RECEIPT: Friday, 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 (a), line 4, what is “an authorization”?

This is a good question. We noticed that the General Assembly used different language in G.S. 86B-63 for certification as an electrology instructor, and the requirements in that statute were different. We also didn't think this was a license in a traditional sense—or in a sense that would require us to collect a social security number under G.S. 93B-14. We settled on this word. We aren't wedded to it, but we're trying to capture that difference from G.S. 86B-63 or from a license.

In (c), you refer to the “address” in 21 NCAC 06A .0102. That rule contains both a physical mailing address and an email address. I think you need to revise and clarify which address you're referring to.

I made the change

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0107

DEADLINE FOR RECEIPT: Friday, 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:

On line 4, does "another program" include out of state programs?

No, or at least we're not addressing that in this rule. I guess another state could decide that it'll accept the hours, but our intention is only to deal with North Carolina. I added clarifying language

Also, consider adding a cross-reference to Rule .0101(b) and the requirement to get a new permit in order to transfer.

I added the suggested language

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0108

DEADLINE FOR RECEIPT: Friday, 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 (a), line 4, the Rule states that the instructor shall submit the report set forth in 06U .0107. However, that rule states that the instructor or the owner shall submit the report. Please clarify and revise.

I added clarifying language

In (b), line 7, what do you mean by a "sworn statement"? In 06U .0107 the Rule requires an attestation. Is this different? Please clarify and revise.

Yes, the board meant for this to be different. In this case, it's a final submission, and the board wanted the program to do more than just submit hours. It also wanted the program to file something with an assurance that the student completed the curriculum.

Also in (b), line 7, the Rule does not specify who must make the sworn statement. The instructor? The owner? The student? Please clarify and revise.

I made a clarification

In (c), you refer to the "address" in 21 NCAC 06A .0102. That rule contains both a physical mailing address and an email address. I think you need to revise and clarify which address you're referring to.

I added clarifying language

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0109

DEADLINE FOR RECEIPT: Friday, 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 (1), line 6, you refer to the “address” in 21 NCAC 06A .0102. That rule contains both a physical mailing address and an email address. I think you need to revise and clarify which address you’re referring to.

I made the suggested change

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06Z .0110

DEADLINE FOR RECEIPT: Friday, 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 (a)(1), line 5, I think the reference to 06N .0110 is possibly incorrect. Did you mean 06U?

You're right – I made the correction

In (b), line 11, what is “an approval”?

Please see my comments for 21 NCAC 06Z .0106. The issue is very similar: we don't think that the General Assembly was setting up licenses in the traditional sense, so we settled on this term, which we're not wedded to.

In (d), line 15, you refer to the “address” in 21 NCAC 06A .0102. That rule contains both a physical mailing address and an email address. I think you need to revise and clarify which address you're referring to.

I added clarifying language

Also, in (d), line 15, do you want the notification to be in writing? The Rule does not specify. Could a business make the notification by phone?

Yes, a phone call is fine. Just as long as we're not spending funds for an inspector to travel to a location, only to find out that the facility isn't ready. I added some language to clarify.

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

Brian Liebman
Commission Counsel
Date submitted to agency: May 2, 2023

1 21 NCAC 06O .0201 is adopted under temporary procedures with changes as follows:

2
3 **SECTION .0200 – ELECTROLYSIS**
4

5 **21 NCAC 06O .0201 ELECTROLOGY APPRENTICESHIP PROGRAM**

6 (a) The presumptive civil penalty for an individual operating an electrology apprenticeship program without Board
7 approval:

- 8 (1) 1st offense \$300.00
9 (2) 2nd offense \$400.00
10 (3) 3rd offense \$500.00

11 (b) The presumptive civil penalty for the owner or manager of an electrology apprenticeship program if that program
12 accepting accepts tuition from or enrolling enrolls a student before the Board has issued a student permit:

- 13 (1) 1st offense \$300.00
14 (2) 2nd offense \$400.00
15 (3) 3rd offense \$500.00

16 (c) The presumptive civil penalty for an individual engaging as a student in an electrology apprenticeship program
17 before the Board has issued a student permit:

