

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: All Rules Submitted

DEADLINE FOR RECEIPT: Friday, January 11, 2019

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:

On the Submission for Permanent Rule form:

In Box 1, please spell out the name of the agency.

In Box 7, please include the date you submitted these rules to the Joint Legislative Commission on Governmental Operations for the fee consultation.

In Box 8, you published in the Register that no fiscal note was required for these Rules. Please check "No fiscal not required" in addition to "Approved by OSBM"

In Box 9A, please also check "Agency" as the agency designated the rule as necessary with substantive public interest, leading to the readoption.

Please update the Introductory Statement for every Rule as follows:

"21 NCAC 68 .XXXX is readopted with changes as published in 33:08 NCR 838-844 as follows:"

Throughout these Rules, you must show changes to language that differ from what was published. See Rule 26 NCAC 02C .0405. So, if you published a fee of \$150 and the Board decided after publication to increase it to \$200, you must show the proposed \$150 fee, the deletion of it, and the addition of the \$200 fee.

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: January 4, 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 .0203

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - X Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
- X 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.**

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.

Amanda J. Reeder
Commission Counsel

- (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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0203

DEADLINE FOR RECEIPT: Thursday, January 10, 2019

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:

In (a), line 5, why not end the clause after "shall" and then insert "submit" at the beginning of (a)(1), line 7, and in (a)(2), replace "documentation provided" with "provide documentation"? I ask this because (a)(3) does not require the submission of anything.

If you do this, please replace "Achieving" with "Achieve" in (a)(3), line 10, and "Payment of" with "Pay" in (a)(4), line 12.

If you do not want to make this change, then I do not think you intended to delete "and" before "successfully" on line 5.

Also, did you mean to keep "complete" on line 5? The sentence now reads, "... shall submit complete the following:"

In (a)(2), what is required in this documentation?

On line 9, why is "Supervised" capitalized?

In (a)(4), you are charging an examination fee and a registration fee for a total of \$350. G.S. 90-113.38 allows a total fee of \$475.00. However, G.S. 90-113.38(b1) limits the registration fee to \$150. What authority are you relying upon to set the fee at \$200?

§ 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
Date submitted to agency: January 4, 2019

On line 14, why is "Registered" capitalized?

In (c), line 19, I take it the supervisor is "approved" by the Board, using the guidelines in other Rules?

Also on line 19, what is a "counselor intern"? Is it the same as a "Substance Abuse Counselor Intern"? If so, why not use the same term both places, or replace "as a counselor intern" with "in that role"

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: January 4, 2019

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

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 .0205

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 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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0205

DEADLINE FOR RECEIPT: Thursday, January 10, 2019

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:

In (1), line 6, what is "exclusively"? Who will determine this – the applicant and his or her supervisor?

In (2), (3), (5), (6), (7), (8), and (9), since the opening sentence is "Requirements for certification ... shall be as follows:" you need to begin these Items with verbs, such as "Completion" or "Submission" or "Payment"

In (2)(d), line 16, replace "follow:" with "follows:"

In (2)(e)(iv), Page 2, line 2, I just want to check – you intended to replace "in" with "and"?

In (2)(e)(v), line 4, please replace "issued" with "issues"

In (3), what is your authority to charge a \$200 registration fee, when G.S. 90-113.38(b1) says it is \$150? Again, the total is allowed is \$475, so why is this being split here?

End (3), line 11, with a period, not a semicolon. Please note the same for Items (4), line 13, (6), line 20, (7), line 23, and (9), line 25.

In (5), line 14, what are the contents of this form? Is it simply the documentation of the hours? Also, where does one get these forms?

Are the references that are required on lines 17-18 to ensure compliance with G.S. 90-113.40(a)(2)?

In (6), line 19, what do you mean by "or otherwise signed adherence"?

On line 20, what are the "Ethical Standards of the Board"? Where are they found?

In (7), line 22, begin the sentence, "Applicants presenting..."

In (8), what are the contents of this form? Are they set forth in another Rule or law?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 4, 2019

In the Register, you published to repeal Items (9) and (10). Were they added back in response to public comment? Also, be sure to show that you added these back to the Rule post-publication.

In (9), line 25, delete the “and”

In (10), I take the 12 Core Functions are known to your regulated public, given the use of the term in G.S. 90-113.31B?

