

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0203

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☒ Failure to comply with the APA
 - ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule for lack of statutory authority and failure to comply with the APA.

In Subparagraph (a)(4) of this Rule, the Board is proposing to charge a \$200 registration fee. Staff notes that G.S. 90-113.38(b1) limits this fee to \$150.

§ 90-113.38. Maximums for certain fees.

(a) The fee to obtain a certificate of certification as a substance abuse counselor, substance abuse prevention consultant, clinical supervisor, substance abuse residential facility director, or certified criminal justice addictions professional may not exceed four hundred seventy-five dollars (\$475.00). The fee to renew a certificate may not exceed one hundred fifty dollars (\$150.00).

(b1) The fee to obtain a registration as a registrant shall not exceed one hundred fifty dollars (\$150.00). The fee to renew a registration shall not exceed one hundred fifty dollars (\$150.00).

Amanda J. Reeder
Commission Counsel

It may well be that the use of a “registration fee” in this Rule is a just nomenclature, and the fee is not really a “registration fee” as contemplated in the statute. However, the use of the term in the Rule does contradict the statutory maximum.

In addition, when the Board noticed this Rule in the October 15, 2018 Register, it proposed that the fee be \$150. The notice in the Register (which is also attached) stated:

~~(b)~~(a) To be designated as a Substance Abuse Counselor Intern, a counselor shall submit ~~and successfully~~ complete the following:

- (1) ~~A registration form provided by the Board;~~ Registration status issued by the Board;
- (2) Documentation provided ~~by~~ to the Board verifying the ~~successful~~ completion of 300 hours of Supervised ~~Practice;~~ practice by a Certified Clinical Supervisor or Clinical Supervisor Intern;
- (3) ~~Successful completion of the written~~ Achieving a passing score on the Alcohol and Drug Counselor examination developed by the IC&RC/AODA, Inc. IC&RC or its successor organization; and
- (4) Payment of a non-refundable, ~~one hundred twenty-five dollar (\$125.00) written one hundred fifty dollar (\$150.00) exam fee plus a one hundred twenty-five dollar (\$125.00) one hundred fifty dollar (\$150.00) registration fee if not already registered~~ Registered with the Board.

The agency raised the amount of the registration fee by \$50 after publication. Staff believes this constitutes a substantial change as defined in G.S. 150B-21.2(g), which states:

(g) Adoption. - An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. Prior to adoption, an agency shall review any fiscal note that has been prepared for the proposed rule and consider any public comments received in connection with the proposed rule or the fiscal note. **An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.**

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

- (1) Affects the interests of persons who, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.
- (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.
- (3) **Produces an effect that could not reasonably have been expected based on the proposed text of the rule.**

Amanda J. Reeder
Commission Counsel

Therefore, staff recommends objection to this Rule for lack of statutory authority to set a registration fee at \$200 and failure to comply with the APA, as increasing the fee after publication constitutes a substantial change.

- (7) suspension or expulsion from any school, including an educational program for physician assistants.

(d) All reports must be submitted directly to the Board from the primary source, when possible.

(e) An application must be completed within one year of the date on which the application fee is paid. If not, the applicant shall be charged a new application fee.

Authority G.S. 90-9.3; 90-13.1.

CHAPTER 48 - BOARD OF PHYSICAL THERAPY EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Board of Physical Therapy Examiners intends to readopt without substantive changes the rules cited as 21 NCAC 48F .0102 and .0103; 48G .0504.

Pursuant to G.S. 150B-21.2(c)(1), the text of rules to be readopted without substantive changes are not required to be published. The text of the rules is available on the OAH website: <http://reports.oah.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncptboard.org/

Proposed Effective Date: May 1, 2019

Public Hearing:

Date: December 5, 2018

Time: 2:00 p.m.