- 18 (1) 1st offense \$200.00
19 (2) 2nd offense \$300.00
20 (3) 3rd offense \$500.00

21 (d) The presumptive civil penalty for an electrology apprenticeship program failing to comply with the facility
22 requirements as set forth in 21 NCAC 06Z .0103:

- 23 (1) 1st offense \$250.00
24 (2) 2nd offense \$400.00
25 (3) 3rd offense \$500.00

26 (e) The presumptive civil penalty for an electrology apprenticeship program providing practical training without the
27 student permit displayed at the electrology station:

- 28 (1) 1st offense \$100.00
29 (2) 2nd offense \$150.00
30 (3) 3rd offense \$250.00

31 (f) The presumptive civil penalty for an electrology apprenticeship program providing training without an instructor
32 present:

- 33 (1) 1st offense \$150.00
34 (2) 2nd offense \$300.00
35 (3) 3rd offense \$500.00

36 (g) The presumptive civil penalty for an electrology apprenticeship program failing to maintain records required by
37 this Chapter, 21 NCAC 06Z .0101 or 21 NCAC 06Z .0104:

1 (1) 1st offense \$200.00

2 (2) 2nd offense \$250.00

3 (3) 3rd offense \$500.00

4 (h) The presumptive civil penalty for an electrology apprenticeship program falsifying records required by ~~this~~
5 ~~Chapter: 21 NCAC 06U .0106, 21 NCAC 06U .0107, or 21 NCAC 06Z .0104~~ is \$500.00.

6 (i) The presumptive civil penalty for an electrology apprenticeship program failing to submit records required by ~~this~~
7 ~~Chapter: 21 NCAC 06U .0107 or 21 NCAC 06Z .0104:~~

8 (1) 1st offense \$200.00

9 (2) 2nd offense \$350.00

10 (3) 3rd offense \$500.00

11 (j) The presumptive civil penalty for an electrology apprenticeship program allowing an individual to instruct without
12 an instructor authorization:

13 (1) 1st offense \$200.00

14 (2) 2nd offense \$300.00

15 (3) 3rd offense \$500.00

16 (k) The presumptive civil penalty for an individual instructing without authorization from the Board at an electrology
17 apprenticeship program:

18 (1) 1st offense \$200.00

19 (2) 2nd offense \$300.00

20 (3) 3rd offense \$500.00

21 (l) The presumptive civil penalty for an individual failing to submit the required notification set forth in 21 NCAC
22 06Z .0106(c):

23 (1) 1st offense \$50.00

24 (2) 2nd offense \$100.00

25 (3) 3rd offense \$200.00

26

27 *History Note: Authority G.S. 86B-10; 86B-65;*

28 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0101 is amended under temporary procedures with changes as follows:

2

3 **21 NCAC 06U .0101 FEES**

4 (a) The following fees are payable to the Board for licensure as an electrologist:

| | | | |
|---|-----|---------------------------|----------|
| 5 | (1) | Application for licensure | \$150.00 |
| 6 | (2) | Initial licensure | \$125.00 |
| 7 | (3) | Renewal of licensure | \$125.00 |

8 (b) The following fees are payable to the Board for licensure as a laser hair practitioner:

| | | | |
|----|-----|---------------------------|----------|
| 9 | (1) | Application for licensure | \$125.00 |
| 10 | (2) | Initial licensure | \$125.00 |
| 11 | (3) | Renewal of licensure | \$150.00 |

12 (c) The following fees are payable to the Board for certification as an instructor:

| | | | |
|----|-----|--|----------|
| 13 | (1) | Application for Electrology instructor | \$150.00 |
| 14 | (2) | Renewal of Electrology instructor | \$125.00 |
| 15 | (3) | Application for laser hair practitioner instructor | \$150.00 |
| 16 | (4) | Renewal of laser hair practitioner instructor | \$125.00 |

