

# 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 Massage and Bodywork Therapy

2. Rule citation & name: 21 NCAC 30 .0636 Waiver of Requirements During Disaster or Emergency

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☒ Yes ☐ No Effective date: April 17, 2020

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: April 8, 2020
- b. Proposed Temporary Rule published on the OAH website: April 14, 2020
- c. Public Hearing date: April 23, 2020
- d. Comment Period: April 8, 2020 to May 20, 2020
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): April 9, 2020
- f. Adoption by agency on: June 18, 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:
- 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:
- ☐ Other:

Explain: A serious and unforeseen threat to the public health, safety or welfare has arisen with the coronavirus outbreak in North Carolina. The Governor declared a state of emergency on March 10, 2020. All massage and bodywork therapy schools and programs were required to close their facilities due to the outbreak. To allow students to continue to receive education, the Board proposes to eliminate rules that would prevent schools from being able to offer online classes.

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

Without this approach, some schools and programs may go out of business because they cannot offer classes and receive income. This approach will also discourage schools and programs from remaining open simply to avoid the financial consequences of closure, even when remaining open might pose a public-health risk. The proposed rule will allow the schools and programs to keep up with their current schedule and offer instructional hours if the school has closed for a period of time and later reopens with the most immediate public-health concerns are resolved.

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: Charles P. Wilkins

Phone: 919-546-0050

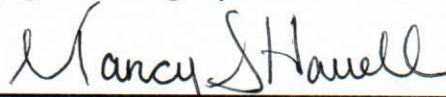
E-Mail: cwilkins@bws-law.com

Agency contact, if any: Elizabeth Kirk

Phone: 919-546-0050

E-Mail: admin@bmbt.org

10. Signature of Agency Head\*:



\* 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: Nancy Harrell

Title: Chair

E-Mail: nharrellmt@gmail.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

21 NCAC 30 .0636 is amended under temporary procedures with changes as published in 34:21 NCR 1989 as follows:

**21 NCAC 30 .0636 WAIVER OF REQUIREMENTS DURING DISASTER OR EMERGENCY**

(a) If the ~~governor~~ **Governor** declares a state of emergency, the following exceptions shall apply to massage and bodywork therapy schools, programs and students, the requirements in this Subchapter notwithstanding:

- (1) Classroom hours of supervised instruction that are not hands-on may be provided online, despite the requirement in Rule ~~.0602(8)~~ **.0602(10)** of this Subchapter.
- (2) Total number of supervised classroom hours of instruction that are not hands-on may include online hours, despite the requirement in Rule .0603(b)(4) of this Subchapter.
- (3) For a student to receive credit in a course that is not hands-on, the student shall attend, in-class or online, 75 percent of the instructional hours of the course and shall also make up missed instructional hours to equal no less than 98 percent of the instructional hours in the course, pursuant to Rule .0620(11) of this Subchapter.
- (4) Schools shall not be required to revise the Student Enrollment Agreement required by Rule .0629 or School Catalog required by Rule .0630 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;~~ **90-626;**  
**Emergency Adoption Eff. April 17, 2020;**  
**Temporary Adoption Eff. July 24, 2020.**