

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Substance Abuse Professional Practice Board

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In your forms, your electronic signature looks different on .0101 than on all other rules. Please either correct the signature if this is an error or confirm this was intended as your electronic signature.

Throughout these Rules, please remove G.S. 90-113.37 from your history notes because it has been repealed.

Throughout these Rules, consider whether "Ethics Committee" should be capitalized.

In these Rules, you refer to the "Chair of the Board" and the "President of the Board." If both titles refer to the same individual, please revise for consistency.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0101

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Throughout this Rule, I take it the changes made post-publication were made to update the language to mirror changes made in S.L. 2019-240, correct?

In (4)(f), please add a comma after "family."

At line 28, please consider replacing the colon with a period and making this into two sentences.

In (17), when you say "that inhibits the ability of the professional," are you referring to an impairment of the professional or of the client? Please clarify.

In (36), please add a comma after "paid" at line 6.

Please consider adding a definition for "admonish."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0101 is readopted with changes as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0101 DEFINITIONS**

4 As used in the General Statutes or this Chapter, the following terms mean:

- 5 (1) "Applicant" means a person who submits documentation seeking Board status for registration,
6 certification, or licensure.
- 7 ~~(2) "Application packet" means a set of instructions and forms required by the Board for registration.~~
- 8 ~~(3) (2)~~ (2) "Approved supervisor " means a person who monitors and directs the activities of a substance ~~abuse~~
9 use disorder professional in the role of ~~an applicant a~~ supervisor or a practice supervisor as set out
10 in G.S. 90-113.31A. This is a person who fulfills or is in the process of fulfilling the requirements
11 for this Board designation of approved supervisor pursuant to Rule .0211 of this Chapter by
12 completing its academic, didactic, and experiential requirements.
- 13 ~~(4) (3)~~ (3) "Assessment" means identifying and evaluating an individual's strengths, weaknesses, problems,
14 and needs for the development of a treatment or service plan for a substance use disorder.
- 15 ~~(5) (4)~~ (4) "Clinical application" means the assumption of professional and ethical responsibilities in the form
16 of clinical supervision defined in Item (7) of this Rule in a clinical setting for 300 hours as well as
17 the utilization of practice dimensions that include:
- 18 (a) clinical evaluation;
- 19 (b) treatment planning;
- 20 (c) referral;
- 21 (d) service coordination;
- 22 (e) counseling;
- 23 (f) education for the individual client, family or community; and
- 24 (g) documentation.
- 25 ~~(6) (5)~~ (5) "Clinical setting" means a location where the primary purpose is the delivery of behavioral health
26 care to clients, patients, and consumers.
- 27 ~~(7) (6)~~ (6) "Clinical supervision" means clinical oversight required for all credentials with 50 percent clinical
28 supervision that shall accrue in person and face-to-face while in the same room: the balance of this
29 requirement may be fulfilled electronically via video, face-to-face, if performed in real time.
- 30 ~~(8) (7)~~ (7) "Clinical supervision specific education" means training that covers the aspects of clinical
31 supervision of a substance ~~abuse~~ use disorder professional or any of the Twelve Core Functions in
32 their clinical application.
- 33 ~~(9) (8)~~ (8) "Client" means an individual who is in receipt of substance ~~abuse~~ use disorder counseling.
- 34 ~~(10) (9)~~ (9) "Complainant" means a person who has filed ~~a~~ an ethical complaint pursuant to these Rules.
- 35 ~~(11) (10)~~ (10) "Consultation" means a meeting for discussion, decision-making, and planning with other service
36 providers for the purpose of providing substance ~~abuse~~ use disorder counseling services.

1 (e) professional growth and responsibility.

2 ~~(27)~~ (26) "Referral" means identifying the needs of an individual that cannot be met by the counselor or
3 agency and assisting the individual in utilizing the support systems and community resources
4 available to transfer services.

5 ~~(28)~~ (27) "Rehabilitation" means re-establishing the functioning needed for professional competency.

6 ~~(29)~~ (28) "Reinstatement" means an action where the Board restores registration, certification, or licensure to
7 an applicant after the applicant completes the requirements imposed by the Board.

8 ~~(30)~~ (29) "Relapse" means a return to the pattern of substance ~~abuse~~ misuse as well as the process during
9 which indicators appear prior to the person's return to the pattern of substance ~~abuse~~ misuse or a re-
10 appearance or exacerbation of physical, psychological, or emotional symptoms of impairment.

11 ~~(31)~~ (30) "Renewal" means an action by the Board granting a substance ~~abuse~~ use disorder professional a
12 consecutive registration, certification, or licensure based upon the completion of requirements for
13 renewal as prescribed by statute and the rules of the Board.

14 ~~(32)~~ (31) "Revival" means an action by the Board granting a substance ~~abuse~~ use disorder professional a
15 registration, certification, or licensure following a lapse of registration, certification, or licensure
16 wherein the professional must also meet the requirements for renewal.

17 ~~(33)~~ (32) "Reprimand" means a written warning from the Board to a person making application for
18 certification or licensure by the Board or registered, certified, or licensed by the Board.

19 ~~(34)~~ (33) "Respondent" means a person who is making application for registration, certification, or licensure
20 by the Board or is registered, certified, or licensed by the Board against whom a complaint has been
21 filed.

22 ~~(35)~~ (34) "Sexual activity" or "sexual contact" ~~means: means soliciting or engaging in any activities of a~~
23 sexual nature, including kissing, fondling, or touching of the body, specifically to the genitals but
24 may include other parts of the body meant to cause sexual arousal.

25 (a) — ~~Contact between the penis and the vulva or the penis and the anus;~~

26 (b) — ~~Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the~~
27 ~~anus;~~

28 (c) — ~~The penetration, however slight, of the anal or genital opening of another by a hand, finger,~~
29 ~~or any object with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the~~
30 ~~sexual desire of any person;~~

31 (d) — ~~Vaginal intercourse, cunnilingus, fellatio, or anal intercourse, if initiated, agreed to, or not~~
32 ~~resisted by the substance abuse professional; or~~

33 (e) — ~~Kissing or the intentional touching of the other's lips, genital area, groin, inner thigh,~~
34 ~~buttocks, breasts, or any other body parts, as well as the clothing covering any of these~~
35 ~~body parts for the purpose of sexual stimulation or gratification of either the substance~~
36 ~~abuse professional or the client if initiated or agreed to or not resisted by the substance~~
37 ~~abuse professional.~~

1 ~~(36)~~ (35) "Substance ~~abuse~~ use disorder counseling experience " means approved supervised experience that
2 may be full-time, part-time, paid or voluntary, and shall include all of the Twelve Core Functions
3 as set forth in Rule .0204 of this Chapter as documented by a job description and a supervisor's
4 evaluation.

5 ~~(37)~~ (36) "Substance ~~abuse~~ use disorder prevention consultant experience" means approved supervised
6 experience that may be full-time, part-time, paid or voluntary, and shall include ~~all of~~ the prevention
7 domains referenced by Rule .0206 of this Chapter and as documented by a job description and
8 supervisor's evaluation.

9 ~~(38)~~ (37) "Substance ~~abuse~~ use disorder specific" means education focused upon alcohol and other drugs and
10 the substance ~~abusing~~ using population and is provided for a substance ~~abuse-use disorder~~
11 professional by an individual whose education and experience is in the field of alcohol and other
12 drugs.

13 ~~(39)~~ (38) "Supervised practice" means supervision of the applicant in the knowledge and skills related to
14 substance ~~abuse-use disorder~~ professionals.

15 ~~(40)~~ (39) "Supervisor of record" means the substance ~~abuse~~ use disorder professional primarily responsible
16 for providing applicant or practice supervision to a supervisee.

17 ~~(41)~~ (40) "Suspension" means a loss of registration, certification, or licensure by a substance ~~abuse~~ use
18 ~~disorder~~ professional or the privilege of making application for registration, certification, or
19 licensure by an applicant for one of these credentials.

21 *History Note: Authority G.S. 90-113.30; 90-113.31A; 90-113.31B; 90-113.33; 90-113.40; 90-113.41; 90-*
22 *113.41A;*
23 *Eff. August 1, 1996;*
24 *Temporary Amendment Eff. November 15, 1997;*
25 *Amended Eff. August 1, 2015; January 1, 2014; June 1, 2011; April 1, 2011; April 1, 2003; August*
26 *1, 2002; April 1, 2001; August 1, 2000; ~~August 1, 1998; August 1, 1998;~~*
27 *Readopted Eff. October 1, 2020.*

1 21 NCAC 68 .0102 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0102 BOARD MAILING ADDRESS**

4 (a) Unless otherwise directed, all correspondence shall be mailed to the following address:

5 North Carolina ~~Substance Abuse~~ Addiction Specialist
6 Professional ~~Certification~~ Practice Board
7 P.O. Box 10126
8 Raleigh, NC 27605.

9 (b) The Board website shall be located at www.ncsappb.org.

10

11 *History Note: Authority G.S. 90-113.30; 90-113.33;*

12 *Eff. August 1, 1996;*

13 *Amended Eff. ~~August 1, 1998.~~ August 1, 1998;*

14 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0201

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 4, please add a comma after "inquiries."

At lines 4 and 8, is it necessary to provide your website address since it was provided in .0102?

At line 7, where is your statutory authority to set a \$25 fee to obtain an application packet? Additionally, where is your authority to set this fee when Rule .0205 of this Section sets a \$150 application fee given the \$150 cap set in G.S. 90-113.38(b1)?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0201 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0201 APPLICATION FOR REGISTRATION**

4 (a) Applications, inquiries and forms shall be obtained from the Board's website, www.ncsappb.org and ~~returned~~
5 submitted to the Board for review and approval.

6 (b) To obtain an application packet, the applicant shall ~~submit a check or money order for pay~~ a non-refundable fee
7 in the amount of twenty-five dollars (\$25.00) ~~and a letter of intent stating the credential sought by the applicant.~~
8 through the Board's application found on the website, www.ncsappb.org.

9

10 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.39; 90-113.40;*

11 *Eff. August 1, 1996;*

12 *Amended Eff. ~~August 1, 2002.~~ August 1, 2002;*

13 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0202

DEADLINE FOR RECEIPT: September 11, 2020

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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:

At lines 4-6, does this sentence meet the definition of a "rule" in 150B-2(8a) or is it purely informational? If you would like to keep this language, please consider starting this as a standard or requirement beginning with "The Board shall provide the applicant..."

In (b)(1), are the contents or substantive requirements of the application in rule in accordance with G.S. 150B-2(8a)(d)?

In (b)(4), what, specifically, are you requiring? Is it a signed copy of the ethical standards or a signed statement that the applicant will comply with the ethical standards?

In (b)(4), since you use the word "attestation," are you requiring a signature or that it be notarized?

In (b)(9), are the contents or substantive requirements of the form in rule in accordance with G.S. 150B-2(8a)(d)?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0202 is readopted with changes as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0202 REGISTRATION PROCESS FOR BOARD CREDENTIAL**

4 (a) Individuals shall register with the Board prior to providing professional services. This allows the Board to review
5 the applicant's materials including education, training, experience and supervision contracts and provide the applicant
6 with an understanding of ~~his or her~~ their standing in the credentialing process.

7 (b) To register, the applicant shall ~~send~~ submit the following to the Board:

- 8 (1) Completed ~~registration form~~ application provided by the Board;
- 9 (2) Documentation of the degree required for a credential;
- 10 (3) A signed supervision ~~contract on a form~~ agreement provided by the Board documenting the
11 proposed supervision process by an applicant supervisor;
- 12 (4) ~~A signed form attesting to the applicant's promise to adhere~~ An attestation or otherwise signed
13 adherence by the applicant to the ethical standards of the Board;
- 14 (5) Documentation of three hours of educational training in ethics;
- 15 (6) Completed criminal history record ~~check~~;
- 16 (7) Job description evidencing applicant is practicing under the scope of practice for the credential
17 sought;
- 18 (8) Current resume;
- 19 (9) Completed special needs statement revealing special testing needs on a form provided by the Board
20 if applicable; and
- 21 (10) ~~A check or money order~~ Payment in the amount as set in Rule .0205 that is non-refundable and
22 made payable to the Board.

23 (c) Once the materials are determined by the Board to be in order the applicant shall be granted registration status.

24 (d) Registration with the Board shall be for a period as set out in G.S. 90-113.40A.

25 (e) An applicant shall become a Registrant upon receipt of ~~written~~ notification from the Board.

26
27 *History Note:* Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.39; 90-113.40; 90-113.40A; 90-113.46A;
28 Eff. August 1, 1996;
29 Amended Eff. January 1, 2010; April 1, 2003; ~~August 1, 2002.~~ August 1, 2002.
30 Readopted Eff. October 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0204

DEADLINE FOR RECEIPT: September 11, 2020

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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:

Throughout this Rule, I take it the changes made post-publication were made to mirror the language in 2019-240, correct?

At line 8, is it necessary to say "at least?" Rules always set minimum requirements.

At lines 9-10, what do you mean by "...shall be divided into one hour of supervision for every 10 hours of practice?" Please clarify.

For the list in (a)(1)-(12), please do not capitalize the first word in each subparagraph since each subparagraph ends with a semicolon.

For the list in (a)(1)-(12), does the Board set the core functions or are these set by the International Certification and Reciprocity Consortium? See G.S. 90-113.31B. If these are set by the Consortium, please incorporate the core functions by reference instead of repeating them here.

If you keep the list, please define "appropriate and eligible" at line 11.

Please add a comma after "problems" in line 17.

At line 19, please define "immediate."

At line 24, please add a comma after "resources."

On page 2, line 2, should this read "counselor's or clinical addictions specialist's professional development?"

In (c), where is your statutory authority to only require 30 hours of supervised training? G.S. 90-113.40(a)(7) requires "completion of a minimum of 300 hours of Supervised Practical Training" and 90-113.40(c)(1)(f) requires "a minimum of 300 hours of supervised practical training."

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

21 NCAC 68 .0204 is readopted with changes as published in 34:24 NCR 2384 as follows:

**21 NCAC 68 .0204 SUPERVISED PRACTICUM FOR CERTIFIED ~~SUBSTANCE ABUSE~~
COUNSELOR ALCOHOL AND DRUG COUNSELOR AND LICENSED
CLINICAL ADDICTIONS SPECIALIST**

(a) All applicants for the certified ~~substance abuse~~ alcohol and drug counselor or the clinical addictions specialist credential shall complete a 300 hour practicum supervised by an applicant supervisor and the practicum shall cover all core functions of counseling. Verification of at least ten hours of this practicum shall be made in each of the core functions of this Rule. These 120 hours of the practicum shall be divided into one hour of supervision for every 10 hours of practice in each one of the 12 core functions. These core functions are:

- (1) Screening to determine a client is appropriate and eligible for admission to a particular program;
- (2) Intake to provide the administrative and initial assessment procedures for admission to a program;
- (3) Orientation of the client to the general nature and goals of the program, rules governing client conduct, notice of the hours during which services are available, treatment costs to be borne by the client, if any, and client's rights;
- (4) An assessment to identify and evaluate for the purpose of the development of a treatment plan an individual's strengths, weaknesses, problems and needs;
- (5) The treatment planning process whereby the counselor and client identify and rank problems needing resolution, establish agreed upon immediate and long term goals, and decide on a treatment process and the resources to be utilized;
- (6) Counseling to assist individuals, families, or groups in achieving goals through exploration of a problem and its ramifications, examination of attitudes and feelings, consideration of alternative solutions, and making decisions;
- (7) Case management activities which bring services, agencies, resources or people together within a planned framework of action toward the achievement of established goals;
- (8) Providing those crisis intervention services which respond to an alcohol or other drug abuser's user's needs during acute emotional and physical distress;
- (9) Provision of client education information to individuals and groups describing alcohol and other drug abuse misuse and the available services and resources;
- (10) Referring the client whose needs cannot be met by the counselor or agency to other support systems and community resources available;
- (11) Charting the results of the assessment and treatment plan while writing reports, progress notes, discharge summaries and other client-related data necessary for the compilation of necessary reports and recordkeeping; and
- (12) Consultation with substance abuse use disorder treatment and prevention and other professionals to assure comprehensive, quality care for the client.