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: January 4, 2019

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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0206

DEADLINE FOR RECEIPT: Thursday, January 10, 2019

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:

Just so I am clear – why does this Rule have a scope paragraph in (a), when Rule .0205 does not?

In (a), lines 5-9, how does this work with the scope of practice for certified substance abuse prevention consultants set forth in G.S. 90-113.31B(2)?

On line 9, who is determining whether these individuals “may not otherwise be clients”? What is the intent of this sentence?

In (b), why are you not spelling out the requirements in G.S. 90-113.40(a) as you did for Rule .0205? Do you want to insert a new (6) that addresses “Meeting the remaining requirements of G.S. 90-113.40(a)”? Or simply delete “In addition to” and restore “The requirements of ...” on line 10.

In (b)(3), line 27, typically the term “minimum” is not favored in rules, as rules set the minimum requirements. I take it you need this here?

In (b)(4), lines 30-31, what do you mean by “or otherwise signed adherence”?

On line 31, what are the “Ethical Standards of the Board”? Where are they found?

In (b)(5), what is your authority for this \$25 fee?

In the History Note, why are you citing to G.S. 90-113.34? I note you do not do so in Rule .0205.

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: January 4, 2019

21 NCAC 68 .0206 is proposed for readoption with substantive changes as follows:

21 NCAC 68 .0206 PROCESS FOR PREVENTION CONSULTANT CERTIFICATION

(a) The Board shall certify an applicant as a ~~substance abuse prevention consultant~~ certified substance abuse prevention consultant as set out in Article 5C of Chapter 90 of the North Carolina General Statutes. A ~~prevention consultant's~~ certified substance abuse prevention consultant's primary responsibilities are to provide substance ~~abuse~~ use disorder information and education, environmental approaches, alternative activities, community organization, networking, ~~and referral~~, and referral to promote personal health and well-being to individuals, families, and communities who may not otherwise be clients receiving substance use disorder treatment.

(b) ~~In addition to the requirements set out in G.S. 90-113.40, the~~ The requirements for certification include:

- (1) Supervised work experience as set out in G.S. 90-113.40(a)(8) in prevention consultation.
- (2) 270 hours of academic and didactic training divided in the following manner:
 - (A) 170 hours primary and secondary prevention and in the prevention performance domains; and
 - (B) 100 hours in substance ~~abuse~~ use disorder specific studies, which includes 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;
 - (v) ~~Substance Abuse Issues Affecting Veterans;~~ substance use disorder issues and veterans; and
 - (vi) substance use disorder issues and domestic violence.
- ~~(3) — Supervised practical training as set out in G.S. 90-113.40(a)(7);~~
- ~~(4)~~ (3) A minimum of 300 hours of supervised practical training practice hours documented by a certified ~~substance abuse professional;~~ clinical supervisor, clinical supervisor intern, or certified substance abuse prevention consultant who has been certified more than three years;
- ~~(5)~~ (4) ~~A form signed by the applicant attesting to the applicant's adherence~~ An attestation or otherwise signed adherence by the applicant to the Ethical Standards of the Board;
- ~~(6)~~ (5) An application ~~packet~~ fee of twenty-five dollars (\$25.00), a certification fee of ~~one hundred twenty-five dollars (\$125.00);~~ two hundred dollar (\$200.00) and an examination fee of ~~one hundred twenty-five dollars (\$125.00);~~ one hundred fifty dollars (\$150.00).

History Note: Authority G.S. 90-113.30; 90-113.31B; 90-113.33; 90-113.34; 90-113.38; 90-113.39; 90-113.40; 90-113.41;
Eff. August 1, 1996;

- 1 *Amended Eff. January 1, 2014; August 1, 2002; April 1, 2001; August 1, 2000.*
- 2 *Amended Eff. February 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0207

DEADLINE FOR RECEIPT: Thursday, January 10, 2019

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:

Be sure to show all changes made to the Rule as published – show the language you proposed and strike and bracket it, then insert new language.

In the History Note, please change the citation to 90-113.37A. As this was published correctly in the Register, you do not need to show it as change; simply do it.

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: January 4, 2019

21 NCAC 68 .0207 is proposed for readoption with substantive changes as follows:

21 NCAC 68 .0207 CERTIFICATION OR LICENSURE PERIOD

Certification or licensure is for a period of two years after which ~~re-credentialing~~ renewal is necessary. Failure to renew a credential within thirty business days following the end of the two-year period shall result in a late renewal fee of fifty dollars (\$50.00) to be paid by the professional in addition to the renewal fee of one hundred and fifty dollars (\$150.00).