Location: Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC 27514

Reason for Proposed Action: *The NC Board of Physical Therapy Examiners proposes to readopt 21 NCAC 48F .0101, .0103, and 48G .0504 in accordance with G.S. 150B-21.3A as part of the periodic review of rules process. These rules are determined to be without substantive public interest and will be readopted by the Board without changes.*

Comments may be submitted to: Deborah J. Ragan, PT, DPT, North Carolina Board of Physical Therapy Examiners, 8300 Heath Park Suite 233, Raleigh, NC 27615; phone (919) 490-6393; fax (919) 490-5106; email dragan@ncptboard.org

Comment period ends: December 14, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule,

the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- ☐ State funds affected
☐ Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
☐ Local funds affected
☐ Substantial economic impact (≥\$1,000,000)
☐ Approved by OSBM
☐ No fiscal note required by G.S. 150B-21.4
☒ No fiscal note required by G.S. 150B-21.3A(d)(2)

SUBCHAPTER 48F - CERTIFICATES: FEES: INVESTIGATIONS: RECORD OF LICENSEES

SECTION .0100 - CERTIFICATES: FEES: INVESTIGATIONS: RECORD OF LICENSEES

21 NCAC 48F .0102 FEES (READOPTION WITHOUT SUBSTANTIVE PUBLIC INTEREST)

21 NCAC 48F .0103 INVESTIGATIONS (READOPTION WITHOUT SUBSTANTIVE PUBLIC INTEREST)

SUBCHAPTER 48G - RETENTION OF LICENSE

SECTION .0500 - CONTESTED CASE HEARINGS

21 NCAC 48G .0504 COMPLAINTS AND INVESTIGATIONS (READOPTION WITHOUT SUBSTANTIVE PUBLIC INTEREST)

CHAPTER 68 - SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Substance Abuse Professional Practice Board intends to readopt with substantive changes the rules cited as 21 NCAC 68 .0203, .0205-.0208, .0211, .0212, .0305, and .0306.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncsappb.org/rules

Proposed Effective Date: February 1, 2019

Public Hearing:

Date: December 14, 2018

Time: 8:30 a.m.

Location: NCSAPPB Board Meeting, Sheraton Imperial Hotel, 4700 Emperor Blvd., Durham, NC 27703

Reason for Proposed Action:

21 NCAC 68 .0203 - Modernizes terminology, increases fee for Examination

21 NCAC 68 .0205 – Modernizes terminology, increases fee for Registration

21 NCAC 68 .0206 – Modernizes terminology, increases fee for Examination and Registration

21 NCAC 68 .0207, .0208 – Modernizes terminology, increases Renewal fee

21 NCAC 68 .0211 – Modernizes terminology, increases Registration, Examination and Renewal

21 NCAC 68 .0212 – Modernizes terminology, increases Registration and Renewal fee

21 NCAC 68 .0305 – Modernizes terminology, increases Registration and Examination Fee

21 NCAC 68 .0306 - Modernizes terminology and increases fees.

Comments may be submitted to: Barden Culbreth, NCSAPPB, PO Box 10126, Raleigh, NC 27605, email barden@ncsappb.org

Comment period ends: December 14, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☐ No fiscal note required by G.S. 150B-21.4
- ☒ No fiscal note required by G.S. 150B-21.3A(d)(2)

SECTION .0200 - CERTIFICATION

21 NCAC 68 .0203 DESIGNATION AS SUBSTANCE ABUSE COUNSELOR INTERN

(a) An applicant may by pass early registration at the entry level and seek designation as a Counselor Intern.

(b)(a) To be designated as a Substance Abuse Counselor Intern, a counselor shall submit and successfully complete the following:

- (1) ~~A registration form provided by the Board;~~ Registration status issued by the Board;
- (2) Documentation provided ~~by to~~ the Board verifying the ~~successful~~ completion of 300 hours of Supervised Practice; practice by a Certified Clinical Supervisor or Clinical Supervisor Intern;
- (3) ~~Successful completion of the written~~ Achieving a passing score on the Alcohol and Drug Counselor examination developed by the IC&RC/AODA, Inc. IC&RC or its successor organization; and
- (4) Payment of a non-refundable, ~~one hundred twenty five dollar (\$125.00) written one hundred fifty dollar (\$150.00) exam fee plus a one hundred twenty five dollar (\$125.00) one hundred fifty dollar (\$150.00) registration fee if not already registered~~ Registered with the Board.

(e)(b) Upon the failure of an applicant to achieve a passing score, the applicant may request a reexamination and pay a non-refundable reexamination fee of one hundred fifty dollars (\$150.00) after a period of three months from the date of the failed test.

(d)(c) Once an individual has been designated as a Substance Abuse Counselor Intern, he or she may function as a counselor intern under an approved supervisor at a ratio of one hour of supervision for every 40 hours of practice.

Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.38; 90-113.39; 90-113.40; 90-113.41.