(b) The remaining 180 hours of this practicum shall be in any of the core function areas.

1 (c) Upon completion of the 300 hours, the supervisor shall complete an evaluation ~~form~~ reviewing the certified
2 ~~substance abuse~~ alcohol and drug counselor or clinical addictions specialist professional development and provide it
3 to the Board, documenting the 300 hours of practice, including 30 hours of ~~supervision on a form provided by the~~
4 ~~Board.~~ supervision.

5 (d) Pursuant to G.S. 90-113.40(a)(7), the practicum may be completed as part of an academic course of study in a
6 regionally accredited college or university or it may be developed in the work setting as long as it is supervised by an
7 applicant supervisor.

8 (e) Pursuant to G.S. 90-113.40(c)(1), the 300 hours of practical training provided by an applicant supervisor shall be
9 completed as part of the required two years postgraduate supervised ~~substance abuse~~ clinical addictions counseling
10 experience.

11

12 *History Note: Authority G.S. 90-113.30; 90-113.31; 90-113.33; 90-113.34; 90-113.39; 90-113.40;*

13 *Eff. August 1, 1996;*

14 *Amended Eff. June 1, 2011; April 1, 2011; January 1, 2010; ~~August 1, 2002.~~ August 1, 2002;*

15 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0209

DEADLINE FOR RECEIPT: September 11, 2020

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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:

At line 5, what does "IC&RC" stand for? Please spell out abbreviated terms at their first use. For example: "The Rules Review Commission (RRC) shall review rules."

At line 8, just to be clear, the transfer fee is set and collected by the IC&RC, not the Board?

In (c), are the contents or substantive requirements of the form in rule in accordance with 150B-2(8a)(d)?

How does (c) comply with 90-113.37A which sets renewal requirements?

In (d), define "same level exam."

At line 18, consider referring to G.S. 113.41.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0209 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0209 RECIPROCITY**

4 (a) If a counselor, prevention consultant, clinical supervisor, or clinical addictions specialist holds a credential issued
5 by an ~~IC&RC/AODA, Inc.~~ IC&RC member board or a successor organization as a certified ~~substance abuse counselor~~
6 ~~(to include alcohol and other drugs), alcohol and drug counselor,~~ certified prevention consultant, certified clinical
7 supervisor or ~~credentialed~~ licensed clinical addictions specialist, the person may transfer this credential to North
8 Carolina by applying a transfer fee ~~as assessed by the IC&RC/AODA, Inc.~~ paid to the IC&RC or its successor
9 organization.

10 (b) The reciprocal credential effective date shall remain the same as in the previous state.

11 (c) At the time when re-credentialing is required, it will be the individual's responsibility to submit an application for
12 re-credentialing. For the period of the first re-credentialing in North Carolina, the Board shall accept the member's
13 former state re-credentialing requirements for the purpose of reciprocal re-credentialing. At the end of this re-
14 credentialing period, it shall be the individual's responsibility to conform to the re-credentialing requirements of North
15 Carolina in effect at the time of re-credentialing.

16 (d) In the event that the individual's IC&RC member board does not administer the same level exam required for
17 reciprocal certification or licensing in North Carolina, the applicant shall be required to complete and pass the exam
18 required by the Rules of this Chapter and the North Carolina General Statute.

19

20 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.36; 90-113.37A;*

21 *Eff. August 1, 1996;*

22 *Amended Eff. January 1, 2014; ~~August 1, 2000.~~ August 1, 2000.*

23 *Readopted Eff. October 1, 2020.*

1 21 NCAC 68 .0213 is repealed as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0213 CONTINUING EDUCATION APPROVAL POLICY**

4 ~~(a) The Board shall approve educational events for professional credentialing. One certified hour is defined as one~~
5 ~~contact hour of participation in an organized continuing education experience. Continuing education used to meet the~~
6 ~~credentialing requirements shall be reviewed and approved according to these Rules. If the sponsor does not obtain~~
7 ~~approval from the Board, the individual participants shall be responsible for supplying all of the required information~~
8 ~~for each continuing education session at the time of request for credentialing or re-credentialing. Upon request, the~~
9 ~~Standards Committee shall review requests quarterly. Submission of approval requests shall be received 45 days prior~~
10 ~~to opening day of the event.~~

11 ~~(b) Any applicant for training approval shall submit a training approval request form including:~~

12 ~~(1) Title of course, date, location, individual or organization sponsor, whether it will be held only once~~
13 ~~or recurring.~~

14 ~~(2) Presenter(s) who shall attach a resume outlining expertise in the subject area and content of the~~
15 ~~session.~~

16 ~~(3) A description of the contents of a track, course, seminar, and the type of credit hours being requested~~
17 ~~to indicate if it is substance abuse specific, general skill building, or required training pursuant to~~
18 ~~other specialized credentials including Criminal Justice Addictions Professionals, Clinical~~
19 ~~Supervisors, Residential Facility Directors, or Prevention Consultants.~~

20 ~~(4) Agenda, to include the breakdown of time including a 15 minute break for every two hours of~~
21 ~~education and amount of time allowed for meals.~~

22 ~~(5) The sponsor or individual seeking approval shall pay an annual fee as follows:~~

23 ~~(A) \$25.00 for up to 10 hours;~~

24 ~~(B) \$50.00 for more than 10 hours and up to 20 hours;~~

25 ~~(C) \$75.00 for more than 20 hours and up to 30 hours;~~

26 ~~(D) \$100.00 for more than 30 hours and up to 40 hours;~~

27 ~~(E) \$125.00 for more than 40 hours.~~

28 ~~(e) Training approved by IC&RC/AODA, Inc. or its successor organization member boards and organizations granted~~
29 ~~deemed status shall be accepted with documentation of completion.~~

30 ~~(d) In-service training shall meet the same requirements as set out in Paragraphs (b) and (c) of this Rule. However,~~
31 ~~if persons who are non-employees of the sponsoring and presenting agency are invited to participate, then it is not~~
32 ~~considered in-service and Board pre-approval shall be required. Education received within the organization by outside~~
33 ~~trainers is not considered in-service.~~

34 ~~(e) Presenters shall be given one hour of credit for every one hour presented. However, if the original presentation is~~
35 ~~repeated, hours can only be credited for the original presentation.~~

36 ~~(f) The Board may revise or rescind credit hours if information is received documenting that a previously approved~~
37 ~~event was not presented as it was approved.~~

1

2 *History Note:* Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.39; 90-113.40; 90-113.37A;

3 *Eff. August 1, 1996;*

4 *Amended Eff. January 1, 2010; ~~August 1, 2000.~~ August 1, 2000;*

5 *Repealed Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0214

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Were the changes made post-publication made in response to public comment?

Please consider re-wording (a) to use active voice by saying who shall do what. Consider beginning: "A school shall notify..."

In (a), please capitalize "Standards Committee."

In (b)(1)-(5), please do not capitalize the first word in each subparagraph since you end each subparagraph with a semicolon.

At line 21, please refer to "Rule .0204 of this Section."

At line 29, define "substantive changes."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

21 NCAC 68 .0214 is readopted with changes as published in 34:24 NCR 2384 as follows:

21 NCAC 68 .0214 COLLEGE AND UNIVERSITY SUBSTANCE ~~ABUSE~~ USE DISORDER
SPECIALTY CURRICULA

(a) The standards committee shall be notified by a school of its intent to provide a substance ~~abuse~~ use disorder specialty curricula.

(b) Upon notification of the school's intent to provide a substance ~~abuse~~ use disorder specialty curriculum, the Board shall inform the school that the following information shall be needed from the applicant school:

- (1) Curricula description including number of hours of substance ~~abuse~~ use disorder specific ~~credits;~~ [credits. No more than 50% of educational hours may be obtained in an online asynchronous format.] credits;
- (2) Information as to how the educational requirements for substance ~~abuse~~ use disorder specialty shall be met within the curricula pursuant to G.S. 90-113.41A(a)(2) a.-k.;
- (3) The names and resume of any faculty who shall be teaching the substance ~~abuse~~ use disorder curricula;
- (4) The name of the school in which the substance ~~abuse~~ use disorder curricula shall be housed and organizational contact information; and
- (5) Specific guidelines and information on the field experience that shall be required of students including current substance ~~abuse~~ use disorder specific field placements and supervision. A clinical supervisor intern or certified clinical supervisor shall supervise the students enrolled in the substance use disorder specialty curricula described in this Section pursuant to 21 NCAC 68 .0204.

(c) The ~~standards committee~~ Standards Committee shall review curricula to determine if the proposal meets educational, hour, substance ~~abuse~~ use disorder specific and supervised experience qualifications.

(d) The ~~curricula review subcommittee of the standards committee~~ Standards Committee shall present recommendations to the Board.

(e) The Board shall notify the school of the status of its request and any recommendation.

(f) The curricula shall be submitted for review every three years. ~~Application for extension of the curricula shall be made 90 days prior to the current expiration date. A previously approved substance use disorder specialty curricula school may forgo review by notifying the Board that there have been no substantive changes to the approved curricula.~~

~~(g) Individuals applying who have completed a curriculum from a school meeting the criteria set forth in Subparagraphs (b)(1) through (b)(5) of this Rule shall submit an official masters or more advanced degree transcript from the university or college.~~

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40;
Eff. August 1, 2002;
Amended Eff. April 1, 2011; ~~January 1, 2010.~~ January 1, 2010.
Readopted Eff. October 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0215

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In your history note, please add a proposed effective date for the repeal.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0215 is repealed as published in 34:24 NCR 2384 as follows:

2

3 ~~21 NCAC 68 .0215~~ — **VERIFICATION**

4 ~~(a) Application for verification of credential shall be made to the Board.~~

5 ~~(b) A request for verification shall be made in writing and submitted with a check or money order in the amount of~~
6 ~~twenty-five dollars (\$25.00).~~

7

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

9 ~~*Eff. August 1, 2002;*~~

10 ~~*Amended Eff. January 1, 2010.*~~

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: Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0216

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 for lack of statutory authority. Paragraph (f) automatically subjects applicants to "sanctions" based on their criminal history. Depending on the crimes at issue, the Rule requires applicants to wait a set number of years since the applicant has completed his or her sentence to be eligible for licensure.

G.S. 93B-8.1, which was amended in 2019, prohibits occupational licensing boards from automatically denying licensure to an applicant based upon the applicant's criminal history. G.S. 93B-8.1(b). Instead, G.S. 93B-8.1(b1) requires occupational licensing boards to consider a list of factors prior to denying licensure. Additionally, the Board is required to make written findings and provide a copy of those findings to the applicant in order to deny an applicant licensure on the basis of his or her criminal history.

Therefore, staff recommends objection for lack of statutory authority for failure to comply with G.S. 93B-8.1.

Ashley Snyder
Commission Counsel

§ 93B-8.1. Use of criminal history records.

(a) The following definitions apply in this section:

- (1) Applicant. - A person who makes application for licensure from an occupational licensing board.
- (2) Board. - An occupational licensing board or a State agency licensing board as defined in G.S. 93B-1.
- (3) Criminal history record. - A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's or a licensee's fitness to be licensed or disciplined.
- (4) Licensee. - A person who has obtained a license to engage in or represent himself or herself to be a member of a particular profession or occupation.

(b) Unless federal law governing a particular board provides otherwise, a board may deny an applicant on the basis of a conviction of a crime only if the board finds that the applicant's criminal conviction history is directly related to the duties and responsibilities for the licensed occupation or the conviction is for a crime that is violent or sexual in nature. Notwithstanding any other provision of law, a board shall not automatically deny licensure on the basis of an applicant's criminal history, and no board may deny an applicant a license based on a determination that a conviction is for a crime of moral turpitude. The board shall make its determination based on the factors specified in subsection (b1).

(b1) Before a board may deny an applicant a license due to a criminal conviction under subsection (b) of this section, the board must specifically consider all of the following factors:

- (1) The level and seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the crime.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct and the prospective duties of the applicant as a licensee.
- (6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed.
- (6a) The completion of, or active participation in, rehabilitative drug or alcohol treatment.
- (6b) A Certificate of Relief granted pursuant to G.S. 15A-173.2.
- (7) The subsequent commission of a crime by the applicant.
- (8) Any affidavits or other written documents, including character references.

(b2) If the board denies an applicant a license under this section, the board shall:

- (1) Make written findings specifying the factors in subsection (b1) of this section the board deemed relevant to the applicant and explaining the reason for the denial. The board's presiding officer must sign the findings.
- (2) Provide or serve a signed copy of the written findings to the applicant within 60 days of the denial.
- (3) Retain a signed copy of the written findings for no less than five years.

(b3) Each board shall include in its application for licensure and on its public Web site all of the following information:

- (1) Whether the board requires applicants to consent to a criminal history record check.

- (2) The factors under subsection (b1) of this section which the board shall consider when making a determination of licensure.
- (3) The appeals process pursuant to Chapter 150B of the General Statutes if the board denies an applicant licensure in whole or in part because of a criminal conviction.

(b4) If a board requires an applicant to submit a criminal history record, the board shall require the provider of the criminal history record to provide the applicant with access to the applicant's criminal history record or otherwise deliver a copy of the criminal history record to the applicant. If an applicant's criminal history includes matters that will or may prevent the board from issuing a license to the applicant, the board shall notify the applicant in writing of the specific issues in sufficient time for the applicant to provide additional documentation supporting the application for consideration by the board prior to any final decision to deny the application. After being notified of any potential issue with licensure due to criminal conviction(s), an applicant shall have 30 days to respond by either correcting any inaccuracy in the criminal history record or submitting evidence of mitigation or rehabilitation for consideration by the board.

(b5) If, following a hearing, a board denies an application for licensure, the board's written order shall include specific reference to any criminal conviction(s) considered as part or all of any basis for the denial and the rationale for the denial, as well as a reference to the appeal process and the applicant's ability to reapply. No applicant shall be restricted from reapplying for licensure for more than two years from the date of the most recent application.

(b6) Notwithstanding any other provisions in the law, an individual with a criminal history may petition a board at any time, including before an individual starts or completes any mandatory education or training requirements, for a predetermination of whether the individual's criminal history will likely disqualify the individual from obtaining a license. This petition shall include a criminal history record report obtained by the individual from a reporting service designated by the board, the cost of which shall be borne by the applicant. Criminal history records relating to a predetermination petition shall not be considered public records under Chapter 132 of the General Statutes. A board may predetermine that the petitioner's criminal history is likely grounds for denial of a license only after the board has applied the requirements of subsection (b) of this section. Each board shall delegate authority for such a predetermination to its Executive Director or their equivalent, or a committee of the board, so that the predeterminations can be made in a timely manner. No board member having served on a predetermination committee for an individual shall be required to recuse in any later determinations or hearings involving the same applicant. The board shall inform the individual of the board's determination within 45 days of receiving the petition from the individual. The board may charge a fee to recoup its costs not to exceed forty-five dollars (\$45.00) for each petition. If the board determines an applicant would likely be denied licensure based on their criminal history, the board shall notify the individual in writing of the following:

- (1) The grounds and reasons for the predetermination.
- (2) That the petitioner has the right to complete any requirements for licensure and apply to the board and have their application considered by the board under its application process.
- (3) That further evidence of rehabilitation will be considered upon application.

(b7) A predetermination made under this section that a petitioner's criminal history would likely prevent them from licensure is not a final agency decision and shall not entitle the individual to any right to judicial review under Article 4 of Chapter 150B of the General Statutes.