History Note: *Authority G.S. 90-113.30; ~~90-113.37~~; 90-113.33; 09-113.37A; 90-113.38;*
Eff. August 1, 1996;
Amended Eff. January 1, 2010.
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 .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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0208

DEADLINE FOR RECEIPT: Thursday, January 10, 2019

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:

In (a)(1), line 8, state only "60" Do not spell it out. As this was published correctly in the Register, you do not need to show it as a change; simply do it.

Also on line 8, approved based upon what? And what do you mean by "recognized"?

In (a)(1)(A), line 10, replace "your" with "the professional's"

In (a)(1)(B), what you mean on lines 13-14? What is translating?

On line 14, set out where in the Rules – in the Section or Chapter?

In (a)(1)(C), line 15, what constitutes "documentation"? Should this be combined with (a)(2)?

In (a)(1)(D), line 17, insert a comma after "ethics training and education"

On line 19, consider simply citing to .0205(2)(e), rather than the subparts. Right now, you are only referring to .0205(e)(2)(i), which is nicotine use disorder. I suspect you intended to refer to (e)(i) through (vi) instead.

In (a)(2)(A), line 23, what are the contents of this application? Are they set forth in another rule or law?

In (a)(2)(C), line 27, what is "adherence"?

On line 28, what is this code? Where is it found? Should this be written the same as .0205 and .0206?

In (b), line 31, I take it you need to retain "minimum"?

On line 32, do you need to state "substance abuse specific (SAS)" Can you not say "substance abuse specific" only?

In (c), so that I'm clear – are Certified Prevention Consultants intentionally being left out of this Paragraph?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 4, 2019

What authority are you relying upon for (c)(2) and (3) on Page 2? G.S. 90-113.37A(b) sets the ratio of supervision to work at 40 hours. What authority do you rely upon to change the ratio in rule?

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: January 4, 2019

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
- 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 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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0211

DEADLINE FOR RECEIPT: Thursday, January 10, 2019

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:

On the Submission for Permanent Rule form, since you are changing the name of the Rule, please put the new name in Box 2.

What does (a)(1) mean? That this is the required background to be eligible for this level of certification?

Subparagraphs (a)(1) through (7) substantially repeats G.S. 90-113.40(b). Why do you need this language?

Assuming you need to retain it:

In (a)(2), line 9, I take it that "regionally accredited" is a known term, since it's in the statute?

In (a)(3), line 11, what authority are you relying upon to allow two years of full-time experience in lieu of the 4000 hours required by G.S. 90-113.40(b)(3)?

On line 12, insert "of" after "hour" (before "supervision")

In (a)(4), line 16, you refer to "clinical domains" but G.S. 90-113.40(b)(4) refers to the Twelve Core Functions. Are these the same thing? If not, what authority do you have to change this?

Also on line 16, end the sentence with a semicolon to be consistent with the rest of the Subparagraphs.

In (a)(5), G.S. 113.40(b)(5) speaks to three letters, two of them from "counselors" (and I note that term is not defined in the Practice Act.) Are "professionals" the same as counselors here?

In (a)(6), line 26, state "Have achieved" or "Achieve"

On line 27, insert an "and" after "examination;"

In (a)(7), what is your statutory authority for the \$25 fee?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 4, 2019

On line 31, what is your authority to set a registration fee of \$200 in light of the \$150 cap in G.S. 90-113.38(b1)? I note that G.S. 90-113.38(a) allows a maximum amount of \$475 for this type of certification.

In (b)(1), line 35, what is this "renewal"? Is it a form? If so, what are the contents of the form? Are they in another Rule?

In (b)(2), line 37, what do you mean by "adherence statement"?

On lines 37-38, what are these standards? Are they in other Rules?

Should (b)(2) be written like Rules .0205 and .0206?

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: January 4, 2019

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~~ professionals who have been supervised by the candidate or ~~substance abuse use disorder professionals~~ 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
- 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 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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0212

DEADLINE FOR RECEIPT: Thursday, January 10, 2019

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:

In (a), line 5, should this be "certified substance abuse counselor" as you did in (c), line 15?