21 NCAC 68 .0205 CERTIFIED SUBSTANCE ABUSE COUNSELOR CERTIFICATION

Requirements for certification as a Certified Substance Abuse Counselor shall be as follows:

- (1) ~~Successful completion~~ Completion of 6,000 hours of paid or volunteer supervised experience earned in not less than three years, as set out in G.S. 90-113.40(a). If the work setting is not exclusively substance abuse focused, the applicant may accumulate experience proportional to the substance abuse services ~~performed;~~ performed or as determined and verified by the applicant supervisor.
- (2) Board approved education and training of at least 270 clock hours as follows:
 - (a) Substance Abuse Specific (SAS) education and training in the amount of at least 190 hours;
 - (b) Up to 80 hours may be directed toward general professional skill building to enhance counselor development;
 - (c) No more than 25% of the 270 hours (67.5) hours may be ~~in service in-~~ service education received within the

21 NCAC 68 .0203 is proposed for readoption with substantive changes as follows:

21 NCAC 68 .0203 DESIGNATION AS SUBSTANCE ABUSE COUNSELOR INTERN

~~(a) An applicant may by pass early registration at the entry level and seek designation as a Counselor Intern.~~

~~(b) (a)~~ To be designated as a Substance Abuse Counselor Intern, a counselor shall submit ~~and successfully~~ complete the following:

(1) ~~A registration form provided by the Board;~~ Registration status issued by the Board;

(2) Documentation provided ~~by~~ to the Board verifying the ~~successful~~ completion of 300 hours of Supervised ~~Practice~~ practice by a Certified Clinical Supervisor or Clinical Supervisor Intern;

(3) ~~Successful completion of the written~~ Achieving a passing score on the Alcohol and Drug Counselor examination developed by the IC&RC/AODA, Inc. IC&RC or its successor organization; and

(4) Payment of a non-refundable, ~~one hundred twenty-five dollar (\$125.00) written one hundred fifty dollar (\$150.00) exam fee plus a one hundred twenty-five dollar (\$125.00) two hundred dollar (\$200.00) registration fee if not already registered~~ Registered with the Board.

~~(e) (b)~~ Upon the failure of an applicant to achieve a passing score, the applicant may request a reexamination and pay a non-refundable reexamination fee of one hundred fifty dollars (\$150.00) after a period of three months from the date of the failed test.

~~(d) (c)~~ Once an individual has been designated as a Substance Abuse Counselor Intern, he or she may function as a counselor intern under an approved supervisor at a ratio of one hour of supervision for every 40 hours of practice.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.38; 90-113.39; 90-113.40; 90-113.41;

Eff. August 1, 1996;

Amended Eff. August 1, 2002; August 1, 2000.

Amended Eff. February 1, 2019.

RRC STAFF OPINION

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AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0205

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - X Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

Staff recommends objection to this Rule for lack of statutory authority.

In Item (3) of this Rule, the Board is proposing to charge a \$200 registration fee. Staff notes that G.S. 90-113.38(b1) limits this fee to \$150.

§ 90-113.38. Maximums for certain fees.

(a) The fee to obtain a certificate of certification as a substance abuse counselor, substance abuse prevention consultant, clinical supervisor, substance abuse residential facility director, or certified criminal justice addictions professional may not exceed four hundred seventy-five dollars (\$475.00). The fee to renew a certificate may not exceed one hundred fifty dollars (\$150.00).

(b1) The fee to obtain a registration as a registrant shall not exceed one hundred fifty dollars (\$150.00). The fee to renew a registration shall not exceed one hundred fifty dollars (\$150.00).

Amanda J. Reeder
Commission Counsel

It may well be that the use of a “registration fee” in this Rule is a just nomenclature, and the fee is not really a “registration fee” as contemplated in the statute. However, the use of the term in the Rule does contradict the statutory maximum. Therefore, staff recommends objection to this Rule for lack of statutory authority to set a registration fee at \$200.