(b8) A predetermination made under subsection (b6) of this section that a petitioner is eligible for a license shall be binding if the petitioner applies for licensure and fulfills all other requirements for the occupational license and the applicant's submitted criminal history was correct and remains unchanged at the time of application for a license.

(c) The board may deny licensure to an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories.

(d) This section does not apply to The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0216

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 4, why is "Registration" capitalized?

At line 11, please delete or define "immediate."

In (e), please consider removing the parentheses.

For the lists in (e)(1)-(5), please do not capitalize the first word in the list.

In (f), lines 12, 17, and 22, please delete or define "immediately."

In (f), given the categories and set number of years the Board is requiring to elapse, does the Board consider the list of factors in G.S. 90-113.46A(b)?

How does (f) comply with S.L. 2019-91, Sec. 4?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0216 is readopted as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0216 BACKGROUND INVESTIGATION**

4 (a) Every applicant for ~~an initial credential~~ Registration issued pursuant to Article 5C of Chapter 90 of the General
5 Statutes shall ~~provide, at her or his expense, a completed~~ complete a fingerprint ~~and background check~~ and
6 accompanying release of information ~~form, provided by the Board,~~ meeting the standards set by the State Bureau of
7 Investigation and obtained within 60 days of the date the applicant submits all the prerequisites for his or her credential.

8 (b) The applicant shall provide any additional information regarding any pending charge or conviction as requested
9 by the Board.

10 (c) An applicant shall submit a verified statement listing all criminal convictions received by the applicant, subsequent
11 to the date of the application. Failure to make full and accurate disclosure shall be grounds for immediate application
12 denial or other disciplinary action applicable to registration, certification, or licensure pursuant to G.S. 90-113.44.

13 (d) Criminal histories from any jurisdiction shall be categorized as defined by North Carolina law.

14 (e) The categories of crimes (committed as separate incidents) are as follows:

15 (1) Category I. The following crimes:

16 (A) Murder, attempted murder, or manslaughter of a child 16 or under; or

17 (B) Sexual assault, including attempted sexual assault, rape, indecent liberties with a child,
18 molestation, or sexual assault of a child, or the attempt to commit any of the
19 aforementioned crimes.

20 (2) Category II. Crimes that primarily result in bodily or emotional harm to others, including:

21 (A) Manslaughter of a person over 16 years of age;

22 (B) Kidnapping or attempted kidnapping;

23 (C) Arson of an occupied dwelling;

24 (D) Robbery with a dangerous weapon or attempted robbery with a dangerous weapon;

25 (E) Felony assault other than a sexual assault;

26 (F) First degree burglary;

27 (G) Trafficking in controlled substances as it is defined in Article 5 of Chapter 90 of the General
28 Statutes; or

29 (H) Any other felony that results in bodily or emotional harm to another.

30 (3) Category III. The following misdemeanors and felonies that do not primarily result in bodily or
31 emotional harm to others:

32 (A) Three or more DWIs within the most recent seven years;

33 (B) Assault (misdemeanor);

34 (C) Felony larceny;

35 (D) Fraud, obtaining property by false pretenses, financial transaction card theft;

36 (E) Unauthorized use of an aircraft;

37 (F) Unlawfully carrying a weapon;

- 1 (G) Theft of a vehicle;
- 2 (H) Falsification of government documentation (felony);
- 3 (I) Arson of an unoccupied dwelling or other building within the curtilage;
- 4 (J) Burglary other than in the first degree;
- 5 (K) Sale and delivery violations of the North Carolina Controlled Substances Act resulting in
- 6 a felony conviction;
- 7 (L) Embezzlement;
- 8 (M) Forgery;
- 9 (N) Any burning of property prosecuted as a felony;
- 10 (O) Robbery not with a dangerous weapon;
- 11 (P) Perjury;
- 12 (Q) Felony receiving and possessing stolen goods;
- 13 (R) Breaking and entering; or
- 14 (S) Any other felony not otherwise categorized.
- 15 (4) Category IV. The following misdemeanors:
 - 16 (A) Any combination of three or more Category V offenses, except offenses occurring within
 - 17 the same incident shall be considered a single offense;
 - 18 (B) Two DWIs within the most recent seven years;
 - 19 (C) Possession of a controlled substance;
 - 20 (D) Injury or damage to property;
 - 21 (E) Resisting arrest;
 - 22 (F) Larceny;
 - 23 (G) Prostitution;
 - 24 (H) Criminal mischief;
 - 25 (I) Driving while license suspended or revoked;
 - 26 (J) Falsification of government documents;
 - 27 (K) Any misdemeanor burning; or
 - 28 (L) Any other misdemeanor not otherwise categorized.
- 29 (5) Category V. Category V offenses are:
 - 30 (A) One DWI within the most recent seven years;
 - 31 (B) Disorderly conduct;
 - 32 (C) Intoxicated and disruptive in public;
 - 33 (D) Three or more incidents resulting in worthless check convictions; or
 - 34 (E) Shoplifting or concealment.
- 35 (f) The following sanctions have been established by the Board according to the categories of crimes:

- 1 (1) An applicant with a Category I conviction shall have at least 15 years elapsed since the applicant
2 has completed all aspects of his or her sentence received as a result of the last Category I conviction
3 to be eligible for registration, certification, or licensure.
- 4 (2) An applicant with a Category II conviction shall have at least 10 years elapsed since the applicant
5 has completed all aspects of his or her sentence received as a result of the last Category II conviction
6 to be eligible for certification or licensure. Notwithstanding a Category II conviction, an applicant
7 may be registered no sooner than five years following the date the applicant has completed all
8 aspects of his or her sentence.
- 9 (3) An applicant with a Category III conviction shall have at least five years elapsed since the applicant
10 has completed all aspects of his or her sentence received as a result of the last Category III conviction
11 to be eligible for certification or licensure. Notwithstanding a Category III conviction, an applicant
12 may be registered immediately following the date the applicant has completed all aspects of his or
13 her sentence.
- 14 (4) An applicant with a Category IV conviction shall have at least three years elapsed since the applicant
15 has completed all aspects of his or her sentence received as a result of the last Category IV conviction
16 to be eligible for certification or licensure. Notwithstanding a Category IV conviction, an applicant
17 may register immediately following the date the applicant has completed all aspects of his or her
18 sentence.
- 19 (5) An applicant with a Category V conviction shall have at least one year elapsed since the applicant
20 has completed all aspects of his or her sentence received as a result of the last Category V conviction
21 to be eligible for certification or licensure. Notwithstanding a Category V conviction, an applicant
22 may register immediately following the date the applicant has completed all aspects of his or her
23 sentence.

24 (g) If a waiting period prior to licensure as a driver of a motor vehicle results from a conviction for a DWI offense,
25 this waiting period shall not be considered an aspect of an applicant's sentence required to be completed prior to the
26 awarding of a credential.

27 (h) An individual whose application is denied or whose registration is suspended or revoked may request a hearing
28 under the procedure established in Article 5C of Chapter 90 and Chapter 150B of the North Carolina General Statutes
29 and the North Carolina Administrative Code.

30
31 *History Note:* Authority G.S. 90-113.30; 90-113.31; 90-113.33; 90-113.40; 90-113.41A; 90-113.44;
32 *Temporary Adoption Eff. May 15, 2002;*
33 *Temporary Adoption Eff. July 1, 2002;*
34 *Eff. April 1, 2003;*
35 *Amended Eff. ~~January 1, 2010~~; ~~January 1, 2010~~;*
36 *Readopted Eff. October 1, 2020.*

1 21 NCAC 68 .0217 is readopted as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0217 SUPERVISED PRACTICUM FOR CRIMINAL JUSTICE ADDICTIONS**
4 **PROFESSIONAL CERTIFICATION**

5 (a) All applicants for the criminal justice addictions professional certification shall complete 300 hours ~~practicum.~~
6 practicum as set forth in G.S. § 90-113.40(d1)(2). The applicant supervisor shall;

7 (1) ~~Train the criminal justice addictions professional and cover all criminal justice performance~~
8 ~~domains as set out in G.S. 90-113.31B(6);~~

9 (2) ~~Submit verification that at least 10 hours of practice was provided in each of the performance~~
10 ~~domains; and~~

11 (3) ~~Provide verification of at least one hour of supervision for every 10 hours of practice in each one of~~
12 ~~the performance domains on a supervisor evaluation form provided by the Board.~~

13 ~~(b) The remaining hours of the practicum shall be in any of the performance domains.~~

14 (e) Upon completion of 300 hours, the applicant supervisor shall:

15 (1) ~~Complete an evaluation form reviewing criminal justice addictions professional's development as a~~
16 ~~professional;~~

17 (2) ~~Document the 300 hours of practice to include 30 hours of supervision by the applicant supervisor;~~
18 ~~and~~

19 (3) ~~Submit this information to the Board on a form provided by the Board.~~

20 ~~(b)~~ (b) The practicum may be completed as part of an academic course of study in a regionally accredited college or
21 university or it may be developed in the work setting as a substance use disorder professional as long as it is supervised
22 by an applicant supervisor. The practicum shall take place within a criminal justice addiction professional setting to
23 include a workplace for law enforcement, the judiciary, or corrections.

24
25 *History Note: Authority G.S. 90-113.31A; 90-113.31B(6); 90-113.40; 90-113.40B;*
26 *Eff. January 1, 2010;*
27 *Amended Eff. June 1, 2011; ~~April 1, 2011.~~ April 1, 2011;*
28 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0220

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 4, under what circumstances is an application deficient? How does the Board make this determination?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0220 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0220 NOTICE TO APPLICANT OF FAILURE TO SATISFY BOARD**

4 ~~Whenever~~ When the Board has determined that an application is deficient, the Board shall notify the applicant of its
5 decision and indicate in what respect the applicant has failed to satisfy the Board. The applicant may inquire with the
6 Board if more information is needed to clarify the nature of the deficiency.

7

8 *History Note: Authority G.S. 90-113.33; 90-113.39; 90-113.40;*

9 *Eff. April 1, 2001;*

10 *Amended Eff. ~~January 1, 2010.~~ January 1, 2010;*

11 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0221

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 4, please add a comma after "suspension."

At line 8, how does the Board make this determination? What factors are considered?

At line 9, how does the Board determine which step is "appropriate?"

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0221 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0221 APPLICANT HEARING**

4 Upon denial, suspension or revocation of a credential, an applicant may request a hearing upon submission of a written
5 statement detailing the reason for the request. The applicant shall be given a formal hearing before the Board. Notice
6 of the time and place of the public hearing shall be provided to the applicant. The burden of satisfying the Board of
7 the applicant's qualifications for a credential shall be upon the applicant. Following the hearing, the Board shall
8 determine whether he or she is qualified to be examined or is entitled to be credentialed, whichever is the next
9 appropriate step in the process.

10

11 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40;*

12 *Eff. April 1, 2001;*

13 *Amended Eff. ~~January 1, 2010.~~ January 1, 2010;*

14 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0222

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At lines 4-5 and 8-9, what are the "ethical standards of the Board?" Are they set forth in rule or statute?

At line 5, do you mean "may" or "shall?" If you mean "may," under what circumstances does this occur?

At line 6, do you mean "may" or "shall?" If you mean "may," under what circumstances does this occur?

At lines 6-7 and 10-11, what are the "procedures used to investigate ethics complaints?" Are these set in rule or statute? Please provide a cross-reference.

At line 9, do you mean "may" or "shall?" If you mean "may," under what circumstances does this occur?

At line 10, do you mean "may" or "shall?" If you mean "may," under what circumstances does this occur?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0222 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0222 ETHICS AND QUALITY ASSURANCE INQUIRY**

4 (a) Information that is the basis for an inquiry into the issue of whether the applicant meets the ethical standards of
5 the Board may be referred to the Chairperson of the ~~Standards- Quality Assurance~~ Committee for review and further
6 investigation. The Chairperson may pursue the investigation of this matter pursuant to the procedures used to
7 investigate ethics complaints.

8 (b) Information that is the basis for an inquiry into the issue of whether the credentialed professional meets the ethical
9 standards of the Board may be referred to the Chairperson of the Ethics Committee for review and further
10 investigation. The Chairperson may pursue the investigation of this matter pursuant to the procedures used to
11 investigate ethics complaints.

12

13 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; 90-113.44;*

14 *Eff. April 1, 2001;*

15 *Amended Eff. ~~January 1, 2010.~~ January 1, 2010;*

16 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0223

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (a), do you mean "may" or "shall?"

In (b), do you mean "may" or "shall?"

For the lists in (a) and (b), please do not capitalize the first word in each subparagraph since each subparagraph ends with a semicolon.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0224

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At lines 5-6, what does it mean to be "removed from the credentialing process?" Does this mean their application for a credential is denied?

How does this Rule comply with S.L. 2019-91 and G.S. 90-113.46A(b)?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0224 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0224 CREDENTIALING STATUS DENIED IF SERVING SENTENCE**

4 An individual making application for a credential who is serving any part of a court-ordered sentence, including
5 community service, supervised or unsupervised probation, or making restitution, shall be removed from the
6 credentialing process. If any person is serving or begins serving such sentence during the course of the credentialing
7 process, this person shall notify the Board. If a driver license revocation or suspension period results from a conviction
8 for a DWI offense or refusal to submit to breathalyzer or blood testing, this period shall not be considered an aspect
9 of an applicant's sentence required to be completed prior to the awarding of a credential.

10

11 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; 90-113.44;*

12 *Eff. April 1, 2001;*

13 *Amended Eff. ~~January 1, 2010.~~ January 1, 2010.*

14 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0225

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Is the first sentence in this Rule necessary? It repeats requirements set in G.S. 93B-2.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0225 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0225 SUSPENSION OF AUTHORITY AND ESCROW OF FUNDS**

4 The Board shall file the annual reports set forth in G.S. 93B-2 no later than October 31 of each year. In the event the
5 Board fails to file the reports as required by G.S. 93B-2 and the Board's authority to expend any funds is suspended
6 until such time as the Board files the required reports, the Board shall deposit any fees or funds received during the
7 period of suspension into an escrow account established by the Board solely for this purpose.

8

9 *History Note: Authority G.S. 90-113.30; 90-113.33; 93B-2;*

10 *Eff. ~~April 1, 2011.~~ April 1, 2011;*

11 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0226

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 5, please capitalize "Armed Forces."

At line 6, did you intend to refer to "G.S. 105-249.2?"

At line 7, please add a comma after "educational requirements."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0226 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0226 ARMED SERVICES EXTENSION FOR CREDENTIAL**

4 Upon receipt of a written request by or on behalf of a credentialed substance ~~abuse~~ use disorder professional who is
5 currently in good standing with the Board, is serving in the armed forces of the United States, and to whom G.S. 105-
6 249 authorizes an extension of time to file a tax return, the Board shall postpone renewal fees, renewal application
7 deadlines, continuing education requirements and any other requirements or conditions related to the maintenance of
8 the credential issued by the Board or to the renewal thereof for the same period of time as the extended period of time
9 to file a tax return that is granted pursuant to G.S. 93B-15.

10

11 *History Note: Authority G.S. 90-113.30; 90-113.33; 93B-15;*

12 *Eff. April 1, 2011;*

13 *Amended Eff. ~~June 1, 2011.~~ June 1, 2011;*

14 *Readopted Eff. October 1, 2020.*

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: Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0227 and .0228

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 Rules .0227 and .0228 for lack of statutory authority. Specifically, in .0227(a)(2) and .0228(a)(2), the Board states that applicants based on military service or status as a military spouse shall submit an application fee. Both rules list G.S. 93B-15.1 in their history notes. That statute was amended in 2017 to specifically forbid a licensing board from charging an application fee in Subsection (k), which states:

§ 93B-15.1. Licensure for individuals with military training and experience; proficiency examination; licensure by endorsement for military spouses; temporary license.