17 (d) The following fees are payable to the Board for certification as a Board approved school:

| | | | |
|----|-----|---|----------|
| 18 | (1) | IN STATE SCHOOL | |
| 19 | (A) | Application for certification as an Electrology school | \$250.00 |
| 20 | (B) | Renewal of certification as an Electrology school | \$150.00 |
| 21 | (C) | Application for certification as a laser, light source, | |
| 22 | | or pulse light treatment school | \$250.00 |
| 23 | (D) | Renewal of certification for a laser, light source, | |
| 24 | | or pulse light treatment school | \$150.00 |
| 25 | (2) | OUT-OF-STATE SCHOOL | |
| 26 | (A) | Application for certification as an Electrology school | \$400.00 |
| 27 | (B) | Initial certification as an Electrology school | \$100.00 |
| 28 | (C) | Renewal of certification for an Electrology school | \$100.00 |
| 29 | (D) | Application for certification as a laser, light source, | |
| 30 | | or pulse light treatment school | \$350.00 |
| 31 | (E) | Initial certification as a laser, light source, | |
| 32 | | or pulse light treatment school | \$75.00 |
| 33 | (F) | Renewal of certification as a laser, light source, | |
| 34 | | or pulse light treatment school | \$100.00 |

35 (e) The following other fees are payable to the Board:

| | | | |
|----|-----|--|-------------------------------------|
| 36 | (1) | Electrologist Examination or reexamination | \$125.00 <u>\$150.00</u> |
| 37 | (2) | Office inspection or re-inspection | |

| | | | |
|----|-----|--|-----------------|
| 1 | (A) | Electrologist – per licensee, for each office site | \$100.00 |
| 2 | (B) | Laser Hair Practitioner – per licensee, for each office site | \$100.00 |
| 3 | (C) | <u>Electrology apprenticeship program facility</u> | <u>\$100.00</u> |
| 4 | (3) | License by reciprocity | \$125.00 |
| 5 | (4) | Late renewal charge | \$50.00 |
| 6 | (5) | Reinstatement of expired license | \$250.00 |
| 7 | (6) | Reinstatement of instructor licensure | \$250.00 |
| 8 | (7) | Reactivation of license | \$150.00 |
| 9 | (8) | Reactivation of instructor licensure | \$150.00 |
| 10 | (9) | Duplicate license | \$25.00 |

11 (f) All fees shall be paid only by ~~check~~ check, cashier check, official check, teller check, or money order, made
 12 payable to "~~The North~~ "North Carolina Board of Barber and Electrolysis Examiners."

13 (g) Renewal fees required for Subparagraphs (a)(3), (b)(3), (c)(2), (c)(4), (e)(2), and (e)(9) of this Rule shall be waived
 14 for licensees under this Chapter ~~that~~ who are exempt from renewal fees under G.S. 93B-15.

15
 16 *History Note:* Authority G.S. ~~884-9;~~ 86B-70; 93B-15;
 17 *Temporary Adoption Eff. December 1, 1991 for a period of 62 days to expire on February 1, 1992;*
 18 *Eff. January 1, 1992;*
 19 *Temporary Amendment Eff. September 17, 2001;*
 20 *Amended Eff. September 1, 2015; October 9, 2010; December 4, 2002;*
 21 *Readopted Eff. September 1, 2019;*
 22 *Recodified from 21 NCAC 19 .0201 Eff. January 1, ~~2023.~~ 2023.*
 23 *Temporary Amendment Eff. June 1, 2023.*

1 21 NCAC 06U .0106 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06U .0106 STUDENT PERMIT FOR ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) The electrology apprenticeship program shall file an application for a student permit ~~shall be filed for to request~~
5 permission to enroll in an electrology apprenticeship program. The application requires the following:

- 6 (1) the name, address, social security number, and birth date of the applicant;
- 7 (2) the name, address, email address, and website address of the electrology business where the
8 apprenticeship program will occur;
- 9 (3) the name and license number of the electrologist under whom the applicant will study;
- 10 (4) the name of the owner of the electrology business where the apprenticeship program will occur, if
11 the owner is different from the person listed in Subparagraph (3) of this Paragraph; and
- 12 (5) the date when the apprenticeship program will begin.

13 (b) The electrology apprenticeship program shall submit the application ~~shall be submitted~~ to the Board at the address
14 ~~in 21 NCAC 06A .0102,~~ mailing address in 21 NCAC 06A .0102(a) or website address in 21 NCAC 06A .0102(c).