21 NCAC 68 .0205 is proposed for readoption with substantive changes as follows:

21 NCAC 68 .0205 CERTIFIED SUBSTANCE ABUSE COUNSELOR CERTIFICATION

Requirements for certification as a Certified Substance Abuse Counselor shall be as follows:

- (1) ~~Successful completion~~ Completion of 6,000 hours of paid or volunteer supervised experience ~~earned in not less than three years~~, as set out in G.S. 90-113.40(a). If the work setting is not exclusively substance abuse focused, the applicant may accumulate experience proportional to the substance abuse services ~~performed~~; performed or as determined and verified by the applicant supervisor.
- (2) Board approved education and training of at least 270 clock hours as follows:
 - (a) Substance Abuse Specific (SAS) education and training in the amount of at least 190 hours;
 - (b) Up to 80 hours may be directed toward general professional skill building to enhance counselor development;
 - (c) No more than 25% of the 270 hours (67.5) hours may be ~~inservice~~ in-service education received within the applicant's organization by staff of the same organization;
 - (d) The 190 Substance Abuse Specific clock hours needed for initial certification must be in the core competencies. Core competencies are listed as follow:
 - (i) Basic alcoholism and drug addiction knowledge;
 - (ii) Screening, intake, ~~orientation~~ orientation, and assessment;
 - (iii) Individual, ~~group~~ group, and family counseling and intervention techniques;
 - (iv) Case management, treatment planning, ~~reporting~~ reporting, and record keeping;
 - (v) Crisis intervention skills;
 - (vi) Prevention and client education;
 - (vii) Consultation, ~~referral~~ referral, and networking that utilizes community resources;
 - (viii) Ethics, legal issues, and confidentiality;
 - (ix) Special populations ~~which that~~ include ~~but are not limited to~~ individuals or groups with ~~specific~~ ethnic, cultural, sexual orientation, and gender characteristics as well as persons dealing with HIV, co-occurring disabilities, persons with criminal justice related ~~issues~~ issues, and perinatal issues;
 - (x) Physiology and pharmacology of alcohol and other drugs that include the licit and illicit drugs, ~~inhalants~~ inhalants, and nicotine;
 - (xi) Psychological, emotional, ~~personality~~ personality, and developmental issues; and
 - (xii) Traditions and philosophies of 12-step and other recovery support groups;
 - (e) Of the 270 clock hours, applicants for certification as a Substance Abuse Professional must document six hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, six hours professional ethics education, and six hours of education to be selected from the following:
 - (i) ~~Nicotine Dependence;~~ nicotine use disorder;
 - (ii) ~~Psychopathology;~~ psychopathology;

- (iii) ~~Evidence-Based Treatment Approaches;~~ evidence-based treatment;
- (iv) ~~Substance Abuse Issues In Older Adults; and substance use disorder issues and older adults; and~~
- (v) ~~Substance Abuse Issues Affecting Veterans; substance use disorder issued affecting veterans; and~~
- (vi) substance use disorder and domestic violence.
- (3) A ~~one hundred twenty five dollar (\$125.00) written~~ one hundred fifty dollar (\$150.00) exam fee and a one hundred twenty five dollar (\$125.00) two hundred dollar (\$200.00) non-refundable registration fee, unless previously paid. The applicant may request a reexamination and pay a non-refundable reexamination fee as set out in G.S. 90-113.38(c) for the written exam if a passing score is not achieved and at least three months have passed from the date of failed test;
- (4) ~~Successful completion of the IC&RC/AODA, Inc. Achieving a passing score on the IC&RC or its successor organization written Alcohol and Drug Counselor exam;~~
- (5) ~~Completed evaluation forms and contracts for supervision. These forms must be mailed directly to the Board by three references: a supervisor, co worker, and colleague; by the professional's applicant supervisor documenting 6,000 hours of clinical substance use disorder counseling experience submitted to the Board, and two references from other substance use disorder professionals as part of the application for certification.~~
- (6) ~~A signed form attesting to the applicant's adherence~~ An attestation or otherwise signed adherence by the applicant to the Ethical Standards of the Board;
- (7) Documentation of highest level education. Verification of high school graduation, graduation or completion of GED, GED may be evidenced by diploma. Otherwise applicants presenting baccalaureate or advanced degree; degrees must submit a completed transcript;
- (8) Completed registration ~~forms;~~ application found on the Board's website.
- (9) Resume; and
- (10) Job description that verifies job ~~function.~~ function to include the 12 Core Functions.

History Note: Authority G.S. 90-113.30; ~~90-113.31~~; 90-113.33; ~~90-113.36~~; 90-113.39; 90-113.40; Eff. August 1, 1996;

Amended Eff. January 1, 2010; August 1, 2002; August 1, 2000.

Amended Eff. February 1, 2019.

RRC STAFF OPINION

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AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0208

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule for lack of statutory authority.

In Subparagraphs (c)(2) and (3) of this Rule, the Board is setting the ratio of supervision at one hour of supervision for every 80 to 160 hours of practice, with the amount of supervision decreasing the longer the individual has been practicing.