(k) An occupational licensing board shall not charge a military-trained applicant or a military spouse an initial application fee for a license, certification, registration, or temporary practice permit issued pursuant to this section. Nothing in this subsection shall be construed to prohibit an occupational licensing board from charging its ordinary fee for a renewal application or prohibit a third party from charging actual costs for a service such as a background check

Therefore, staff believes that the requirement for these applicants to pay an application fee is beyond the statutory authority of the Board.

Ashley Snyder
Commission Counsel
Amended September 8, 2020

1 21 NCAC 68 .0227 is readopted with changes as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0227 CREDENTIAL BY ENDORSEMENT OR RECIPROCITY BASED ON MILITARY**
4 **SERVICE**

5 (a) An applicant for a ~~substance abuse~~ substance use disorder professional credential by endorsement or reciprocity
6 based on military service shall have ~~his or her~~ their training honored automatically pursuant to the standards of the
7 International Certification and Reciprocity Consortium/~~Alcohol and Other Drug Abuse, Incorporated.~~ Consortium
8 (IC&RC). The applicant shall apply for a credential by using the Board's credentialing software, Learning Builder,
9 and submit to the Board:

- 10 (1) a reciprocity application form prescribed by the ~~International Certification and Reciprocity~~
11 ~~Consortium/Alcohol and Other Drug Abuse, Incorporated~~ IC&RC and provided by the Board as
12 found at its website: www.ncsappb.org that shall be found accompanying the reciprocity
13 information on the website;
- 14 (2) the application fee required by rule applicable to the specific credential as set forth in this Chapter;
- 15 (3) written evidence demonstrating that the applicant has been awarded a military occupational
16 specialty as a substance abuse professional and that the applicant has engaged in practice as a
17 substance ~~abuse~~ use disorder professional for at least 1,500 clinical hours per year during at least
18 two of the five years preceding the date of application; and
- 19 (4) a statement disclosing and explaining the commission of any act set out in G.S. 90-113.46A, any
20 disciplinary actions, investigations, malpractice claims, state or federal agency complaints,
21 judgments, settlements, or criminal charges.

22 (b) All information required shall be received by the Board office.

23 (c) All applicants shall submit to the Board an electronic copy of the applicant's fingerprints as described on the
24 Board's website.

25
26 *History Note: Authority G.S. 90-113.31A(14); 90-113.33; 90-113.38; 90-113.39; 90-113.46; 90-113.46A; 93B-*
27 *15.1;*

28 *Eff. ~~August 1, 2015.~~ August 1, 2015;*

29 *Readopted Eff. October 1, 2020.*

21 NCAC 68 .0228 is readopted with changes as published in 34:24 NCR 2384 as follows:

**21 NCAC 68 .0228 SUBSTANCE ABUSE USE DISORDER CREDENTIAL BY ENDORSEMENT OR
RECIPROCITY BASED ON STATUS AS MILITARY SPOUSE**

(a) An applicant for a substance ~~abuse use disorder~~ ABUSE USE DISORDER credential by endorsement or reciprocity based on the applicant's status as a military spouse shall have his or her training honored automatically pursuant to the standards of the International Certification and Reciprocity Consortium/~~Alcohol and Other Drug Abuse, Incorporated~~. Consortium (IC&RC). The applicant shall apply for a credential by using the Board's credentialing software, Learning Builder, and submit to the Board:

- (1) a reciprocity application form prescribed by the ~~International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated~~ IC&RC and provided by the Board as found at its website: <http://www.ncsappb.org> that shall be found accompanying the reciprocity information on the website;
- (2) the application fee required by rule applicable to the specific credential as set forth in this Chapter;
- (3) written evidence demonstrating that the applicant is married to an active member of the U.S. military and that such applicant:
 - (A) holds a current substance ~~abuse use disorder~~ ABUSE USE DISORDER credential from another jurisdiction whose standards for the credential are substantially equivalent to or greater than those required for the credential described in G.S. 90, Article 5C, this Chapter, and is the subject of the application; and
 - (B) has engaged in practice as a substance ~~abuse use disorder~~ ABUSE USE DISORDER professional demonstrating the scope of practice as defined by G.S. 90-113.31B for at least 1,500 hours per year during at least two of the five years preceding the date of application; and
- (4) a statement disclosing and explaining the commission of an act set out in G.S. 90-113.46A, any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required shall be received by the Board office.

(c) All applicants shall submit to the Board an electronic copy of the applicant's fingerprints as described on the Board's website.

History Note: *Authority G.S. 90-113.31A(14); 90-113.31B; 90-113.33; 90-113.38; 90-113.39; 90-113.46; 90-113.46A; 93B-15.1;*
Eff. August 1, 2015; August 1, 2015;
Readopted Eff. October 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0301

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In your history note, please update the first citation to "G.S. 90-113.30."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0301 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0301 SCOPE**

4 The rules in this Section apply to a person seeking licensure as a clinical addictions specialist and a credentialing body
5 of a professional discipline seeking deemed status.

6

7 *History Note: Authority G.S. 113.30; 90-113.33; 90-113.36; 90-113.40; 90-113.41A;*

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

9 *Eff. August 1, 1998;*

10 *Amended Eff. ~~January 1, 2014.~~ January 1, 2014;*

11 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0303

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

For the list in (b), please do not capitalize the first word in each subparagraph.

At line 12, please change "must" to "shall."

In (c), please add a comma after "suspended."

In (d), please add a comma after "governing law."

In (e), what does it mean for the Board to not be satisfied with the disposition of a complaint? How is this determination made?

At line 21, do you mean "may" or "shall?" If you mean "may," how is this determination made?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0303 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0303 APPLICATION FOR DEEMED STATUS BY PROFESSIONAL DISCIPLINE**

4 (a) Any credentialing body of a professional discipline seeking deemed status shall forward to the board a letter of
5 intent with a request ~~for an application~~ to become a deemed status organization.

6 (b) The credentialing body shall provide the following:

7 (1) Documentation that it meets the requirements of G.S. 90-113.41A;

8 (2) A copy of the ethical code and statement, if any, it requires its members to sign indicating that the
9 member will comply with the discipline's code of ethics and any substantiating data that supports
10 the ethical process of the professional discipline;

11 (3) If an examination is required by the credentialing body, documentation describing the exam process
12 each applicant must pass in order to be awarded the professional group's substance ~~abuse~~ use
13 disorder specialty credential. If the examination for the specialty is not administered by the
14 professional group, the applicant shall pass the Board's exam for licensure.

15 (c) A professional discipline granted deemed status shall provide the name of any member whose credential is
16 revoked, suspended or denied within 60 days from the date of action.

17 (d) The professional discipline, to the extent allowed by its governing law shall provide any information requested
18 by the Board that has been submitted to the professional discipline regarding the complaint against its member,
19 subsequent to the disposition of the complaint.

20 (e) If no information has been received by the Board within six months, or the Board is not satisfied with the
21 disposition of the complaint, the Board may initiate its own disciplinary action.

22

23 *History Note: Authority G.S.; 90-113.33; 90-113.41; 90-113.41A;*

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

25 *Eff. August 1, 1998;*

26 *Amended Eff. ~~January 1, 2014.~~ January 1, 2014;*

27 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0304

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Why is (a) necessary given 90-133.41A? Also, 90-133.41A requires the Standards Committee, not the Board, to review the standards of each professional discipline. Was that your intent here? Please clarify.

At line 6, are you missing the word "professional" before "discipline?"

In (c), are you referring to the information required by Rule .0303 of this Section? If so, please consider adding a cross reference.

In (d), if you mean "may," under what circumstances is "further substantiation and explanation" required?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0304 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0304 THREE-YEAR STANDARDS REVIEW OF DEEMED STATUS STANDING**

4 (a) The Board shall review the standards of each professional discipline every third year as required in G.S. 90-
5 113.41A.

6 (b) The Board shall send notice to the discipline 90 days in advance of the end of the three-year period following the
7 date deemed status was granted or renewed.

8 (c) The discipline shall report current standards, including an update of all information originally required.

9 (d) The Board may require further substantiation and explanation of this data.

10

11 *History Note: Authority G.S. 90-113.33; 90-113.41A;*
12 *Temporary Adoption Eff. November 15, 1997;*
13 *Eff. January 1, 2014; August 1, 1998;*
14 *Amended Eff. ~~January 1, 2014.~~ January 1, 2014;*
15 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0307

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Were the changes made post-publication made in response to public comment?

At line 5, do you mean "may" or "shall?" If you mean "may," under what circumstances does this occur?

At line 6, do you mean "may" or "shall?" If you mean "may," under what circumstances does this occur?

At line 11 and in your history note, why do you cite S.L. 1997-492? Section 17 expired one year after the Act's effective date and Section 18 only remained in effect three years October 1, 1998.

At line 12, are the contents or substantive requirements of the application in rule in accordance with G.S. 150B-2(8a)(d)?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0307 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0307 REVOCATION OF CREDENTIAL WHEN CHANGE IN STATUS**

4 (a) Any clinical addictions specialist credentialed pursuant to deemed status who is no longer a member in good
5 standing of ~~his or her~~ their professional discipline may be subject to revocation of the credential.

6 (b) Any clinical addictions specialist who is credentialed pursuant to the deemed status criteria may lose this credential
7 if the professional discipline loses its deemed status standing.

8 (c) Any clinical addictions specialist whose ~~certification~~ credential is obtained pursuant to the deemed status criteria
9 and whose ~~certification~~ credential may be revoked or is revoked as a result of loss of membership in good standing
10 with the professional discipline or loss by the professional discipline of its deemed status standing, may apply for
11 ~~certification~~ a credential pursuant to G.S. 90-113.40(c)(1), (2), or (3) or S.L. 1997, c. 492, 17 or 18. This individual
12 shall submit a completed application for ~~certification~~ a credential within 60 days from the date notice of loss of the
13 individual's membership or notice of the loss of deemed status by the professional group is received by the member
14 of the professional discipline.

15

16 *History Note:* *Authority G.S. 90-113.30; 90-113.40; 90-113.41; 90-113.41A; S.L. 1997, c. 492, s. 17; S.L. 1997,*
17 *c. 492, s. 18;*

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

19 *Eff. ~~August 1, 1998.~~ August 1, 1998;*

20 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0401

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Throughout this Rule, were the changes made post-publication made in response to public comment?

In (a), under what circumstances does the Board grant approval? What factors are considered?

At line 14, if you are defining "certified hour" please put the term in quotation marks.

At line 16, by "these Rules" are you referring to "the rules of this Section?"

For the list in (b), please do not capitalize the first word in each subparagraph and end each subparagraph with a semicolon, with an "and" after line 30, if that was your intent.

In (b)(1), do you need an "and" before "whether?"

In (b)(5), where is your statutory authority for the listed fees?

In (c), did you intend to have an "and" or "or" between "successor organization" and "member boards?"

In (g), do you mean "may" or "shall?" If you mean "may," under what circumstances is credit granted?

In (g), please just use "15" instead of "fifteen."

In (g), how do "clock hours" compare to "contact hours" as used in (a)? If they are the same, please use consistent language.

At line 12, do you mean "may" or "shall?"

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

Ashley Snyder
Commission Counsel

Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0401 is readopted with changes as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0401 EDUCATION APPROVAL POLICY**

4 ~~(a) The Certification Board shall approve educational events for professional certification or certification renewal.~~
5 ~~One certified hour is defined as one contact hour of participation in an organized education experience under~~
6 ~~sponsorship approved in accordance with these rules.~~

7 ~~(b) The Certification Board shall review and approve all education used to meet the certification requirements.~~

8 ~~(c) Approval may be requested by an individual applicant or by a sponsor or presenter. If the sponsor does not obtain~~
9 ~~credit from the Certification Board, the individual participants shall be responsible for supplying all of the required~~
10 ~~information for each session at the time of request for certification, recertification, or conversion. The Standards and~~
11 ~~Credentials Committee shall review requests once monthly.~~

12 ~~(d) To insure a determination of a request prior to the date of presentation, sponsors, presenters, or individuals shall~~
13 ~~submit requests 45 days prior to opening day of the event.~~

14 (a) The Board shall approve educational events for professional credentialing. One certified hour is defined as one
15 contact hour of participation in an organized continuing education experience. Continuing education used to meet the
16 credentialing requirements shall be reviewed and approved according to these Rules. If the sponsor does not obtain
17 approval from the Board, the individual participants shall be responsible for supplying all of the required information
18 for each continuing education session at the time of request for credentialing or re-credentialing. Submission of
19 approval requests shall be received 45 days prior to opening day of the event.

20 (b) Any applicant for training approval shall submit a training approval request form including:

21 (1) Title of course, date, location, individual or organization sponsor, whether it will be held only once
22 or recurring.

23 (2) Presenter(s) who shall attach a resume outlining expertise in the subject area and content of the
24 session.

25 (3) A description of the contents of a track, course, seminar, and the type of credit hours being requested
26 to indicate if it is substance abuse use disorder specific, general skill building, or required training
27 pursuant to other specialized credentials including Criminal Justice Addictions Professionals,
28 Clinical Supervisors, Residential Facility Directors, or Prevention Consultants, Specialists.

29 (4) Agenda, to include the breakdown of time including a 15 minute break for every two hours of
30 education and amount of time allowed for meals.

31 (5) The sponsor or individual seeking approval shall pay an annual fee as follows:

32 (A) \$25.00 for up to 10 hours;

33 (B) \$50.00 for more than 10 hours and up to 20 hours;

34 (C) \$75.00 for more than 20 hours and up to 30 hours;

35 (D) \$100.00 for more than 30 hours and up to 40 hours;

36 (E) \$125.00 for more than 40 hours.

1 (c) Training approved by IC&RC/AODA, Inc. or its successor organization member boards and organizations granted
2 deemed status shall be accepted with documentation of completion.

3 (d) In-service training shall meet the same requirements as set out in Paragraphs (b) and (c) of this Rule. However,
4 if persons who are non-employees of the sponsoring and presenting agency are invited to participate, then it is not
5 considered in-service and Board pre-approval shall be required. The presenting agency or organization may contract
6 with outside trainers to present to their employees and this shall be considered in-service training.

7 (e) Presenters shall be given one hour of credit for every one hour presented. However, if the original presentation is
8 repeated, hours can only be credited for the original presentation.

9 (f) The Board may revise or rescind credit hours if information is received documenting that a previously approved
10 event was not presented as it was approved.

11 (g) The Board may grant fifteen (15) clock hours of education for each college or university semester credit; the
12 standard 3 credit semester course may be equal to forty-five (45) clock hours of education.

13
14
15
16
17

History Note: Authority G.S. 90-113.30; 90-113.37; 90-113.40;
Eff. ~~August 1, 1996~~; August 1, 1996;
Readopted Eff. October 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0402

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Were the changes made post-publication made in response to public comment?

In (a), do you mean "the Rules of this Section" instead of "the guidelines set forth in this section?"

In (c), why did you change "certification hour" to "education hour?" In .0401(a), you use the term "certified hour."

At line 28, please add a comma after "curricula."

In (e), is it necessary to say "no less than?" Rules always set minimum requirements.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

21 NCAC 68 .0402 is readopted with changes as published in 34:24 NCR 2384 as follows:

21 NCAC 68 .0402 GENERAL TRAINING PRE-APPROVAL GUIDELINES

(a) The guidelines set forth in this section shall apply to each approval request for obtaining credit for didactic and academic hours for course, curricula, and training ~~events held January 1, 1987 or thereafter.~~ events seeking pre-approval from the Board for professionals to use to meet their educational requirements for initial credentialing or renewal.