15

16 *History Note: Authority G.S. 86B-65; 93B-14;*

17 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0107 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06U .0107 MONTHLY REPORTS FOR ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) The monthly report for an electrology apprenticeship program is a Board-prescribed form that shall be filed by
5 the program instructor or facility ~~owner.~~ owner at any address in 21 NCAC 06A .0102. The form shall be available
6 at the website addresses listed in 21 NCAC 06A .0102.

7 (b) The monthly report shall ~~include~~ contain the following information:

8 (1) the name of the electrology apprenticeship program;

9 (2) the name of the student;

10 (3) the month and year for which the report is filed; and

11 (4) the dates and number of hours of the student's attendance, with the hours broken down by the topics
12 in the curriculum set forth in 21 NCAC 06Z .0102.

13 (c) The monthly report shall be signed by the instructor, who shall attest that the contents of the report are accurate.

14

15 *History Note: Authority G.S. 86B-65;*

16 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0108 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06U .0108 APPLICATION FOR INSTRUCTOR IN ELECTROLOGY APPRENTICESHIP**
4 **PROGRAM**

5 (a) An application shall be filed by an individual who seeks Board authorization as an instructor in an electrology
6 apprenticeship program. The application requires the following:

7 (1) the name, address, and birth date of the applicant;

8 (2) the applicant's current electrology license number; and

9 (3) ~~Evidence~~ evidence that the applicant has completed ~~of completing the Board approved~~ continuing
10 education as set forth in ~~G.S. 86B-65(d)(3)~~ G.S. 86B-65(d)(3) and approved under 21 NCAC 06Y
11 .0102. This continuing education shall be separate from continuing education received for other
12 licenses issued by the Board.

13 (b) The form shall include the applicant's attestation that the information in the form is correct.

14

15 *History Note: Authority G.S. 86B-65;*

16 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0109 is adopted under temporary procedures with changes as follows:

2
3 **21 NCAC 06U .0109 POST-APPRENTICESHIP APPLICATION FOR LICENSURE**

4 (a) The post-apprenticeship application for licensure shall be filed by an individual who has completed an
5 electrology apprenticeship program as set forth in ~~S.L. 2022-72, s. 2, and this Section.~~ G.S. 86B-65 and Subchapter
6 Z of this Chapter. The application requires the following information:

- 7 (1) the name, address, social security number, and birthdate of the applicant;
- 8 (2) the name and address of the electrology apprenticeship program;
- 9 (3) the name of the instructor of the electrology apprenticeship program;
- 10 (4) the names and addresses of the two electrologist offices where the applicant visited, as well as the
11 dates when the visits occurred, as required by ~~S.L. 2022-72, s. 2;~~ G.S. 86B-65(a)(2);
- 12 (5) ~~a passport acceptable photograph~~ color photograph of the applicant that is two inches by two inches
13 and has been taken within the past two years; and
- 14 (6) proof of age as evidenced by a copy of a current:
- 15 (A) driver license or identification card issued by a state or territory in the United States;
- 16 (B) United States passport or passport card;
- 17 (C) United States permanent resident card;
- 18 (D) United States employment authorization document card;
- 19 (E) birth certificate issued by a state, county, municipal authority, or outlying territory of the
20 United States;
- 21 (F) consular report of birth abroad, certification of birth abroad issued by the United States
22 Department of State, or certification of report of birth issued by the United States
23 Department of State; or
- 24 (G) Native American tribal document.

25 (b) The fee in Rule .0101 of this Section shall be submitted with the application.

26 (c) The application form shall include the applicant's attestation that the information in the form is correct.

27
28 *History Note: Authority G.S. 86B-65; 93B-14;*

29 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06U .0110 is adopted under temporary procedures with changes as follows:
2

3 **21 NCAC 06U .0110 APPLICATION FOR APPROVAL AS AN ELECTROLOGY APPRENTICESHIP**
4 **PROGRAM**

5 (a) An application shall be filed by a facility that wishes to offer an electrology apprenticeship program. The
6 application requires the following:

- 7 (1) the name and address of the business;
8 (2) the names, addresses, and authorization numbers of the instructors for the electrology apprenticeship
9 program;
10 (3) the names and addresses of the owners of the electrology apprenticeship program, if different from
11 the information provided under Subparagraph (2) of this Paragraph;
12 (4) ~~the business hours;~~ business's hours of operation;
13 (5) the physical dimension of the training area;
14 (6) the number of treatment tables; and
15 (7) the date the business will be ready for inspection.