G.S. 90-113.37A(b) the ratio of supervision to work at 40 hours.

§ 90-113.37A. Renewal of credential; lapse.

- (a) Every person credentialed pursuant to this Article who desires to maintain his or her credentials shall apply to the Board for a renewal of certification or licensure every other year and pay to the treasurer the prescribed fee.
- (b) Renewal of licensure is subject to completion of at least 40 hours of the continuing education requirements established by the Board. Renewal of substance abuse counselor or substance abuse prevention consultant certification is subject to completion of at least 60 hours of the continuing education requirements established by the Board. **A certified substance abuse counselor**

Amanda J. Reeder
Commission Counsel

shall submit a Board-approved supervision contract signed by the applicant and a practice supervisor documenting ongoing supervision at a ratio of one hour of supervision to every 40 hours of practice after certification is granted by the Board on a form provided by the Board. Any person certified by the Board as a certified alcoholism counselor or certified drug abuse counselor shall become a certified substance abuse counselor.

A clinical supervisor shall complete at least 15 hours of substance abuse clinical supervision training prior to the certificate being renewed. A substance abuse residential facility director shall complete at least 10 hours of substance abuse training for renewal. A certified criminal justice addictions professional shall complete at least 40 hours of continuing education that must be earned in the certified criminal justice addictions professional performance domains. A certified criminal justice addictions professional shall submit a Board-approved supervision contract signed by the criminal justice addictions professional and a practice supervisor documenting ongoing supervision at a ratio of one hour of supervision to every 40 hours of practice after certification is granted by the Board on a form provided by the Board.

(c) Independent study hours shall compose no more than fifty percent (50%) of the total number of hours required for renewal.

(d) A credential that is not renewed automatically lapses, unless the Board approves the late renewal of a credential upon the payment of a late fee.

(e) No late renewal shall be granted more than five years after a certification or licensure expires.

(f) A suspended credential may be renewed as provided in this section. This renewal does not entitle the credentialed person to engage in conduct or activity in violation of the order or judgment by which the credential was suspended, until the credential is reinstated. If a credential revoked on disciplinary grounds is reinstated and requires renewal, the credentialed person shall pay the renewal fee and any applicable late fee.

(g) The Board shall establish the manner in which lapsed certification or licensure may be revived or extended. (1993 (Reg. Sess., 1994), c. 685, s. 1; 1997-492, s. 6; 1999-164, s. 8; 2005-431, s. 1.)

Staff is not aware of any authority for the Board to change the ratio of supervision from that set in the statute. Therefore, staff recommends objection to this Rule for lack of statutory authority.

21 NCAC 68 .0208 is proposed for readoption with substantive changes as follows:

**21 NCAC 68 .0208 ~~CONTINUING EDUCATION REQUIRED~~ RENEWAL REQUIREMENTS FOR
COUNSELOR, CRIMINAL JUSTICE ADDICTIONS PROFESSIONAL AND
PREVENTION CONSULTANT RE-CREDENTIALING**

(a) ~~In order to be re-credentialed, a substance abuse professional~~ renew a certification, a certified substance abuse counselor, certified criminal justice addictions professional, and certified substance abuse prevention consultant shall:

(1) ~~Comply with the following: Complete sixty hours of training approved or recognized by the Board as follows:~~

(A) No more than 25 percent may be in-service education, received within your organization by staff of the same employment;

(B) No more than 25 percent of workshop presentation with one hour of presentation translating to one hour of education. Workshop presentation shall be a part of an event pre-approved by the Board as set out in these Rules;

(C) An applicant shall include documentation of each event submitted;

(D) All applicants shall include three hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, three hours of professional ethics training and education and three hours of education to be selected from the list appearing ~~in Rule 21 NCAC 68 .0205(2)(e)(i) through (v) for each re-credentialing;~~ in Rule 21 NCAC 68 .0205(2)(e)(i); and

(E) No more than 50 percent ~~self-study;~~ shall be self-study or pre-recorded online training; and approved by the Board as set out in these Rules; and

(2) Submit the following:

(A) A completed ~~application form with continuing education documented;~~ renewal application found on the Board website;

(B) A non-refundable ~~one hundred twenty-five dollar (\$125.00)~~ one hundred fifty dollar (\$150) recertification fee; and

(C) ~~A signed and dated~~ An attestation or adherence statement that the applicant shall follow the substance abuse professional's code of conduct.