(b) ~~The following information and standards shall be required:~~

- (1) ~~Title of course, date, location, sponsor (individual or organization), and whether it shall be held only once or periodically;~~
- (2) ~~The name of the presenter(s) and a resume outlining his or her expertise in the subject area and content of the session;~~
- (3) ~~A sufficient description of the contents of a track, course, seminar, or other unit of academic pursuit and the type of credit hours being requested to indicate if it is substance abuse specific or general skill building;~~
- (4) ~~An agenda reflecting the breakdown of time including a 15 minute break for every two hours of education and amount of time allowed for meals;~~
- (5) ~~Each application for training approval may include a copy of the objective evaluation tool to be used;~~
- (6) ~~The summary of evaluations may be submitted to the Board within 45 days following the program date(s).~~

~~(b)~~ The Certification Board shall have the right to review programs by sending a Certification Board member or designee to monitor the event or a portion of the event. When fulfilling this quality assurance role, the designated person shall ~~present a letter of introduction to the presenter.~~ notify the presenter or training sponsor in writing.

~~(c)~~ Certification Education hours shall be awarded only for actual hours attended.

~~(e)~~ ~~Certificates shall not be released until the event ends and they shall be modified to reflect actual hours completed.~~

~~(d)~~ Providers of Board approved events shall be required to document attendance at individual events for schools, courses, curricula and conferences.

~~(e)~~ Event sponsors shall maintain attendance and evaluation records for no less than three years.

~~(h)~~ ~~Training approved by International Certification and Reciprocity Consortium (ICRC) member boards shall be accepted with documentation of completion.~~

*History Note: Authority G.S. 90-113.30; 90-113.37; 90-113.40;
Eff. August 1, 1996; Eff. August 1, 1996;
Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0403

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 8, please refer to "Rule .0402 of this Section."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0403 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0403 EMPLOYER ~~INSERVICE~~ IN-SERVICE TRAINING EVENT**

4 (a) An ~~employer~~ ~~inservice~~ in-service event shall be a training session that shall be provided by the applicant's employer
5 for the purpose of professional ~~certification~~ credentialing and limited to the employees of that agency. ~~and it shall be~~
6 ~~approved by the Board for this purpose as with other training events. The Board shall accept~~ [inservice] in-service
7 training for professional credentialing and renewal but reserves the right to attend and evaluate the [inservice] in-
8 service training as described in 21 NCAC 68 .0402.

9 (b) An applicant's training in substance use disorder and prevention provided as part of military employment shall be
10 considered ~~inservice~~ in-service training.

11

12 *History Note: Authority G.S. 90-113.30; 90-113.37; 90-113.40;*

13 *Eff. August 1, 1996. August 1, 1996;*

14 *Readopted Eff. October, 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0404

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Why is the first sentence necessary? It repeats .0401(f).

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0404 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0404 CREDIT DENIAL OR LIMITATION**

4 ~~(a) Credit shall not be given for the following:~~

5 (1) ~~Presentations given by banquet speakers unless the content meets the requirements described in this~~
6 ~~Section;~~

7 (2) ~~One's own case presentation required for certification; or~~

8 (3) ~~Registration time.~~

9 (b) The Board shall revise or rescind credit hours if information is received documenting that a previously approved
10 event was not presented as it was approved. The Board may deny credit approval based on failure to provide accurate
11 information to the Board as part of the credit approval application.

12

13 *History Note: Authority G.S. 90-113.30; 90-113.37; 90-113.40;*

14 *Eff. August 1, 1996. August 1, 1996;*

15 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0405

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 6, do you mean "anticipated attendance" since the requests are submitted prior to the event?

At line 12, do you mean "may" or "shall?"

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0405 is readopted as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0405 SPONSOR GUIDELINES**

4 (a) Sponsors or presenters shall submit requests for approval prior to the event and shall allow the Board 45 days for
5 review and approval. Requests by sponsors or presenters ~~postmarked~~ submitted after the event has taken place shall
6 may not be reviewed or approved by the ~~Board, but shall be returned.~~ Board. Documentation of the event attendance
7 shall then be submitted by each individual at the time request is made for ~~certification or recertification or conversion.~~
8 credentialing or renewal.

9 (b) All approvals from the Board ~~shall be in writing~~ and shall include the event approval number.

10 (c) Sponsors shall be responsible for providing a certificate of attendance which includes the approval number and
11 number of approved education hours.

12 (d) Any event given on a recurring basis, as in the example of college courses, may be given approval on a yearly
13 basis. Renewal of credit approval shall be based on ~~submission of a letter~~ notification by the sponsor or presenter
14 documenting no change in course content. Any changes in content or method shall be submitted for review and
15 approval in order to maintain prior approval. When changes have been made in content, method or agenda, the fee
16 shall be the same as for a new event.

17 ~~(e) Fees for review and approval of events:~~

18 (1) ~~For 1-10 hours of instruction the Board shall impose a fee of twenty-five dollars (\$25.00);~~

19 (2) ~~For 11-20 hours of instruction the Board shall impose a fee of fifty dollars (\$50.00);~~

20 (3) ~~For 21-30 hours of instruction the Board shall impose a fee of seventy-five dollars (\$75.00);~~

21 (4) ~~For 31-40 hours of instruction the Board shall impose a fee of one hundred dollars (\$100.00);~~

22 (5) ~~For 41-50 hours of instruction the Board shall impose a fee of one hundred twenty-five dollars~~
23 ~~(\$125.00);~~

24 (6) ~~For 51-100 hours of instruction the Board shall impose a fee of one hundred fifty dollars (\$150.00).~~

25 (7) ~~For greater than 100 hours of instruction the Board shall impose a fee greater than one hundred fifty~~
26 ~~dollars (\$150.00) and those additional charges shall be imposed in incremental amounts as set forth~~
27 ~~in Subparagraphs (e)(1) through (6) of this Rule, not to exceed three hundred dollars (\$300.00).~~

28
29 *History Note: Authority G.S. 90-113.30; 90-113.37; 90-113.38; 90-113.40;*

30 *Eff. August 1, 1996. Eff. August 1, 1996;*

31 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0406

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In the history note, please add a proposed effective date for the repeal.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0406 is repealed as published in 34:24 NCR 2384 as follows:

2

3 ~~21 NCAC 68 .0406~~ — **PROCEDURES FOR APPROVAL OF SELF-STUDY COURSES**

4 ~~(a) Self study courses may be submitted for approval for certification and recertification hours.~~

5 ~~(b) A copy of all documents including test and documentation of completion shall be submitted with the application.~~

6 ~~(c) No more than 50% of hours may be credited through self study programs.~~

7 ~~(d) Self study courses may not be repeated for credit.~~

8 ~~(e) A fee of one hundred fifty dollars (\$150.00) shall be submitted for each course by the vendor for pre approval by~~
9 ~~the Board. Pursuant to G.S. 90-113.39, approval is for one year from the date the Certification Board approves the~~
10 ~~application.~~

11 ~~(f) Self study approved by IC&RC/AODA, Inc. member boards and organizations granted deemed status shall be~~
12 ~~accepted with documentation of completion.~~

13

14 ~~History Note: Authority G.S. 90-113.30; 90-113.37; 90-113.38; 90-113.39; 90-113.40;~~

15 ~~Eff. August 1, 1996;~~

16 ~~Amended Eff. April 1, 2003.~~

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0407

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (a) and (b), please do not capitalize the first word in each subparagraph.

Why is (c) necessary given .0401(a)?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

21 NCAC 68 .0407 is readopted with changes as published in 34:24 NCR 2384 as follows:

21 NCAC 68 .0407 APPLICANT EDUCATION SUBMISSION GUIDELINES

~~(a) After January 1, 1985, to gain credit for an applicant's education for certification, recertification or conversion,~~
the The applicant shall provide the event approval number and proper documentation of attendance which includes:

- (1) Certificate of attendance; or
- (2) Training cards or sheets signed by a sponsor or presenter.

(b) Documents not acceptable to establish that an applicant has received continuing education are as follows:

- (1) Canceled checks;
- (2) Receipts;
- (3) Letters from supervisors who were non-participants in the course; or
- (4) Program schedules.

(c) If the sponsor failed to obtain approval for an event, the applicant shall be responsible for supplying the required information for each session as stated in Rule .0402 of this Section.

~~(d) To gain credit for didactic or academic hours of continuing education events held prior to January 1, 1985, the following standards apply:~~

- ~~(1) — The Board shall accept education previously approved by the former N.C. Alcoholism Certification Board and N.C. Drug Abuse Professional Certification Board.~~
- ~~(2) — Events held between January 1, 1980 and December 31, 1984 shall include all of the information required pursuant to Rule .0402 of this Section, except the resume of the presenter.~~
- ~~(3) — Events held prior to January 1, 1980 may be approved if a description of the material, method, number of hours and presenter's name is provided by the applicant.~~

~~(e) It is the responsibility of the individual applicant to put together a package of hours in accordance with criteria contained herein. Sixty hours of education shall be completed within the two years immediately prior to request for certification or recertification or conversion. There shall be no time frame on the remaining required hours for certification, to include conversion.~~

~~(f) Inservice events shall be identified as such.~~

~~(g) If a page of material is received from the applicant which does not comply with the above requirements, it shall be returned to the applicant.~~

~~(h) Request for approval shall be mailed to the Board.~~

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.37; 90-113.40;
Eff. August 1, 1996; Eff. August 1, 1996;
Readopted Eff. October 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0501

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Throughout this Rule, you refer to “ethical principles,” “this code,” and “the Applicant’s Code of Ethical Conduct.” If these terms all refer to the same thing, please pick one term and use it consistently.

Why is (a) necessary? Does it meet the definition of a rule in 150B-2(8a)?

Why is the first sentence in (b) necessary? Does it meet the definition of a rule?

In (b), by “engaging in conduct that could result in harm or injury to the public” are you referring to the grounds for disciplinary action in G.S. 90-113.44(a)(9)? If so, please consider adding a cross reference to make that clear.

At line 10, please add a comma after “relationships.”

At line 12, what do you mean by “or otherwise adhere to?” Please clarify.

At line 12, please add a comma after “Conduct.”

Where are the ethical principles or the Code of Ethical Conduct located? Are they established in rule or statute?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0501 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0501 PURPOSE AND SCOPE**

4 (a) The ethical principles governing the credentialed substance ~~abuse~~ use disorder professional are established to
5 protect the public health, safety and welfare.

6 (b) The primary goal of this code is to set forth principles to guide the conduct of the substance ~~abuse~~ use disorder
7 professional. The Board may deem violation of these standards malpractice, negligence, incompetence, or engaging
8 in conduct that could result in harm or injury to the public.

9 (c) Ethical principles shall provide a standard for the substance ~~abuse~~ use disorder professional in his or her
10 professional roles, relationships and responsibilities.

11 (d) Upon submission of an application for a credential, each applicant shall review the ethical standards in these
12 Rules, sign or otherwise adhere to the "Applicant's Code of Ethical Conduct" ~~form, and return it to the Board agreeing~~
13 thus agreeing to uphold the ethical principles of conduct.

14

15 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40;*

16 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
17 *becomes effective, whichever is sooner;*

18 *Eff. February 1, 1996;*

19 *~~Amended Eff. January 1, 2010. Amended Eff. January 1, 2010;~~*

20 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0502

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 4, what do you mean by "shall consider the issue of discrimination?"

At line 5, please add a comma after "sexual orientation."

At line 6, please capitalize "State" if you are only referring to North Carolina.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0502 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0502 NON-DISCRIMINATION**

4 The substance ~~abuse~~ use disorder professional shall consider the issue of discrimination against clients or professionals
5 based on race, religion, age, sex, handicaps, national ancestry, sexual orientation or economic condition, but in all
6 cases the professional shall not discriminate on any basis prohibited by federal or state law.

7

8 *History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the
9 permanent rule becomes effective, whichever is sooner;*

10 *Authority G.S. 90-113.30; 90-113.33; 90-113.40;*

11 *~~Eff. February 1, 1996.~~ Eff. February 1, 1996;*

12 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0503

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 4, define "requisite knowledge, skill, and proficiencies."

At line 5, please delete or define "competently."

What, specifically, does the Board require at line 6 by requiring professionals to "strive to learn about cultural and ethnic values?" Are you requiring they attend a class?

At lines 8 and 9, please delete or define "necessary."

In (e), please define "unethical conduct" and "unprofessional practices."

At line 23, consider changing "such" to "the."

In (i), what are you requiring with the language "the substance use disorder professional shall recognize the negative impact impairment has on his or her functioning in public and professional performance?" Is the professional only required to report to eh Board if there is an impact on their professional performance? Please clarify.

Why is (j) necessary given .0224? If you keep (j), where is your statutory authority given S.L. 2019-91 and G.S. 90-113.46A(b)?

In your history note, why are 90-113.34 and 90-113.41 listed?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0503 is readopted as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0503 COMPETENCE**

4 (a) The substance ~~abuse~~ use disorder professional shall employ the requisite knowledge, skill and proficiencies ~~of a~~
5 ~~substance abuse practitioner~~ competently ~~providing services~~ within his or her scope of practice.

6 (b) The substance ~~abuse~~ use disorder professional shall strive to learn about cultural and ethnic values in order to
7 provide the highest level of care for a client who possesses a diverse or unfamiliar cultural or ethnic background.

8 (c) The substance ~~abuse~~ use disorder professional shall provide the necessary interpretive services to any client or
9 refer the person for necessary services.

10 (d) The substance ~~abuse~~ use disorder professional shall assist in eliminating prevention, intervention, treatment, and
11 supervision practices by persons unqualified or unauthorized to practice in the field.

12 (e) The substance ~~abuse~~ use disorder professional who knows of unethical conduct or of unprofessional practices by
13 a substance ~~abuse~~ use disorder professional shall report such violations to the Board.

14 (f) The substance ~~abuse~~ use disorder professional shall recognize boundaries and limitations of his or her competencies
15 and not offer services or use techniques outside of his or her professional competencies and scope of practice.

16 (g) The substance ~~abuse~~ use disorder professional who identifies a need for services outside his or her skill, training
17 or experience shall refer the client to an appropriate professional or shall seek supervision and training to provide the
18 required services for the individual.

19 (h) The substance ~~abuse~~ use disorder professional shall complete reports and record keeping functions in a manner
20 that supports the client's treatment experience and welfare.

21 (i) The substance ~~abuse~~ use disorder professional shall recognize the negative impact impairment has on his or her
22 functioning in public and professional performance and shall ~~seek an assessment by a Board-approved provider and~~
23 ~~follow the recommendations.~~ report such impairment to the Board for investigation and review, which may result in
24 disciplinary or non-disciplinary action.

25 (j) No applicant shall be credentialed as a substance ~~abuse~~ use disorder professional who is serving any part of a court-
26 ordered sentence as specifically prohibited by 21 NCAC 68 .0224.

27
28 *History Note:* *Authority G.S. 90-113.30; 90-113.34; 90-113.36; 90-113.37; 90-113.39; 90-113.40; 90-113.41; 90-*
29 *113.43; 90-113.44;*
30 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
31 *becomes effective, whichever is sooner;*
32 *Eff. February 1, 1996;*
33 *Amended Eff. January 1, 2010; April 1, 2001; ~~August 1, 2000.~~ August 1, 2000;*
34 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0504

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (a), please add a comma after "experiential."

At line 7, which rules are you referring to by saying "these Rules?" Is it the "rules of this Section" or the "rules of this Chapter?"

Does (b) only apply to Board members and not licensees? If so, does this only concern internal management? G.S. 150B-2(8a)(a)?

In (d), what "established guidelines" are you referring to? Can they be incorporated by reference?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0504 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0504 LEGAL STANDARDS AND ETHICAL STANDARDS**

4 (a) The substance ~~abuse~~ use disorder professional shall not claim or imply educational, experiential or professional
5 qualifications or affiliations that the substance ~~abuse~~ use disorder professional does not possess.

6 (b) The substance ~~abuse~~ use disorder professional shall not use membership on the ~~North Carolina Substance Abuse~~
7 ~~Professional Practice~~ Board for purposes that are not consistent with these Rules. No Board member shall advertise,
8 promise, or provide special treatment to any individual because of membership on the ~~North Carolina Substance Abuse~~
9 ~~Professional Practice~~ Board or its committees.