16 (b) The fee required by Rule .0101 of this Section shall accompany the application.

17 (c) The application shall include the applicant's attestation that the information in the form is correct.
18

19 *History Note: Authority G.S. 86B-65;*

20 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0101 is adopted under temporary procedures with changes as follows:
2

3 **SUBCHAPTER 06Z – ELECTROLOGY APPRENTICESHIP PROGRAM**
4

5 **21 NCAC 06Z .0101 ENROLLMENT REQUIREMENTS AND STUDENT PERMITS**

6 (a) An electrology apprenticeship program shall not accept tuition from or enroll a student unless the student has
7 submitted the application for a student permit required by 21 NCAC 06U .0106 and been issued a student permit by
8 the Board.

9 (b) The student permit shall only be valid for a specific electrology apprenticeship program and cannot be used in
10 another location.

11 (c) ~~A~~ The electrology apprenticeship program shall file a new application for a student permit ~~shall be filed~~ with the
12 Board for a student who drops out of the program and later re-enrolls.

13 (d) Before accepting tuition or enrolling a student, the apprenticeship program shall notify a student applicant of the
14 minimum qualifications for licensure as an electrologist as set forth in G.S. 86B-53, including the minimum-age
15 requirement. The apprenticeship program shall have the applicant sign and date the notice indicating that the applicant
16 has been informed of the qualifications. The apprenticeship program shall retain the signed and dated notice for at
17 least one year after the student terminates from the program.
18

19 *History Note: Authority G.S. 86B-65;*

20 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0103 is adopted under temporary procedures with changes as follows:

2
3 **21 NCAC 06Z .0103 FACILITY REQUIREMENTS**

4 (a) A North Carolina electrology facility that offers an electrology apprenticeship program shall have the following
5 equipment onsite:

- 6 (1) A high frequency or thermolysis (short wave) machine;
- 7 (2) A galvanic/thermolysis (blend) machine;
- 8 (3) A 13.5 MHz epilator;
- 9 (4) A 27 MHz epilator;
- 10 (5) A treatment table;
- 11 (6) Two stools or adjustable chairs for each treatment table;
- 12 (7) A supply cabinet for each treatment table;
- 13 (8) Six dozen epilation forceps (tweezers) that meet the requirements set forth in 21 NCAC 06V
14 .0105(c)(2);
- 15 (9) At least one holding tank for epilation forceps (tweezers) at each electrology station;
- 16 (10) A sharps container for each electrology station;
- 17 (11) At least one FDA-approved dry heat sterilizer or autoclave;
- 18 (12) At least one ultrasonic cleaner;
- 19 (13) Illumination and magnification equipment to aid with electrology services;
- 20 (14) A sink with running hot and cold water within the office or suite where the electrology
21 apprenticeship program is located and not shared with other businesses;
- 22 (15) Toilet facilities on the same floor as the practical training area;
- 23 (16) An electronic or punch-card time clock to record student hours.

24 (b) With the exception of service ~~dogs~~, animals as defined in the August 11, 2016 version of 28 CFR 36.104 and any
25 subsequent amendments, no animals shall be permitted in an electrology facility.

26 (c) All bottles and containers that contain electrology equipment and supplies shall have labels that indicate the
27 contents.

28 (d) All electrology personnel and students shall wear the following during training and services:

- 29 (1) ~~Scrubs, Scrubs or lab coats, or medical grade clothing; coats;~~
- 30 (2) Soft-soled shoes;
- 31 (3) Surgical or N95 masks; and
- 32 (4) Latex or nitrile gloves.

33 (e) The electrology facility shall comply with the infection-control rules in 21 NCAC 06V and post them in a
34 conspicuous place. For the purposes of this Rule, “conspicuous place” means a place ~~easily seen by~~ visible to the
35 individuals receiving electrology services.