(b) ~~Each credentialed counselor, criminal justice addictions professional and prevention consultant shall receive 60 hours of Board approved, as set out in these Rules, education during the current re-credentialing period that shall be documented. No more than 25 percent may be in-service education. A minimum of 30 hours shall be substance abuse specific (SAS). The education may include a combination of hours including attending and conducting workshops.~~

(c) ~~To be re-credentialed,~~ The renewal application of a certified criminal justice addictions professional and a certified substance abuse counselor shall submit a include post-certification supervision ~~contract signed by~~ agreement between a practice supervisor and supervisee. The supervision required by this Rule shall be provided by the practice supervisor and set forth as follows:

(1) The first 4,000 hours of practice shall be performed at the rate of one hour of supervision for every 40 hours of practice;

- 1 (2) The second 4,000 hours of practice shall be performed at the rate of one hour of supervision for
2 every 80 hours of practice;
- 3 (3) All subsequent practice shall be performed at the rate of one hour of supervision for every 160 hours
4 of practice.

5

6 *History Note:* *Authority G.S. 90-113.30; 90-113.33; ~~90-113.37~~; 90-113.37A; 90-113.38; 90-113.39;*
7 *Eff. August 1, 1996;*
8 *Amended Eff. June 1, 2011; April 1, 2011; January 1, 2010; April 1, 2003; August 1, 2002; August*
9 *1, 2000.*
10 *Amended Eff. February 1, 2019.*

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0211

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule for lack of statutory authority.

In Subparagraph (a)(7) of this Rule, the Board is proposing to charge a \$200 registration fee. Staff notes that G.S. 90-113.38(b1) limits this fee to \$150.

§ 90-113.38. Maximums for certain fees.

(a) The fee to obtain a certificate of certification as a substance abuse counselor, substance abuse prevention consultant, clinical supervisor, substance abuse residential facility director, or certified criminal justice addictions professional may not exceed four hundred seventy-five dollars (\$475.00). The fee to renew a certificate may not exceed one hundred fifty dollars (\$150.00).

(b1) The fee to obtain a registration as a registrant shall not exceed one hundred fifty dollars (\$150.00). The fee to renew a registration shall not exceed one hundred fifty dollars (\$150.00).

Amanda J. Reeder
Commission Counsel

It may well be that the use of a “registration fee” in this Rule is a just nomenclature, and the fee is not really a “registration fee” as contemplated in the statute. However, the use of the term in the Rule does contradict the statutory maximum. Therefore, staff recommends objection to this Rule for lack of statutory authority to set a registration fee at \$200.

21 NCAC 68 .0211 is proposed for readoption with substantive changes as follows:

21 NCAC 68 .0211 PROCESS FOR CLINICAL SUPERVISOR CERTIFICATION AND RENEWAL

~~In order to be certified as a Clinical Supervisor an applicant shall:~~

(a) In order to be certified as a certified clinical supervisor, an applicant shall:

- (1) Obtain and maintain a license as a ~~Clinical Addictions Specialist~~ licensed clinical addictions specialist to be eligible for ~~Clinical Supervisor Certification~~; certified clinical supervisor;
- (2) Hold a master's or higher degree in a human services field with a clinical application from a regionally accredited college or university;
- (3) Submit documentation signed by the ~~Certified Clinical Supervisor~~ certified clinical supervisor of 4000 hours or two years full-time experience ~~as a Substance Abuse Clinical Supervisor, in a supervisory role working or volunteer in a clinical setting, supervised in~~ at a ratio of one hour supervision for every 80 hours of practice in the field of alcohol and other drug ~~abuse; misuse;~~
- (4) Submit documentation of 30 hours of clinical supervision specific education for initial ~~certification and 15 hours of clinical supervision specific education for re-certification (which will occur every two years)-~~ certification. These hours shall be reflective of clinical supervision ~~domains, or clinical supervision of the twelve core functions or performance domains in their clinical application and practice and may also be used as re-credentialing hours for Clinical Addictions Specialist. For the purpose of re-certification as a Clinical Supervisor, 25 percent of the required total hours may be obtained by providing supervision of a Criminal Justice Addictions Professional, Prevention Consultant, Substance Abuse Counselor or Clinical Addictions Specialist;~~
- (5) Submit three ~~letters of reference-~~ references. One from a ~~substance abuse professional~~ certified clinical supervisor who can attest to supervisory competence and two from either substance ~~abuse use disorder counselors~~ professionals who have been supervised by the candidate or substance ~~abuse use disorder~~ professionals who can attest to the applicant's competence;
- (6) ~~Successfully complete an IC&RC/AODA, Inc. Achieved a passing score on the IC&RC or its successor organization's written~~ clinical supervisor examination;
- (7) Pay all application fees. A fee of twenty-five dollars (\$25.00) shall be submitted to the ~~Board with a letter of intent in order to receive the application packet.-~~ Board. Also, an applicant shall submit ~~with a completed registration packet a registration fee of one hundred twenty-five dollars (\$125.00) two hundred dollars (\$200.00) and a written an examination fee of one hundred twenty five dollars (\$125.00); of one hundred fifty dollars (\$150.00).~~
- (8) ~~Submit a fee of one hundred twenty five dollars (\$125.00) required as a recertification fee.~~