10 (c) The substance ~~abuse~~ use disorder professional shall not lend his or her name to or participate in any professional
11 or business relationship that may knowingly mislead the public.

12 (d) The substance ~~abuse~~ use disorder professional shall follow established guidelines on research with human subjects
13 when he or she engages in such research.

14

15 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.43; 90-113.44; 90-113.45;*

16 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
17 *becomes effective, whichever is sooner;*

18 *Eff. February 1, 1996;*

19 *Amended Eff. January 1, 2010; ~~April 1, 2001.~~ April 1, 2001.*

20 *Readopted Eff. October 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0505

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Are the contents of (b)(1)-(4) repetitive of .0504(a)?

In (b)(1)-(8), please do not capitalize the first word of each subparagraph.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0505 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0505 EDUCATION AND TRAINING STANDARDS**

4 (a) The substance ~~abuse~~ use disorder professional shall be prepared to provide the source for any materials or
5 techniques used when making either public statements or providing education and training.

6 (b) The substance ~~abuse~~ use disorder professional shall not knowingly make false, deceptive, or fraudulent statements
7 concerning ~~his or her~~ their:

- 8 (1) Training, experience, or competence;
- 9 (2) Academic degrees;
- 10 (3) Credentials;
- 11 (4) Institutional or association affiliations;
- 12 (5) Services;
- 13 (6) Fees;
- 14 (7) Publications or research findings; and
- 15 (8) Scientific or clinical basis for, or results or degree of success of ~~his or her~~ their services.

16

17 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.44;*
18 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
19 *becomes effective, whichever is sooner;*
20 *Eff. February 1, 1996;*
21 *Amended Eff. January 1, 2010; ~~April 1, 2001~~; April 1, 2001;*
22 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0506

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 6, please define "major contributions."

Please review the sentence at lines 6-7. The language "made by several persons to a common project" does not fit with the rest of the sentence. Are you missing language here?

At line 8, should "principle" be "principal?"

At line 10, define "minor contribution."

At line 10, please delete or define "extensive."

At line 11, please define "minor contributions."

At line 13, please delete or define "directly."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0506 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0506 PUBLICATION CREDIT**

4 The substance ~~abuse~~ use disorder professional shall assign credit to all who have contributed to the published material
5 and for the work upon which the publication is based.

6 (1) The substance ~~abuse~~ use disorder professional shall recognize joint authorship, major contributions
7 of a professional character, made by several persons to a common project. The author who has
8 made the principle contribution to a publication shall be identified as a first listed.

9 (2) The substance ~~abuse~~ use disorder professional shall acknowledge in footnotes or an introductory
10 statement minor contribution of a professional character, extensive clerical or similar assistance and
11 other minor contributions.

12 (3) The substance ~~abuse~~ use disorder professional shall acknowledge, through specific citations,
13 unpublished, as well as published material, that has directly influenced the research or writing.

14 (4) The substance ~~abuse~~ use disorder professional who compiles and edits for publication the
15 contributions of others shall list oneself as editor, along with the names of those others who have
16 contributed.

17

18 *History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the
19 permanent rule becomes effective, whichever is sooner;*

20 *Authority G.S. 90-113.30; 90-113.33; 90-113.44;*

21 *~~Eff. February 1, 1996.~~ Eff. February 1, 1996;*

22 *Amended Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0507

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (c), what do you mean by "in the presence of professional conflict?"

At line 14, please delete or define "promptly."

In (g), is foreseeability of harm to the client in the discretion of the substance use disorder professional?

In (h), what is required for a setting to "respect client privacy and confidentiality?" Specifically, what are you requiring?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0507 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0507 CLIENT WELFARE**

4 (a) The substance ~~abuse~~ use disorder professional shall protect the safety and welfare of the client.

5 (b) The substance ~~abuse~~ use disorder professional shall inform clients of the nature and direction of loyalties and
6 responsibilities and keep all parties participating in the client's care informed of these commitments.

7 (c) The substance ~~abuse~~ use disorder professional, in the presence of professional conflict, shall be concerned
8 primarily with the welfare of the client.

9 (d) The substance ~~abuse~~ use disorder professional shall withdraw services only after giving consideration to all factors
10 in the situation and taking care to minimize adverse actual or possible effects.

11 (e) The substance ~~abuse~~ use disorder professional shall, after minimizing any adverse impact, end a counseling or
12 consulting relationship when the professional knows or should know that the client is not benefiting from services.

13 (f) The substance ~~abuse~~ use disorder professional who anticipates the cessation or interruption of service to a client
14 shall notify the client promptly and seek the cessation, transfer, referral, or continuation of service in relation to the
15 client's needs and preferences.

16 (g) The substance ~~abuse~~ use disorder professional shall not use a client in a demonstration where such participation
17 would foreseeably harm the client.

18 (h) The substance ~~abuse~~ use disorder professional shall deliver services in a setting that respects client privacy and
19 confidentiality.

20 (i) The substance ~~abuse~~ use disorder professional shall collaborate with other health care professionals providing
21 treatment or support services to a client.

22

23 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; 90-113.43; 90-113.44;*
24 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
25 *becomes effective, whichever is sooner;*
26 *Eff. February 1, 1996;*
27 *Amended Eff. January 1, 2010; April 1, 2001; ~~August 1, 2000~~ August 1, 2000;*
28 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0508

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Was the change made post-publication made in response to public comment?

At line 11, consider whether "as it appears in" should be "in accordance with."

At line 11, please review the citation to 42 USC 290ee-3. Does it pertain to confidential records?

At line 11, please replace "Sections" with "Parts."

At line 12, please add a comma after "164."

At line 12, what "State law" are you referring to?

At line 19, please capitalize "State."

At line 20, are you referring to the guidelines or the CFRs? If you are referring to specific guidelines, please cite the guidelines. If you are only referring to the CFRs, please delete the reference to federal guidelines.

At line 25, please delete or define "adequately."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0508 is readopted with changes as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0508 CONFIDENTIALITY**

4 (a) The substance ~~abuse~~ use disorder professional shall protect the privacy of current and former clients and shall not
5 disclose confidential information without prior consent.

6 (b) The substance ~~abuse~~ use disorder professional shall inform the client and obtain written permission for the use of
7 interview material for training purposes and observation of an interview.

8 (c) The substance ~~abuse~~ use disorder professional shall make provisions for the maintenance of confidentiality and
9 the ultimate disposition of confidential records. These provisions shall be consistent with the prohibition against
10 disclosure of records or other information concerning any client in a federally-assisted alcohol or drug **abuse treatment**
11 program as it appears in 42 C.F.R., Part 2, 42 U.S.C. 290ee-3, the HIPAA Privacy Rule appearing in 45 CFR Sections
12 160 and 164 and State law.

13 (d) The substance ~~abuse~~ use disorder professional shall disclose confidential information ~~only:~~

14 (1) ~~when there is clear and imminent danger to the client or to other persons or a medical emergency~~
15 ~~and then only to the appropriate professional worker or public authorities;~~

16 (2) ~~when compelled by law to provide such information;~~

17 (3) ~~with a proper consent form in writing issued pursuant to 42 C.F.R., Part 2, 42 U.S.C. 290ee-3; or~~

18 (4) ~~for internal program communications and communications that do not disclose patient identifying~~
19 ~~information.~~ only in accordance with state confidentiality Rules found in 10A NCAC 26B and
20 federal guidelines found in 42 CFR Part 2.

21 (e) With prior written consent the substance ~~abuse~~ use disorder professional shall discuss the information obtained in
22 a clinical or consulting relationship only in a professional setting and only for a professional purpose concerned with
23 the case. Written and oral reports shall present only data germane to the purpose of the evaluation.

24 (f) The substance ~~abuse~~ use disorder professional shall use material in classroom teaching and writing only when the
25 identity of the person involved is disguised adequately to prevent disclosure or documented permission is given by
26 the party or the information is in the public domain.

27
28 *History Note: Authority G.S. 90-113.30; 90-113.43; 90-113.44;*

29 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
30 *becomes effective, whichever is sooner;*

31 *Eff. February 1, 1996;*

32 *Amended Eff. January 1, 2010; ~~April 1, 2001~~; April 1, 2001;*

33 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0509

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Were the changes made post-publication made to comply with the changes in S.L. 2019-240?

At line 4, please replace "client/professional relationship" with "client-professional relationship" if that was your intent.

For the definition at lines 8-10, does this definition expand upon the definition of "dual relationships" as defined in 90-113.31A(16)?

For the list in (5), please do not capitalize the first word in each item on the list.

In your history note, why is 90-113.34 cited?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0509 is readopted with changes as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0509 CLIENT RELATIONSHIPS**

4 (a) The substance ~~abuse~~ use disorder professional shall not enter into a client/professional relationship with members
5 of ~~one's~~ the professional's immediate family. For the purpose of this Rule "immediate family" means spouse, parent,
6 sibling, child, grandparent, grandchild, stepchild, stepparent, parent-in-law, and child-in-law.

7 (b) The professional shall avoid dual relationships that could impair professional judgment or increase the risk of
8 exploitation of a client. For the purpose of this Rule "dual relationships" includes relationships in a social media setting
9 where the professional and client have access to privileged information including relationships, photographs, and
10 personal thoughts and opinions of the professional and the client.

11 (c) Sexual activity or sexual contact of a substance ~~abuse~~ use disorder professional with a client shall be restricted as
12 follows:

13 (1) The substance ~~abuse~~ use disorder professional shall not engage in or solicit sexual activity or sexual
14 contact with a current client.

15 (2) The substance ~~abuse~~ use disorder professional shall not engage in or solicit sexual activity or sexual
16 contact with a former client for five years after the termination of the counseling or consulting
17 relationship.

18 (3) The substance ~~abuse~~ use disorder professional shall not engage in or solicit sexual activity or sexual
19 contact with any client the professional knows to be currently in treatment at his or her their own
20 agency or place of professional employment.

21 (4) The substance ~~abuse~~ use disorder professional shall not knowingly engage in or solicit sexual
22 activity or sexual contact with any identified former client of his or her their own agency or place
23 of professional employment for five years after the termination of the counseling or consulting
24 relationship if both the professional was employed at the agency and the former client was a client
25 of the agency during the same time period.

26 (5) Because sexual activity with a client is harmful to the client, a substance ~~abuse~~ use disorder
27 professional shall not engage in sexual activities with a former client even after a five-year interval
28 unless the substance ~~abuse~~ use disorder professional who engages in such activity after the five years
29 following cessation or termination of treatment bears the burden of demonstrating that there has
30 been no harm to the client in light of all relevant factors, including the following:

31 (A) The amount of time that has passed since treatment services were terminated;

32 (B) The nature and duration of the treatment services;

33 (C) The circumstances of termination;

34 (D) The client's personal history;

35 (E) The client's current mental status;

36 (F) The likelihood of adverse impact on the client and others; and

1 (G) Any statement made or action taken by the substance abuse use disorder professional
2 during the course of treatment suggesting or inviting the possibility of a post-termination
3 sexual or romantic relationship with the client.

4 (d) The substance abuse use disorder professional shall not misuse his or her their professional relationship for sexual,
5 financial, or any other personal advantage.

6
7 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.44;*
8 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
9 *becomes effective, whichever is sooner;*
10 *Eff. February 1, 1996;*
11 *Amended Eff. February 1, 2010; April 1, 2001; ~~August 1, 2000.~~ August 1, 2000;*
12 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0510

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At lines 4-5, specifically, what are you requiring when you require substance use disorder professionals to treat others with “respect, courtesy, and fairness.” How does the Board determine if a profession is or is not following this requirement?

If you keep this language, please add a comma after “courtesy.”

At lines 4 and 5, do “colleagues” and “other professionals” refer to the same group of people?

At line 9, what are “duly constituted ethics committees?” Which committees are included and how is this determined?

At line 10, please delete or define “promptly.”

At line 10, what information is “necessary?”

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0510 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0510 INTERPROFESSIONAL RELATIONSHIPS**

4 (a) The substance ~~abuse~~ use disorder professional shall treat colleagues with respect, courtesy and fairness and shall
5 afford the same professional courtesy to other professionals.

6 (b) The substance ~~abuse~~ use disorder professional shall not offer professional services to a client in counseling or
7 consulting with another professional except with the knowledge of the other professional or after the termination of
8 the client's relationship with the other professional.

9 (c) The substance ~~abuse~~ use disorder professional shall cooperate with duly constituted professional ethics committees
10 and promptly supply necessary information unless prohibited by law.

11

12 *History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent*
13 *rule becomes effective, whichever is sooner;*

14 *Authority G.S. 90-113.30; 90-113.33; 90-113.44;*

15 *Eff. February 1, 1996;*

16 *Amended Eff. ~~April 1, 2001.~~ April 1, 2001.*

17 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0511

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

What, specifically, are you requiring in (a)? What financial arrangements are "in accord with the best interests of the client or person served, the professional and of the profession?"

If you keep (a), please add a comma after "professional."

In (d), define "agency." Are you referring to a place of business?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0511 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0511 REMUNERATION**

4 (a) The substance ~~abuse~~ use disorder professional shall establish financial arrangements in professional practice and
5 in accord with the best interests of the client or person served, the professional and of the profession.

6 (b) The substance ~~abuse~~ use disorder professional shall not send or receive any commission, rebate, or any other form
7 of remuneration for referral of a client or a person served for professional services.

8 (c) The substance ~~abuse~~ use disorder professional shall not accept a private fee or any other gift or gratuity having a
9 cumulative value of twenty-five dollars (\$25.00) or more for professional work with a person who is receiving such
10 services with the professional or through the professional's institution or agency.

11 (d) A particular agency may make written provisions for private work with its clients or persons served by members
12 of its staff and in such instances the client or person served shall be apprised of all policies affecting ~~him or her,~~ them.
13 Additional referral options shall be presented to the client or person served if available.

14 (e) A substance ~~abuse~~ use disorder professional shall not use ~~his or her~~ their employer's organization to solicit clients
15 or persons served for one's private practice without written authorization from the employer.

16

17 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.44;*
18 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
19 *becomes effective, whichever is sooner;*
20 *Eff. February 1, 1996;*
21 *Amended Eff. February 1, 2010; April 1, 2001; ~~August 1, 2000.~~ August 1, 2000;*
22 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0512

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 17, please define "immediate family member." It is only defined in .0509 for purposes of that Rule.

Please review the lists in (a)(2) and (a)(6). Please begin each item in the list with a non-capitalized word and end each item in the list with a semicolon, with the last item ending with a period

At line 23, please define "responsibly, competently, and ethically."

At line 25, please delete or define "competently."

On page 2, line 12, please define "appropriate supervision."

On page 2, line 12, please define "ethical practice."

At lines 12-13, is the language "and may include these verified hours in their evaluation to the Board" necessary? Is it repetitive of the beginning of the sentence?

At line 14, why is "Supervisor" capitalized?