Subparagraphs (b)(1) through (3) mostly recite G.S. 90-133.40(d). Do you need to retain it?

In (b)(4), what is your authority for the \$25 application fee?

On line 11, remove the comma after "(\$25.00)" and state "and" so it reads "~~(\$25.00),~~ (\$25.00) and a registration..."

Also in (b)(4), what authority are you relying upon to set the registration fee at \$200?

In (c), you are requiring 40 hours of continuing education. However, G.S. 90-113.37A(b) requires 10 hours of substance abuse training. Is this included in the 40 hours?

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: January 4, 2019

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
- 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 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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0305

DEADLINE FOR RECEIPT: Thursday, January 10, 2019

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:

On the Submission for Permanent Rule form, since you are changing the name of the Rule, please put the new name on Box 2.

In (1), line 20, what do you mean by "section"? I assume you mean "Item" and suggest using that term.

In (2), line 24, insert an "is" before "seeking"

On line 25, why is "Criteria" capitalized?

In (3), line 26, what is an "official" transcript? Is this known to your regulated public?

On line 28, I believe you mean to cross-reference 21 NCAC 68 .0101(5). And consider stating it as "Rule .0101(5) of this Chapter" to mirror the cross-references in Rule .0306.

On line 28, what do you mean by "previously"? Isn't this the initial application? If so, can't you remove "previously"?

In (4), what are the contents of this application? Are they in law or rule somewhere?

In (5)(a), what is your authority for a separate application and credentialing fee?

In (5)(b), again, what is the authority for the \$25 application fee and the \$200 registration fee?

In (5)(c), is this in addition to the fee in (b)? It appears that it is, and G.S. 90-113.38(b) limits the fee for those licensed under deemed status to just \$150. What statutory authority do you have to charge both?

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: January 4, 2019

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.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Substance Abuse Professional Practice Board

RULE CITATION: 21 NCAC 68 .0306

DEADLINE FOR RECEIPT: Thursday, January 10, 2019

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:

On the Submission for Permanent Rule form, since you are changing the name of the Rule, please put the new name on Box 2.

In (a)(1) and (b)(4), it appears that these applications are forms. What are the contents of these forms? Are they set forth in other Rules or law?

In (b)(4), line 25, how is this documented?

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: January 4, 2019

21 NCAC 68 .0306 is proposed for readoption with substantive changes as follows:

**21 NCAC 68 .0306 RENEWAL OF ~~INDIVIDUAL LICENSURE AS~~ LICENSED CLINICAL
ADDICTIONS SPECIALIST**

(a) An applicant who is in the deemed status group shall submit the following every two years:

- (1) A completed application ~~form~~ and a copy of the applicant's current substance abuse licensure or its equivalent from the deemed status professional discipline.
- (2) A non-refundable ~~re-licensing~~ renewal fee of thirty-five dollars (\$35.00).

(b) All other individual applicants shall:

- (1) Renew licensure as classified by the criteria for their original licensing every two years.
- (2) Document completing 40 hours of education pursuant to Section .0400 of this Chapter, during the current licensing period. A minimum of 30 hours shall be substance ~~abuse~~ use disorder specific. This education may include a combination of hours including attending and providing workshops.
- (3) Meet re-licensing educational guidelines as a substance ~~abuse~~ use disorder professional as follows:
 - (A) No more than 25 percent may be in-service education, received within the applicant's organization by staff of the same employment.
 - (B) No more than 25 percent receiving supervision with two hours of supervision translating to one hour of education.
 - (C) No more than 25 percent of workshop presentation with one hour of presentation translating to one hour of education. Workshop presentation shall be pursuant to Rule .0213 of this Chapter.
 - (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.0305(1)(d) of this Section.
- (4) Submit a completed application ~~form~~ with continuing education documented.
- (5) Submit a non-refundable ~~one hundred twenty five dollar (\$125.00)~~ one hundred fifty dollar (\$150.00) ~~re-licensing~~ renewal fee.

History Note: Authority G.S. 90-113.30; 90-113.33; ~~90-113.37~~; 90-113.37A; 90-113.38; 90-113.39; 90-113.41A; ~~90-113.43~~;

Temporary Adoption Eff. November 15, 1997;

Eff. August 1, 1998;

Amended Eff January 1, 2014; April 1, 2003; August 1, 2002.

Amended Eff. February 1, 2019.