(b) In order to renew as a certified clinical supervisor, the certified professional shall submit to the Board the following:

- (1) A completed renewal found on the Board website with 15 clock hours of continuing education in the field of clinical supervision;
- (2) An attestation or adherence statement by the applicant stating his or her commitment to follow the Board's code of ethical conduct; and

1 (3) A recertification or renewal fee of one hundred fifty dollars (\$150.00).

2

3 *History Note:* *Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.38; 90-113.40; 90-113.41; 90-114.41A;*

4 *Eff. August 1, 1996;*

5 *Amended Eff. January 1, 2010; August 1, 2002; August 1, 2000.*

6 *Amended Eff. February 1, 2019.*

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0212

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule for lack of statutory authority.

In Subparagraph (b)(4) of this Rule, the Board is proposing to charge a \$200 registration fee. Staff notes that G.S. 90-113.38(b1) limits this fee to \$150.

§ 90-113.38. Maximums for certain fees.

(a) The fee to obtain a certificate of certification as a substance abuse counselor, substance abuse prevention consultant, clinical supervisor, substance abuse residential facility director, or certified criminal justice addictions professional may not exceed four hundred seventy-five dollars (\$475.00). The fee to renew a certificate may not exceed one hundred fifty dollars (\$150.00).

(b1) The fee to obtain a registration as a registrant shall not exceed one hundred fifty dollars (\$150.00). The fee to renew a registration shall not exceed one hundred fifty dollars (\$150.00).

Amanda J. Reeder
Commission Counsel

It may well be that the use of a “registration fee” in this Rule is a just nomenclature, and the fee is not really a “registration fee” as contemplated in the statute. However, the use of the term in the Rule does contradict the statutory maximum. Therefore, staff recommends objection to this Rule for lack of statutory authority to set a registration fee at \$200.

21 NCAC 68 .0212 is proposed for readoption with substantive changes as follows:

21 NCAC 68 .0212 PROCESS FOR RESIDENTIAL FACILITY DIRECTOR CERTIFICATION

(a) Residential facility director certification may be obtained and continued by any person credentialed as a ~~Substance Abuse Counselor or Clinical Addictions Specialist~~, certified substance counselor or licensed clinical addictions specialist.

(b) Requirements for certification shall be as follows:

- (1) 50 hours of academic and didactic management specific training;
- (2) Recommendation of applicant's current supervisor;
- (3) Recommendation of a colleague ~~and~~ or co-worker of the applicant; and
- (4) An application packet fee of twenty-five dollars (\$25.00), a registration fee of ~~one hundred twenty-five dollars (\$125.00); two hundred dollars (\$200.00). and a certification fee of one hundred twenty-five dollars (\$125.00).~~

(c) In addition to meeting the continuing education requirements to practice as a ~~Certified Counselor~~ certified substance abuse counselor or Clinical Addictions Specialist, licensed clinical addictions specialist, in order to maintain certification as a ~~Residential Facility Director, certified substance abuse residential facility director~~, the applicant shall take 40 hours of continuing education every two ~~years and maintain documentation of such training.~~ years. ~~Anyone allowing certification to lapse beyond three months of the re-certification due date shall reapply as a new applicant.~~

History Note: Authority G.S. 90-113.30; 90-113.33; ~~90-113.35~~; 90-113.37A; 90-113.38; 90-113.39; 90-113.40; Eff. August 1, 1996;
Amended Eff. January 1, 2010; August 1, 2002; August 1, 2000.
Amended Eff. February 1, 2019.