36
37 *History Note: Authority G.S. 86B-65;*

1 21 NCAC 06Z .0104 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0104 STUDENT HOURS AND PERMITS**

4 (a) No practical training shall occur unless the student permit required by Rule .0101 of this Section is displayed at
5 the electrology station.

6 (b) Students shall not earn hours in Onsite Practical Training, as described in Rule .0102 of this Section, unless an
7 instructor is present. This instructor must be authorized under G.S. 86B-65.

8 (c) The ~~school~~ electrology apprenticeship program shall track student hours:

9 (1) by having the students record their start and end time with the time clock required by Rule
10 .0103(a)(16) of this Section; or

11 (2) for online classes, by having software track the student's online attendance.

12 (d) The electrology apprenticeship program shall not credit hours except as reflected in time-clock or online-
13 tracking records as provided in Paragraph (c) of this Rule.

14 (e) The electrology apprenticeship program shall maintain time-clock records during the student's enrollment and
15 for at least one year after the student drops, transfers, or completes the program.

16 (f) ~~For~~ Except as required by Rule .0108(a) of this Section, each electrology student, the instructor or owner shall
17 submit the monthly report as set forth in 21 NCAC 06U .0107 to the Board at ~~the~~ any address listed in 21 NCAC
18 06A .0102 by the 15th day of each month. The monthly report shall include the hours accrued for the previous
19 month.

20

21 *History Note: Authority G.S. 86B-65;*

22 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0105 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0105 PROGRAM HANDBOOKS AND ENROLLMENT AGREEMENTS**

4 (a) Every electrology apprenticeship program shall provide a program handbook to its students upon enrollment.

5 The program handbook shall contain the following information:

6 (1) ~~Enrollment~~ enrollment agreement;

7 (2) ~~Schedule~~ schedule of fees, including any monetary penalties;

8 (3) ~~Reimbursement~~ reimbursement policies;

9 (4) ~~School~~ program rules and requirements;

10 (5) ~~Tardiness~~ tardiness and absenteeism policies;

11 (6) A a copy of the curriculum as set forth in Rule .0102 of this Section;

12 (7) ~~An~~ an explanation of how the curriculum content will be delivered, such as through online modules;

13 and

14 (8) ~~The~~ the grading system for the curriculum.

15 (b) The electrology apprenticeship program shall submit a copy of the program handbook to the Board at ~~the~~ any

16 address listed in 21 NCAC 06A .0102 before enrolling students. An updated copy of the handbook shall be

17 submitted to the Board within 30 days of any amendment or revision.

18

19 *History Note: Authority G.S. 86B-65;*

20 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0106 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0106 INSTRUCTORS IN AN ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) The Board shall issue an authorization to an instructor in an electrology program if he or she:

5 (1) meets the requirements in G.S. 86B-65, and 21 NCAC 06U .0108; and

6 (2) makes a score of at least 85 on the written exam.

7 (b) The authorization in Paragraph (a) of this Rule shall only apply to a specific electrology apprenticeship program
8 and cannot be transferred to another program.

9 (c) An instructor in an electrology apprenticeship program shall notify the Board in writing at ~~the~~ any address in 21
10 NCAC 06A .0102 if he or she is no longer working as an instructor in the electrology apprenticeship program. The
11 instructor shall submit this notification within 15 days of the end of his or her work as an instructor in the program.

12 (d) The Board shall revoke the authorization in Paragraph (a) for the following reasons:

13 (1) falsification of documents related to the electrology apprenticeship program;

14 (2) failure to maintain an electrology license;

15 (3) failure to provide oversight required by ~~Board statute and rule~~ Rule .0104 of this Subchapter to
16 students enrolled in an electrology apprenticeship program; or

17 (4) termination of the electrology apprenticeship program.

18

19 *History Note: Authority G.S. 86B-65;*

20 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0107 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0107 TRANSFERS**

4 Students attending electrology apprenticeship programs in North Carolina may transfer to another program in North
5 Carolina and receive credit for attendance at each of the programs where the student was enrolled. The electrology
6 apprenticeship program shall meet the requirements in Rule .0101 of this Subchapter before accepting tuition from
7 or enrolling the transfer student.