At line 15, please define "as soon as practicable."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0512 is readopted with changes as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0512 RESPONSIBILITIES OF SUPERVISOR AND SUPERVISEE**

4 (a) A professional who has received a credential from the Board and who is serving as a clinical or practice supervisor
5 shall:

- 6 (1) Be aware of ~~his or her~~ **their** position with respect to supervisees and therefore not exploit the trust
7 and reliance of such persons.
- 8 (2) Avoid dual relationships that could impair professional judgment, increase the risk of exploitation,
9 or cause harm to the supervisee. To implement this standard the supervisor shall not:
- 10 (A) Instruct or supervise a person with whom the supervisor has participated in a sexual
11 activity; a person living in the supervisor's household; or ~~a family member who is related~~
12 ~~to the supervisor as a child, parent, grandchild, sister, brother, grandparent, spouse, mother-~~
13 ~~in-law, father-in-law, son-in-law, daughter-in-law, stepson, stepdaughter, stepmother,~~
14 ~~stepfather, brother-in-law, sister-in-law, spouse's grandparent, spouse's grandchild,~~
15 ~~grandchild's spouse, or spouse of a grandparent. A supervisor is related to an aunt, uncle,~~
16 ~~great aunt, or great uncle only if that relative is the sibling of the person's parent or~~
17 ~~grandparent.~~ an immediate family member.
- 18 (B) Provide therapy or therapeutic counseling services to supervisees; or
- 19 (C) Solicit or engage in sexual activity or contact with supervisees during the period of
20 supervision.
- 21 (3) Be trained in and knowledgeable about supervision methods and techniques.
- 22 (4) Supervise or consult only within ~~his or her~~ **their** knowledge, training, and competency.
- 23 (5) Guide his or her supervisee to perform services responsibly, competently, and ethically. As
24 authorized by the supervisee's employer, the supervisor shall assign to ~~his or her~~ **their** supervisees
25 only those tasks or duties that these individuals can be expected to perform competently, based on
26 the supervisee's education, experience, or training, either independently or with the level of
27 supervision being provided.
- 28 (6) ~~Not disclose the~~ Withhold confidential information provided by a supervisee except:
- 29 (A) As mandated by law;
- 30 (B) To prevent harm to a client or other person involved with the supervision;
- 31 (C) In educational or training settings where there are multiple supervisors, and then only to
32 other supervisors who share responsibility for the performance or training of the
33 supervisee; or
- 34 (D) If consent is obtained.
- 35 (7) Establish and facilitate a process for providing evaluation of performance and feedback to a
36 supervisee. To implement this process the supervisee shall be informed of the timing of evaluations,
37 methods, and levels of competency expected. Supervision documentation shall be signed by the

1 supervisor and supervisee and include the date, time, duration, method, and topic of the supervision
2 session.

3 (8) ~~Not endorse~~ Withhold endorsement of supervisees for credentialing, employment, or completion of
4 an academic training program if they believe the supervisees are not qualified for the endorsement.

5 A supervisor shall develop a plan to assist a supervisee who is not qualified for endorsement to
6 become qualified.

7 (9) Make financial arrangements for any remuneration with supervisees and organizations only if these
8 arrangements are in writing. All fees shall be disclosed to the supervisee prior to the beginning of
9 supervision.

10 (10) Review documentation of previously supervised work experience, provided by the supervisee, for
11 the purpose of credentialing by the Board. The supervisor may verify these hours to the Board if the
12 supervisor deems that appropriate supervision and ethical practice was performed and may include
13 these verified hours in their evaluation to the Board.

14 (b) The Supervisor of record shall provide notice to the office of the Board within 30 days from the date of the last
15 session of clinical supervision that supervision has terminated. Upon receipt of this notice, as soon as is practicable,
16 the Board shall ~~mail a certified notice to~~ notify the supervisee that he or she has 30 days to obtain supervision to retain
17 the current credential. The supervisee shall ~~provide the Board with a Board approved~~ add a new supervisor or
18 otherwise update their supervision contract signed and dated by the supervisor and supervisee ~~to maintain the~~
19 ~~supervisee's credential. on file with the Board. This contract shall be postmarked, indicating that it was mailed to the~~
20 ~~office within the 30-day time period after receipt of the certified notice from the Board.~~

21
22 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.39; 90-113.40;*
23 *Eff. April 1, 2003;*
24 *Amended Eff. January 1, 2014; ~~January 1, 2010.~~ January 1, 2010;*
25 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0601

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Throughout this Rule, when creating a list, please begin each item in the list with a non-capitalized word and then end the item with a semicolon. Please add either an "and" or "or" in the next-to-last item in the list and end the list with a period.

In (1)(a), does this regulate those without a Board license or credential? If so, where is your authority for (1)(a)?

At line 31, please refer to "Rule .0511 of this Chapter."

At line 31, what other rule or rules are you referring to?

In (5)(a), please capitalize "State" if you are only referring to North Carolina.

In (5)(a), are you referring to any specific statutes? Would a reference to Rule .0508 help clarify the statutes you are referring to?

In (5)(c), please add a comma after "misrepresentation."

In (6)(e), this is the standard for ordinary negligence. However, 90-113.44(a)(7) defines the following as grounds for discipline: "malpractice, gross negligence, or incompetence." Where is your statutory authority to expand that to ordinary negligence?

In your history note, why is G.S. 90-338 listed?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

- 1 (6) Professional incompetency or failure to meet standards of practice:
- 2 (a) Failure to follow the standards of skill and competence possessed and applied by
- 3 professional peers **certified credentialed** in this State acting in the same or similar
- 4 circumstances;
- 5 (b) Practicing outside **his or her their** scope of practice:
- 6 (c) Use of drugs including alcohol to the extent that professional competency is affected or
- 7 that the professional suffers impairment;
- 8 (d) Refusal to seek treatment for chemical dependency or mental health problems which impair
- 9 professional performance; or
- 10 (e) Engaging in conduct that an ordinary, reasonable, and prudent person could foresee would
- 11 result in harm or injury to the public.
- 12 (7) In professional relationships, the following are prohibited:
- 13 (a) Knowingly offering professional services to a client in a professional relationship with
- 14 another substance **abuse use disorder** professional except with the knowledge of the other
- 15 professional or after the termination of the client's relationship by the other professional;
- 16 (b) Sending or receiving any form of remuneration for referral of clients or persons served for
- 17 substance **abuse use disorder treatment** services from the professional to whom the referral
- 18 was made;
- 19 (c) Accepting from or charging the client a fee for a referral to another substance **abuse use**
- 20 **disorder** professional;
- 21 (d) Accepting or charging a fee when no substance **abuse use disorder** professional services
- 22 are actually provided; except actual costs for copies and administrative services may be
- 23 recovered; or
- 24 (e) Failing to cooperate with the investigations and proceedings of any professional ethics
- 25 committee unless the failure is within the exercise of the professional's constitutional
- 26 rights.
- 27

28 *History Note: Authority G.S. 90-113.33; 90-113.37; 90-113.39; 90-113.40; 90-113.42; 90-113.43; 90-113.44; 90-*

29 *113.45; 90-338;*

30 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*

31 *becomes effective, whichever is sooner;*

32 *Eff. February 1, 1996;*

33 *Amended Eff. April 1, 2011; ~~August 1, 2000.~~ August 1, 2000.*

34 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0602

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 6, why is "Complaint" capitalized?

At line 7, it is not necessary to provide the website address since it was established in .0102.

At line 9, what do you mean by "or otherwise attested to be true?"

In (b)(1)-(3), please do not capitalize the first word in each subparagraph and please add an "and" or "or" at the end of (b)(2).

In (e)(1)-(3), please do not capitalize the first word in each subparagraph and please add an "and" or "or" at the end of (e)(2).

In (f), please delete or define "whenever practicable."

At line 26, consider replacing "it" with "notice" to make this sentence clearer if that was your intent.

At line 30, why is "Law Enforcement" capitalized?

At line 30, please refer to the "Private Protective Services Board."

On page 2, line 2, please delete or define "immediately."

At line 3, consider deleting "such."

At line 12, did you intend to refer to "Paragraph (g) of this Rule?"

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0602 is readopted as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0602 COMPLAINT PROCEDURES**

4 (a) Initiation. Any individual with personal knowledge that any person has violated the code of ethics, any other rules
5 of the Board, or G.S. 90, Article 5C may file a complaint against the substance ~~abuse use disorder~~ professional by
6 submitting a ~~written complaint~~. Complaint through the Ethics Complaint Form found on the Board’s website,
7 www.ncsappb.org.

8 (b) Form. The complaint shall be in ~~writing~~, written or typed format stating the nature of the alleged offense and
9 signed or otherwise attested to be true by the complainant. The complaint shall include:

- 10 (1) The name, address, and telephone number of the complainant;
11 (2) The name and address of the person against whom the complaint is made;
12 (3) A statement of the facts that describes the allegations against the person.

13 (c) The complaint shall be investigated as set out in Rule .0603.

14 (d) Following an investigation of the complaint, the ethics chairperson shall try to reach a settlement through informal
15 procedures pursuant to G.S. 150B-22.

16 (e) Once the ethics committee concludes there is a basis to schedule a disciplinary hearing before the Board, the
17 committee chairperson shall notify the person against whom the complaint is made. The notice to the respondent shall
18 include the following:

- 19 (1) State the section(s) of the code of ethics, other rules of the Board, or G.S. 90, Article 5C which the
20 complaint alleges has been violated;
21 (2) Direct that the respondent reply in writing and by certified mail within 15 days of receipt of this
22 notice;
23 (3) Inform the respondent that failure to respond in writing within 15 days may result in revocation of
24 credential.

25 (f) Whenever practicable, notice shall be given by personal service or by certified mail at the last known address of
26 the respondent. If given by certified mail, it shall be deemed to have been given on the delivery date appearing on the
27 return receipt.

28 (g) The Board may receive official correspondence in an ethics case through e-mail in order to further the investigation
29 or when the subject of an investigation is unable to use or has been unresponsive to certified mail or other methods of
30 delivery. The Board may use Law Enforcement or a private investigator licensed by Private Protective Services to
31 personally serve a respondent.

32 (g) If notice cannot be given either by personal service or by certified mail, a notice that a complaint has been brought
33 against the respondent shall then be given by publication. A party that cannot with due diligence be served by personal
34 delivery or certified mail may be given notice to respond to a complaint by publication. Service of notice by
35 publication shall consist of publishing a notice by publication once a week for three successive weeks in a newspaper
36 that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and circulated in the area where
37 the party to be served is believed by the serving party to be located, or if there is no reliable information concerning

1 the location of the party then in a newspaper circulated in the county of respondent's last address provided to the Board
2 by the respondent. There shall be mailed to the party at or immediately prior to the first publication a copy of the
3 notice to respond by publication to the respondent's last known address. Upon completion of such service there shall
4 be filed with the Board by the ethics committee chairperson an affidavit showing the publication and mailing
5 substantially in accordance with the requirement of G.S. 1-75.10(2), the circumstances warranting the use of service
6 by publication, and information, if any, regarding the location of the party served. The notice shall include a statement
7 by the Board that a complaint has been made against the respondent that is scheduled to be heard by the Board within
8 90 days. The notice shall inform respondent that respondent shall be given 30 days from the date of the last date of
9 publication in which to respond to the service by publication for the purpose of notifying the Board of respondent's
10 whereabouts. Response shall be made in writing to the Board at the address provided by the Board in its notice. If
11 respondent provides the Board with information whereby respondent can be served by the deadline specific in the
12 notice, the Board shall provide notice either personally or by certified mail as provided in Paragraph (d) of this Rule.
13 Failure of respondent notified by publication of a complaint brought by the Board shall be treated as a failure of
14 respondent to reply to the charges.

15 (h) Failure of the respondent to reply to the charges, including each specific allegation, may be considered an
16 admission of the facts contained in the allegation(s).

17

18 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.44; 113.45;*

19 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
20 *becomes effective, whichever is sooner;*

21 *Eff. February 1, 1996;*

22 *Amended Eff. April 1, 2011; ~~August 1, 1998.~~ August 1, 1998;*

23 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0603

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (a), is it necessary to say "in consultation with the executive director or his or her designee and legal counsel?" Is this internal agency management? 150B-2(8a)(a).

At line 11, do you mean "may" or "shall?"

For the lists in (c)(2) and (d), please do not capitalize the first word for each item in the list.

At line 20, did you intend to say "subcommittee" or "subcommittees?"

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0603 is readopted as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0603 INVESTIGATION OF COMPLAINT**

4 (a) The ethics committee chairperson, in consultation with the executive director or his or her designee and legal
5 counsel, shall investigate the allegations in the complaint. The chairperson may appoint any person(s) or name a
6 subcommittee to serve as the investigating entity to prepare an investigative report.

7 (b) The investigating entity may contact the complainant and person against whom the complaint is made.

8 (c) Upon completion of the investigation, the ethics committee chairperson in consultation with the investigating
9 entity may determine that:

10 (1) The complaint is without merit. The chairperson shall notify the complainant that the complaint is
11 dismissed and may notify the respondent of the dismissal;

12 (2) Upon completion of an investigation wherein the complaint is not dismissed, the ethics committee
13 chairperson may:

14 (A) Offer an informal resolution pursuant to G.S. 150B-22;

15 (B) Schedule a meeting with the respondent;

16 (C) Refer the report to the ethics committee or its hearing panel;

17 (D) Schedule a hearing before the Board; or

18 (E) The chairperson may take a voluntary dismissal of the case where the respondent
19 relinquishes his or her credential for an agreed upon period of time.

20 (d) The ethics committee members or its subcommittee shall review a report referred by the ethics chairperson and
21 may take any of the following actions:

22 (1) Dismiss the complaint;

23 (2) Remand the matter to the investigating entity in order to obtain additional evidence sufficient upon
24 which to base a decision;

25 (3) Make a written offer of informal resolution;

26 (4) Schedule a meeting with the respondent whereby the dispute may be settled through informal
27 procedures; or

28 (5) Schedule a disciplinary hearing before the Board.

29
30 *History Note: Authority G.S. 90-113.33; 90-113.34; 90-113.44;*

31 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
32 *becomes effective, whichever is sooner;*

33 *Eff. February 1, 1996;*

34 *Amended Eff. April 1, 2011; ~~August 1, 1998.~~ August 1, 1998;*

35 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0604

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Please do not capitalize "at" in line 5 and "by" in line 7.

At line 5, please add a comma after "ethics committee." Also, should "Ethics Committee" be capitalized?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0604 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0604 HEARING BEFORE BOARD**

4 (a) A hearing shall be initiated:

5 (1) At the call of the ethics chairperson, ethics committee or ethics hearing panel in the case of a
6 complaint against a credentialed professional; or

7 (2) By any person pursuant to G.S. 150B, Article 3A on appeal of an agency decision.

8 (b) The hearing shall be conducted pursuant to G.S. 150B, Article 3A.

9

10 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.44; 90-113.45;*

11 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
12 *becomes effective, whichever is sooner;*

13 *Eff. February 1, 1996;*

14 *Amended Eff. April 1, 2011;*

15 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0605

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

In (a), please do not capitalize the first word in each subparagraph.

At lines 11-12, please clarify what you mean by "an additional period of time."

At lines 12-13, please clarify what you mean by "based on the Respondent's failure to complete the order for reasons outside the Respondent's control." Do you mean "...the action may be stayed if the Respondent failed satisfy all conditions of a consent order based upon reasons outside Respondent's control?"

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0605 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0605 METHOD OF DISCIPLINE**

4 (a) In the course of the disciplinary investigation or hearing the Board may:

5 (1) Deny a credential;

6 (2) Revoke a credential;

7 (3) Suspend a credential until further order of the Board or for a specified period of time;

8 (4) Admonish, reprimand, or censure the Respondent; or

9 (5) Take other actions not to be considered a disciplinary action, including a letter of caution or letter
10 of warning ~~with~~ without the consent of the Respondent.

11 (b) Disciplinary or other actions by the Board with the Respondent's consent may be stayed for an additional period
12 of time while the Respondent satisfies all of the conditions of the consent order based on the Respondent's failure to
13 complete the order for reasons outside the Respondent's control.

14

15 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.37; 90-113.43; 90-113.44; 90-113.45;*

16 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
17 *becomes effective, whichever is sooner;*

18 *Eff. February 1, 1996;*

19 *Amended Eff. ~~April 1, 2011.~~ April 1, 2011;*

20 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0606

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 5, do you mean "may" or "shall?"

At lines 7 and 9, please consider deleting "such."

At lines 9-10, what do you mean by "shall be presumed to be correct and appropriate?" Why does this matter and what bearing does it have on the Board's decisions? Is this determination used when determining the seriousness of disciplinary sanctions?

