

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Work Certification and Licensure Board

RULE CITATION: 21 NCAC 63 .0215

DEADLINE FOR RECEIPT: Friday, January 10, 2020

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 call our office to inquire concerning the staff recommendation.

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

This Rule is an adoption; as such, to show changes after publication, you will follow Rule 26 NCAC 02C .0405(b)(1). This means you will remove the underlining from the text and only underline language added post-publication. In addition, you will strike language you remove after publication. You will not use brackets or highlighting.

In (a), why do you need the language on lines 4-6, "any person... license,"? That just repeats G.S. 93B-8.1(b6). Why not simplify this entire Paragraph and state "An individual seeking predetermination pursuant to 93B-8.1(b6) and this Rule may file with the Board a petition form located on the Board's website, www.ncswboard.org."

On line 6, why is "Petition" capitalized?

If you change (a) as suggested, in (b), change the language on lines 8 and 9 to state "The petition form shall include all of the following:"

In (b)(5), I know the statute allows the Board to designate the reporting service, and it also states the cost will be borne by the applicant. I suggest you use the language in another approved rule and state "A criminal record report prepared by the Commission's approved independent vendor pursuant to G.S. 93B-8.1;"

Will the individual need to supply all of the information in (b)(6)? I only ask because it seems that (b)(i), (iii), and (vi) will be contained in the criminal history record, so it seems redundant.

In (b)(6)(vii), line 23, and (viii), line 24, I suggest deleting "during which"

Should (b)(6)(vii), (viii), and (ix) say "if any"?

In (b)(6)(xi), so that I'm clear – you don't want a copy of the certificate, only to know if one has been granted?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: December 31, 2019

In (b)(6)(xii), so that I'm clear - you are not requiring character references, only allowing them? And the individual can submit as many (or few) as he or she wishes?

End (b)(6)(xii) with a semicolon and "and" or "or" depending upon what you mean.

In (b)(7), lines 32-33, what are these "Instructions"? You deleted the reference from line 6. And what are their contents?

On line 34, so that I'm clear – "true and accurate" to the individual?

On line 35, how will the individual know if the application is incomplete? Is the Board going to inform the individual of this? If not, how will they know that it's been received and the 30 days started?

In (c), Page 2, line 3, why do you need to state, "Cash shall not be accepted."? You already said that it will be paid by check or money order. Do you need to retain this language?

In (d), line 5, do you need to retain who the members are appointed by? Could you not just end the sentence after "matters."?

If you want to retain the appointing individual, end the sentence after "matters" and then state "The members shall be determined..."

On line 6, replace "their" with "his or her"

In the History Note, line 8, why are you citing to G.S. 90B-11?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 31, 2019

21 NCAC 63 .0215 is adopted with changes as published in 34:08 NCR 712-713 as follows:

21 NCAC 63 .0215 PETITION FOR PREDETERMINATION

(a) General. Pursuant to G.S. 93B-8.1(b6), any person with a criminal history may petition the Board at any time for a predetermination of whether the individual's criminal history likely will disqualify the individual from obtaining a license, in accordance with this Rule. The Petition [forms and instructions] form may be found on the Board's website at <https://www.ncswboard.org>.

(b) Petition Procedure. To petition the Board under this Rule, a person must submit to the Board's office a petition for predetermination that contains all of the following information:

- (1) The person's [full] name;
- (2) The last four digits of the person's social security number;
- (3) The person's current residential address;
- (4) The person's current mailing address;
- (5) A [complete and accurate] nationwide criminal history record report from a reporting service designated by the Board, the cost of which shall be borne by the petitioner;
- (6) For each crime identified in the criminal history record report, the following information:
 - (i) Whether the crime was a felony or misdemeanor;
 - (ii) The date that the crime occurred;
 - (iii) The date the person was convicted of, or plead guilty or nolo contendere to, the crime;
 - (iv) The age of the person at the time of the crime;
 - (v) The circumstances surrounding the commission of the crime;
 - (vi) The sentence imposed for the crime;
 - (vii) The period of time during which the person was incarcerated for the crime;
 - (viii) The period of time during which the person was on probation or parole for the crime;
 - (ix) Any documentation related to the person's rehabilitation or employment since the date of the crime;
 - (x) Whether the person has undergone any rehabilitative drug or alcohol treatment since the date of the crime;
 - (xi) Whether a Certificate of Relief has been granted regarding the crime, pursuant to G.S. 15A 173.2; and
 - (xii) Any affidavits or other written documents, including character references, for the person.
- (7) An affirmation under oath that the person has read the Instructions for Submitting a Petition for Predetermination and the statutes and rules governing the practice of social work and that the information contained in the petition is true and accurate.

Incomplete petitions [will+] shall not be considered by the Board. If incomplete petitions received by the Board are not made complete within 30 days of receipt, the incomplete petitions will be returned to the person from whom the request was made.

1 (c) Petition Fee. A non-refundable petition fee of forty-five dollars (\$45.00) shall accompany each petition. This fee
2 may be paid by certified bank check or money order made payable to the North Carolina Social Work Certification
3 and Licensure Board. Cash shall not be accepted.

4 (d) Delegation of Authority for Predetermination. The Board delegates authority for rendering predeterminations
5 under this Rule to a committee of the Board that is tasked with reviewing disciplinary matters, the members of which
6 shall be determined by the Board Chair or their designee.

7
8 *History Note: Authority G.S. 90B-11; 93B-8.1;*
9 *Adopted Eff. February 1, 2020.*