



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

North Carolina Board of Barber Examiners

2. Rule citation & name:

21 NCAC 06F .0128 - Waiver of requirements during disaster or emergency

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

4. Was this an Emergency Rule:

☒ Yes

Effective date: May 27, 2020

☐ No

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: March 18, 2020

b. Proposed Temporary Rule published on the OAH website: March 20, 2020

c. Public Hearing date: April 2, 2020

d. Comment Period: March 27 to May 8, 2020

e. Notice pursuant to G.S. 150B-21.1(a3)(2): March 20, 2020

f. Adoption by agency on: May 11, 2020

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: June 1, 2020

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain:

A serious and unforeseen threat to the public health, safety or welfare in the form of a coronavirus outbreak in North Carolina. The governor declared a state of emergency on March 10, 2020. Several barber schools gave the board notice that they have closed or will be closing their facilities due to the outbreak. To allow students to continue to receive education, the board proposed to eliminate rules that would prevent schools from being able to offer online classes. The board also proposed to alleviate the reporting requirements for schools because the pandemic would cause a decrease in staff levels.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

This approach will benefit public health and welfare by preventing schools from going out of business because they cannot offer classes. It will also discourage schools from remaining open simply to avoid the financial consequences of closure, even when remaining open might pose a public-health risk. Finally, since some schools have indicated that they may need to reduce staff temporarily in order to remain financially solvent, the proposed rulemaking would reduce administrative requirements that these schools would have trouble fulfilling during a state of emergency.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No**9. Rule-making Coordinator:**

Dennis Seavers

Phone:

919-814-0641

E-Mail:

dennis.seavers@nc.gov

Agency contact, if any:**Phone:****E-Mail:****10. Signature of Agency Head*:**

DocuSigned by:

Don Beal

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name:

Don Beal

Title:

Chairman

E-Mail: donbeal49@yahoo.com**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Barber Examiners

RULE CITATION: 21 NCAC 06F .0128

DEADLINE FOR RECEIPT: Thursday, May 14, 2020

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Temporary Rulemaking Findings of Need Form:

In Box 4, I believe you mean the effective date was March 27.

Box 5(a), please confirm that the date submitted to OAH was March 18.

In the Rule:

In Paragraph (a), line 4, please capitalize "Governor"

Since you refer to exceptions on line 4, and then list them throughout the Paragraph, I think the language on line 5, "the requirements in this Subchapter notwithstanding:" is unnecessary. I recommend ending the sentence "... to barber schools and students:" Then in (a)(1), line 7, (2), line 9, (3), line 13, (5), line 17, I recommend replacing "despite" with "notwithstanding"

In (b), line 23, what do you mean by the "effective period"? The duration of the declaration of emergency?

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: May 11, 2020

21 NCAC 06F .0128 is adopted under temporary procedures as follows:

21 NCAC 06F .0128 WAIVER OF REQUIREMENTS DURING DISASTER OR EMERGENCY

(a) If the governor declares a state of emergency, the following exceptions shall apply to barber schools and students, the requirements in this Subchapter notwithstanding:

- (1) Schools shall maintain a monthly record of the subject matter taught to the student in theory classes, despite the requirement in Rule .0110(4) of this Subchapter for a weekly record.
- (2) Schools shall provide to the Board the list of students required by G.S. 86A-22(5) by the last day of each month, despite the requirement in Rule .0110(6) of this Subchapter for schools to submit the list by the 15th of each month.
- (3) Within 60 days of the date on which any student completes his or her course of study, drops out of school, or transfers to another school, the barber school shall return the student permit to the Board, despite the requirement in Rule .0113(d) of this Subchapter to return the student permit within five business days.
- (4) Students shall not be required to meet the requirements in Rule .0122 of this Subchapter if the students are attending online classes.
- (5) No student shall be given credit for more than 10 total hours during any instruction day, despite the restriction to eight hours in Rule .0124(a) of this Subchapter.
- (6) The restrictions on off-campus hours in Rule .0124(c) of this Subchapter shall not apply to hours that students receive during a state of emergency.
- (7) Schools shall not be required to revise the handbooks required by Rule .0125 of this Subchapter to reflect the exceptions listed in this Rule.