8

9 *History Note: Authority G.S. 86B-65;*

10 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0108 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0108 PROGRAM COMPLETION**

4 (a) Within 15 days of a student completing an electrology apprenticeship program, the instructor or facility owner
5 shall submit the report set forth in 21 NCAC 06U .0107, notwithstanding the requirement in Rule .0104(e) of this
6 Section to submit the report by the 15th day of the following month.

7 (b) The report in Paragraph (a) shall be accompanied by a ~~sworn~~ notarized statement by the instructor or facility
8 owner that the hours reported are accurate and that the student has completed the requirements of the curriculum set
9 forth in Rule .0102 of this Section.

10 (c) The documentation required by this Rule shall be submitted to the Board at ~~the~~ any address listed in 21 NCAC
11 06A .0102.

12

13 *History Note: Authority G.S. 86B-65;*

14 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0109 is adopted under temporary procedures with changes as follows:

2

3 **21 NCAC 06Z .0109 POST-APPRENTICESHIP ELECTROLOGY LICENSE**

4 An individual who attended an electrology apprenticeship program and wishes to be licensed shall:

5 (1) submit the post-apprenticeship application as set forth in 21 NCAC 06U .0109 to the Board at the
6 mailing address in 21 NCAC 06A .0102(a) or the website address listed in ~~21 NCAC 06A .0102~~; 21
7 NCAC 06A .0102(c); and

8 (2) make a score of at least 70 on the clinical examination.

9

10 *History Note: Authority G.S. 86B-65;*

11 *Temporary Adoption Eff. June 1, 2023.*

1 21 NCAC 06Z .0110 is proposed for adoption under temporary procedures with changes as follows:

2
3 **21 NCAC 06Z .0110 APPROVAL AS AN ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) To receive approval as an electrology apprenticeship program, a business must:

- 5 (1) submit the application as set forth in ~~21 NCAC 06N .0110~~; 21 NCAC 06U .0110;
- 6 (2) pass a facility inspection that assesses whether the program complies with requirements set forth in
- 7 Rule .0103 of this Section; and
- 8 (3) employ an instructor for an electrology apprenticeship program who is approved under Rule .0106
- 9 of this Section.

10 (b) Within five business days of determining that an electrology apprenticeship program meets the requirements in

11 Paragraph (a) of this Rule, the Board shall issue an approval to the program.

12 (c) No electrology apprenticeship program shall operate without first receiving the approval in Paragraph (b) of this

13 Rule.

14 (d) If a business is not ready for the facility inspection on a scheduled date, the owner or instructor shall notify the

15 Board at ~~the~~ any address or phone number listed in 21 NCAC 06A .0102 at least one business day before the

16 scheduled inspection. The business shall forfeit the inspection fee if it fails to provide timely notice to the Board.

17 (e) The Board shall terminate approval of an electrology apprenticeship program for the following reasons:

- 18 (1) the program no longer has an instructor;
- 19 (2) after receiving a written warning, the facility fails to comply with the requirements in Rule .0103
- 20 of this Section;
- 21 (3) the Board determines that the program has falsified documents related to the program, and
- 22 revocation of the instructor authorization as set forth in Rule .0106(d) of this Section will not
- 23 prevent further falsification of documents; or
- 24 (4) the Board determines that the program has failed to provide the oversight required by Board
- 25 statute and rule to students enrolled in the program, and revocation of the instructor authorization
- 26 as set forth in Rule .0106(d) of this Section will not prevent further failures.

27
28 *History Note: Authority G.S. 86B-65;*

29 *Temporary Adoption Eff. June 1, 2023.*

Burgos, Alexander N

From: Liebman, Brian R
Sent: Tuesday, May 2, 2023 2:19 PM
To: Seavers, Dennis
Cc: Burgos, Alexander N
Subject: Board of Barber and Electrolysis Examiners Temporary Rules - Requests for Changes May 2023 RRC
Attachments: 05.2023 - Barber Examiners Temporary Rules Request for Technical Changes.docx

Follow Up Flag: Follow up
Flag Status: Completed

Good afternoon,

I'm the attorney who reviewed the temporary rules submitted by the Board for the May 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, May 18, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite 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 Friday, May 12, 2023.

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

Thanks,

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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