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0305

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule for lack of statutory authority.

In Sub-Item (5)(b) of this Rule, the Board is proposing to charge a \$200 registration fee. Staff notes that G.S. 90-113.38(b1) limits this fee to \$150.

§ 90-113.38. Maximums for certain fees.

(a) The fee to obtain a certificate of certification as a substance abuse counselor, substance abuse prevention consultant, clinical supervisor, substance abuse residential facility director, or certified criminal justice addictions professional may not exceed four hundred seventy-five dollars (\$475.00). The fee to renew a certificate may not exceed one hundred fifty dollars (\$150.00).

(b1) The fee to obtain a registration as a registrant shall not exceed one hundred fifty dollars (\$150.00). The fee to renew a registration shall not exceed one hundred fifty dollars (\$150.00).

Amanda J. Reeder
Commission Counsel

It may well be that the use of a “registration fee” in this Rule is a just nomenclature, and the fee is not really a “registration fee” as contemplated in the statute. However, the use of the term in the Rule does contradict the statutory maximum. Therefore, staff recommends objection to this Rule for lack of statutory authority to set a registration fee at \$200.

21 NCAC 68 .0305 is proposed for readoption with substantive changes as follows:

21 NCAC 68 .0305 LICENSURE REQUIREMENTS FOR ~~INDIVIDUAL APPLICANT~~ INITIAL APPLICANTS FOR LICENSED CLINICAL ADDICTIONS SPECIALIST

~~In addition to meeting the requirements of G.S. 90-113.40, an~~ An applicant seeking licensure as a clinical addictions specialist shall submit the following, if applicable: following:

(1) Documentation of completion of:

- (a) Six hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education;
- (b) Six hours of professional ethics training; ~~and~~
- (c) Six hours of clinical supervision specific ~~training;~~ training; and
- (d) Six hours selected from the following list:
 - (i) ~~Nicotine Dependence;~~ nicotine use disorder;
 - (ii) ~~Psychopathology;~~ psychopathology;
 - (iii) ~~Evidence-Based Treatment Approaches;~~ evidence-based treatment;
 - (iv) ~~Substance Abuse Issues in Older Adults; and~~ substance use disorder issues and older adults;
 - (v) ~~Substance Abuse Issues Affecting Veterans;~~ substance use disorder issues and veterans; and
 - (vi) substance use disorder issues and domestic violence.

All hours listed in ~~Sub-items (a), (b), (c) and (d) of this Item may be~~ this section may be included in the 180 hours ~~completed for licensure in the core competencies by an applicant not in the deemed status;~~ of substance use disorder training required for licensure;

- (2) ~~Copy A copy of a substance abuse specialty certificate or its equivalent; or transcript if the applicant is applying under Criteria C as defined in G.S. 90-113.40 (c) (3), or seeking education credit as described in Item 1 of this Rule under any other Criteria outlined in G.S. 90-113.40 (c);~~
- (3) ~~Copy of his or her masters' or doctorate degree diploma;~~ An official transcript of completed masters or other advanced degree in a human services field with a clinical application as found in 21 NCAC 68 .0101(4), if not previously submitted under Item 2 of this Rule;
- (4) ~~Completed registration form; and~~ A completed application found on the Board's website; and
- (5) Payment of the following fees:
 - (a) All applicants who are in the deemed status group shall make payment of a non-refundable application fee of ten dollars (\$10.00) and payment of a non-refundable credentialing fee of forty dollars (\$40.00).
 - (b) All other applicants shall make payment of an application ~~packet~~ fee of twenty-five dollars (\$25.00) and payment of a non-refundable ~~credentialing~~ registration fee of ~~one hundred twenty-five dollars (\$125.00);~~ two hundred dollars (\$200.00).
 - (c) All applicants seeking credentialing pursuant to Criteria A, Criteria B, ~~and Criteria C~~ Criteria C, and where applicable Criteria D (Deemed Status) of G.S. 90-113.40(c) shall

1 make payment of a non-refundable examination fee of ~~one hundred twenty five dollars~~
2 ~~(\$125.00).~~ one hundred fifty dollars (\$150.00).

3

4 *History Note:* *Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.40; 90-113.41; ~~90-113.43;~~*

5 *Temporary Adoption Eff. November 15, 1997;*

6 *Eff. April 1, 1999;*

7 *Amended Eff. January 1, 2014; August 1, 2002.*

8 *Amended Eff. February 1, 2019.*