(b) The exceptions in this Rule shall only apply during the effective period of the state of emergency.

*History Note: Authority G.S. 86A-22;
Emergency Adoption Eff. March 27, ~~2020~~, 2020;
Temporary Adoption Eff. June 1, 2020.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

North Carolina Board of Barber Examiners

2. Rule citation & name:

21 NCAC 06N .0111 - Form BAR-10

3. Action:

☐

Adoption

☒

Amendment

☐

Repeal

4. Was this an Emergency Rule:

☒

Yes

☐

No

Effective date: May 27, 2020

5. Provide dates for the following actions as applicable:

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g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: June 1, 2020

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

☒

A serious and unforeseen threat to the public health, safety or welfare.

☐

The effective date of a recent act of the General Assembly or of the U.S. Congress.

Cite:

Effective date:

☐

A recent change in federal or state budgetary policy.

Effective date of change:

☐

A recent federal regulation.

Cite:

Effective date:

☐

A recent court order.

Cite order:

☐

State Medical Facilities Plan.

☐

Other:

Explain:

A serious and unforeseen threat to the public health, safety or welfare in the form of a coronavirus outbreak in North Carolina. The governor declared a state of emergency on March 10, 2020. Several barber schools gave the board notice that they have closed or will be closing their facilities due to the outbreak. To allow students to continue to receive education, the board proposed to eliminate rule provisions that would prevent schools from being able to offer online classes. This temporary rule would also allow schools that offer online classes to have additional time to meet reporting requirements.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Immediate option of the rule is necessary to offer schools quick relief from the normal reporting requirements during the pandemic. Since some schools have indicated that they may need to reduce staff temporarily in order to remain financially solvent, the proposed rulemaking would reduce administrative requirements that these schools would have trouble fulfilling during a state of emergency.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)
☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No
9. Rule-making Coordinator:

Dennis Seavers

Phone:

919-814-0641

E-Mail:

dennis.seavers@nc.gov

Agency contact, if any:**Phone:****E-Mail:****10. Signature of Agency Head*:**

DocuSigned by:

Don Beal

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name:

Don Beal

Title:

Chairman

E-Mail: donbeal49@yahoo.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Barber Examiners

RULE CITATION: 21 NCAC 06N .0111

DEADLINE FOR RECEIPT: Thursday, May 14, 2020

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Temporary Rulemaking Findings of Need Form:

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Box 5(a), please confirm that the date submitted to OAH was March 18.

In the Rule, (c)(3), line 20, please capitalize "Governor"

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: May 11, 2020

21 NCAC 06N .0111 is amended under temporary procedures as follows:

21 NCAC 06N .0111 FORM BAR-10

(a) The Form BAR-10 is a report that shall be filed monthly by the manager of the school for each student enrolled in barber school. It requires the following:

- (1) the name of the school submitting the report;
- (2) the name and date of enrollment of the student;
- (3) the month and year for which the report is filed;
- (4) the dates and hours of the student's absences;
- (5) the dates and hours of the student's attendance;
- (6) the number of patrons served for clinical services; and
- (7) the subject matter covered in practical and theory courses.

(b) The Form BAR-10 shall be submitted to the Board over the signature of the manager of the school and co-signed by the student.

(c) ~~The Form BAR-10 shall be returned to the Board within five business days of the date on which~~ If a student completes his or her course of study, drops out of school, or transfers to another ~~school~~ school, the barber school shall return the Form BAR-10 to the Board:

- (1) within five business days; or
- (2) within 30 days if the student's enrollment ends during the effective period of a state of emergency declared by the governor.

History Note: Authority G.S. 86A-22;
Eff. May 1, 1989;
Readopted Eff. July 1, 2016;
Emergency Adoption Eff. March 27, 2020, 2020;
Temporary Adoption Eff. June 1, 2020.