Please do not capitalize "the" and "following" in (c)(1) and (2).

At line 12, how does the Board determine the finding of a court was flawed? What factors are considered?

At line 12, how does the Board determine the finding of an organization or board was flawed?

At lines 12 and 13, please add a comma after "organization."

At line 14, under what circumstances does an action by a court, organization, or board not bear a reasonable relation to the conduct? What factors are considered?

At line 14, please define "undue punishment."

At line 17, please add a comma after "arrests."

At line 19, please be consistent with the term you use when referring to "ethical principles" or "the Ethical Code of Conduct" as mentioned in the technical change request for Rule .0501.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0606 is readopted as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0606 EFFECT OF ACTIONS OF COURT OR OF OTHER PROFESSIONAL GROUPS**

4 (a) If a person credentialed or applying for a credential from the Board has been disciplined by another professional
5 organization or convicted of a felony or a misdemeanor, the ethics committee or the Board may take this prior record
6 into consideration when imposing disciplinary sanctions.

7 (b) When such prior discipline is discovered, it shall be referred to the ethics committee and shall be treated by the
8 ethics committee in the same manner as a complaint.

9 (c) Such prior discipline or conviction as described in Paragraph (a) of this Rule shall be presumed to be correct and
10 appropriate. In order to overcome this presumption, the respondent shall prove to the committee's or the Board's
11 satisfaction at least one of the following:

12 (1) The process was so flawed that the finding of the court, organization or board is without basis; or

13 (2) Following an investigation by the Board, the disciplinary action by the court, organization or board
14 does not bear a reasonable relation to the conduct complained of resulting in undue punishment.

15 (d) ~~Registrants and certified~~ The substance use disorder professionals professional shall notify the Board within 30
16 days from the date of any charges, conviction or finding of guilt, or pleading of nolo contendere for all criminal
17 convictions. This reporting shall include DWI charges, arrests and convictions but exclude all other traffic convictions
18 pursuant to G.S. 20.

19 (e) Failure to report these criminal convictions shall be considered a violation of the ethical principles of conduct.

20
21 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40; 90-113.43; 90-113.44; 90-113.45;*
22 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
23 *becomes effective, whichever is sooner;*
24 *Eff. February 1, 1996;*
25 *Amended Eff. April 1, 2011; ~~April 1, 2003.~~ April 1, 2003;*
26 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0607

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Please do not capitalize the first word for each item in the list.

At line 12, just to be sure, do you mean "and" or "or."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0607 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0607 DISCRETION OF BOARD**

4 The following factors may be considered by the Board in determining the nature and severity of the disciplinary
5 sanctions to be imposed:

- 6 (1) The relative seriousness of the violation as it relates to assuring the citizens of North Carolina a
7 consistently high standard of professional service and care;
- 8 (2) The facts of the particular violation;
- 9 (3) Any extenuating circumstances or other countervailing considerations;
- 10 (4) The number and seriousness of prior violations or complaints;
- 11 (5) Whether remedial action has previously been taken;
- 12 (6) Likelihood of reoccurrence; or
- 13 (7) Other factors which may reflect upon the competency, ethical standards, and professional conduct
14 of the individual.

15

16 *History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the
17 permanent rule becomes effective, whichever is sooner;*

18 *Authority G.S. 90-113.33; 90-113.43; 90-113.44;*

19 *Eff. ~~February 1, 1996.~~ February 1, 1996.*

20 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0608

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 5, please delete or define "necessary."

Why is (b) necessary if already required by the APA? If you keep (b), please provide a cross reference.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0608 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0608 CONFIDENTIALITY**

4 (a) Except to pursue notification of respondent of a complaint as set out in Rule .0602 of this Section and to share
5 necessary information with the complainant and others involved in the investigation, at no time prior to the release of
6 the final decision by the Board shall any portion of the action or the whole thereof, be made public or be distributed
7 to any persons other than the members and chairperson of the involved committees, the Committee on Ethics, and its
8 staff.

9 (b) Notwithstanding Paragraph (a) of this Rule, all materials shall be released as required by the Administrative
10 Procedure Act.

11

12 *History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent*
13 *rule becomes effective, whichever is sooner;*

14 *Authority G.S. 90-113.30; 90-113.33; 90-113.34;*

15 *Eff. February 1, 1996;*

16 *Amended Eff. ~~August 1, 1998.~~ August 1, 1998;*

17 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0609

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 4, please define "proper notice."

At line 10, under what circumstances is a failure to appear "justified and unavoidable?" How is this determination made? What factors are considered?

At line 10, under what circumstances does "fairness require reopening the case?"

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0609 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0609 PETITION FOR REOPENING CASE**

4 (a) If a party, upon proper notice fails to appear, the hearing may proceed without the party. However, if the inquiry
5 is conducted or a decision is reached in an administrative hearing in the absence of a party, or if a dismissal is entered
6 prior to the granting of one continuance to the person petitioning for reopening the case, that party may file a written
7 petition with the Board for a reopening of the case. The petition caption shall be entitled: "Petition for Reopening
8 Hearing of Respondent."

9 (b) Petitions for reopening a contested case shall not be granted unless the petitioner can show that his or her their
10 failure to appear was justified and unavoidable and that fairness requires reopening the case.

11 (c) The decision of the Board to grant or deny the petition to reopen shall be in writing and a copy shall be sent to the
12 ~~petitioner~~ petitioner and made a part of the record of the hearing.

13

14 *History Note: Filed as a Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the*
15 *permanent rule becomes effective, whichever is sooner;*

16 *Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.40; 90-113.44; 90-113.45;*

17 *Eff. ~~February 1, 1996.~~ February 1, 1996;*

18 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0610

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Throughout this Rule, consider whether it would be clearer to say "reinstatement or award of a previously denied credential."

At line 5, consider saying "the Board may reinstate or credential the respondent."

At line 9, what facts would be "sufficient to enable the Board to determine that the basis for the sanction no longer exists?" Are you requiring anything specific? Please clarify.

In (d), please do not capitalize the first word in each subparagraph of a list.

In (6), what other factors may the Board consider to be relevant?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0610 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0610 AWARDING THE CREDENTIAL FOLLOWING DENIAL**

4 (a) Upon a showing that there are circumstances that could establish a basis for reinstatement or otherwise awarding
5 a credential following its denial, the Board may grant such permission.

6 (b) A request for reinstatement or otherwise awarding the credential following its denial shall be initiated by the
7 respondent.

8 (c) A letter of application for reinstatement or otherwise awarding the credential following its denial shall present
9 facts which, if established, shall be sufficient to enable the Board to determine that the basis for the sanction no longer
10 exists.

11 (d) To determine that there is a basis reinstating or awarding a credential, the Board may consider:

- 12 (1) The nature of the offense;
- 13 (2) The severity of the offense;
- 14 (3) Any resulting harm or injury to the public and its extent;
- 15 (4) The length of time since the punishment was imposed;
- 16 (5) Restitution made; and
- 17 (6) Any other factor the Board considers relevant.

18

19 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.37; 90-113.39; 90-113.40; 90-113.44; 90-113.45;*
20 *Temporary Adoption Eff. October 23, 1995 for a period of 180 days or until the permanent rule*
21 *becomes effective, whichever is sooner;*
22 *Eff. February 1, 1996;*
23 *Amended Eff. ~~April 1, 2011.~~ April 1, 2011;*
24 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0611

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Please review (a). "Rehabilitation" is not used in 90-113.44.

At line 4, by "elsewhere" do you mean "the rules of this Section" or "the rules of this Chapter?"

At line 5, what "required rehabilitation" are you referring to? Rehabilitation is not listed in .0605.

At line 6, do you mean "may" or "shall?"

At line 6, under what circumstances are treatments recommended by the Board and how does the Board determine how to recommend a treatment?

In (c), please do not capitalize the first word in each subparagraph of a list.

At line 12, please add a comma after "psychological."

At line 13, please replace the first "and" with a comma and add a comma before the second "and."

At line 13, are you requiring these medical records? Do licensees have to provide consent for these records to be disclosed?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0611 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0611 PROOF OF REHABILITATION**

4 (a) As used in G.S. 90-113.44 and elsewhere, rehabilitation shall be sustained and continuous for at least six months.

5 (b) Upon consideration of the evidence evaluated as set forth in Paragraph (c) of this Rule, the required rehabilitation
6 may be extended pursuant to the treatment recommendations as approved by the Board.

7 (c) Evidence for consideration shall include:

8 (1) Documentation of treatment history including all assessments, evaluations, treatment, counseling,
9 and group experiences;

10 (2) Complete criminal record;

11 (3) A comprehensive biopsychosocial and medical assessment that includes evidence of physical,
12 mental, psychological and social functioning;

13 (4) Medical diagnosis and treatment history and functioning prognosis;

14 (5) Relapse; and

15 (6) Whether or not the respondent cooperated with the Board's investigation, to include self-reporting
16 the violation.

17

18 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40;*

19 *Eff. August 1, 2002;*

20 *Amended Eff. ~~April 1, 2011.~~ April 1, 2011;*

21 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0615

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 8, what are you requiring? That no notes or documentation be generated during these proceedings? Where is your statutory authority for this requirement?

In (b), please consider replacing "is not required" with "shall not be required."

In (c), please do not capitalize the first word in each subparagraph.

In (c)(4), what other actions may the Board "deem appropriate?"

Please consider adding 90-113.33 to the history note.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0615 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0615 INFORMAL PROCEEDINGS**

4 (a) In addition to formal hearings pursuant to G.S. 90-113.33 and G.S. 90-113.34, the Board may conduct informal
5 proceedings in order to settle certain matters of dispute. A substance ~~abuse~~ use disorder professional practicing
6 pursuant to a credential or other authority granted by the Board may be invited to attend a meeting with the Board or
7 a committee of the Board on an informal basis to discuss matters as the Board may advise in its communication to the
8 person. No public record of such proceeding shall be made nor shall any individual be placed under oath to give
9 testimony. Information discussed by a person in an informal hearing before the Board may be used in a formal hearing
10 against the Respondent if initiated.

11 (b) Attendance at such an informal meeting is not required and is at the discretion of the person so invited. A person
12 invited to attend an informal meeting shall be entitled to have counsel present.

13 (c) As a result of such informal meeting, the Board may recommend:

- 14 (1) Actions be taken by a person;
- 15 (2) The person be offered the opportunity to enter into a consent order;
- 16 (3) That it institute a formal public hearing concerning a person; or
- 17 (4) That it take other public or non-public action as the Board may deem appropriate in each case.

18

19 *History Note: Authority G.S. 150B-22; 150B-38(h);*
20 *Eff. April 1, 2001;*
21 *Amended Eff. ~~April 1, 2011.~~ April 1, 2011;*
22 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0620

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 5, please define "as soon as it is practicable."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0620 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0620 PUBLICATION OF ETHICS SANCTIONS**

4 Sanctions of admonition, reprimand, censure, suspension or revocation of a credential shall be published by the Board
5 as soon as it is practicable.

6

7 *History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.42; 90-113.43; 90-113.44;*

8 *Eff. ~~August 1, 2002~~; August 1, 2002;*

9 *Amended Eff. ~~April 1, 2011~~; April 1, 2011;*

10 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0701

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Were the changes made post-publication made in response to public comment?

At line 4, please add a comma after "suspension."

Is there a timeline for the request in (a)?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0701 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0701 HEARING BEFORE BOARD: TIME REQUIREMENT**

4 (a) Upon denial, suspension or revocation of certification, a credential, the applicant may request a hearing before the
5 Board which will serve as the appeals hearing body.

6 (b) Requests for an appeals hearing shall be made in writing to the President of the Board within 30 days after receipt
7 of the notification that certification a credential had been denied or revoked.

8

9 *History Note: Authority G.S. 90-113.30; 90-113.39; 90-113.40;*

10 *Eff. August 1, 1996;*

11 *Amended Eff. ~~August 1, 2000~~-~~August 1, 2000~~;*

12 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0702

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Were the changes made post-publication made in response to public comment?

At line 4, please add a comma after "suspend."

At line 5, under what circumstances is a hearing deemed appropriate?

At line 7, please consider changing "such" to "the."

At line 9, please clarify what you mean by "except that attempts at informal resolution shall not be required."

Please consider breaking (c) into two sentences.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0702 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0702 RIGHT TO HEARING**

4 (a) When the Board proposes to deny, suspend or revoke a certificate of certification, credential, or at any other time
5 when it deems a hearing appropriate, it shall give notice to the person(s) affected of the right to an administrative
6 hearing.

7 (b) The notice shall be mailed by certified mail to such person at his or her last known address.

8 (c) The person affected may assert his or her right to a hearing by mailing to the Board a request for an Administrative
9 Hearing pursuant to Rule .0703 of this Section, except that attempts at informal resolution shall not be required and a
10 hearing shall be granted to an applicant whose request is postmarked prior to the date on which the Board is scheduled
11 to act or such other date as may be specified in the notice.

12

13 *History Note: Authority G.S. 90-113.30; 90-113.39; 90-113.40;*

14 *Eff. ~~August 1, 1996.~~ August 1, 1996;*

15 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0703

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Were the changes made post-publication made in response to public comment?

At line 9, please define "reasonable efforts."

In (d), please do not capitalize the first word in each subparagraph of the list.

At lines 16 and 17, please delete or define "concise."

At line 19, please delete or define "clear and specific."

At line 20, please define "promptly."

In (e), under what circumstances is a hearing "deemed appropriate?" What factors are considered?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0703 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0703 REQUEST FOR HEARING**

4 (a) Any applicant ~~for certification or certified individual~~ to be credentialed by this Board who believes ~~his or her~~ their
5 rights, duties or privileges have been affected by the Board's administrative action but who has not received notice of
6 a right to an administrative hearing, may file a formal request for a hearing to determine ~~certification or recertification.~~
7 eligibility to be credentialed.

8 (b) Before an applicant or ~~certified~~ credentialed individual may file a request, ~~he or she~~ they shall first exhaust all
9 reasonable efforts to resolve the issue informally with the Board.

10 (c) The chairperson of the Ethics Committee or ~~his or her~~ their designee may meet with the person accused of an
11 ethical violation, if the accused so chooses, prior to requesting additional information from the complainant.

12 (d) Subsequent to such informal action, if still dissatisfied, the person affected shall submit a written request to the
13 Board in an envelope bearing the notation "REQUEST FOR ADMINISTRATIVE HEARING." That request shall
14 contain the following information:

- 15 (1) Name and address of the applicant or ~~certified~~ credentialed individual;
- 16 (2) Concise statement of the action taken by the Board which is challenged;
- 17 (3) Concise statement of the way in which the applicant or ~~certified~~ credentialed individual has been
18 aggrieved; and
- 19 (4) A clear and specific statement of request for a hearing.

20 (e) A request for a hearing shall be acknowledged promptly and, if deemed appropriate, a hearing shall be scheduled.

21

22 *History Note: Authority G.S. 90-113.30; 90-113.39; 90-113.40;*

23 *Eff. ~~August 1, 1996.~~ August 1, 1996;*

24 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0704

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 6, please delete or define "promptly."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0704 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0704 HEARING REQUESTS**

4 (a) The Board shall decide whether to grant a request for a hearing at its next regularly scheduled meeting following
5 receipt of the request.

6 (b) A denial of a request for a hearing shall be issued promptly following a decision by the Board. Such denial shall
7 contain a statement supporting Board denial of the request.

8 (c) Approval of a request for a hearing shall be signified by the issuing of a notice pursuant to Rule .0705 of this
9 Section.

10

11 *History Note: Authority G.S. 90-113.30; 90-113.39; 90-113.40;*

12 *Eff. ~~August 1, 1996.~~ August 1, 1996;*

13 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0705

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Please do not capitalize the first word for each item in the list.

At line 5, please add a comma after "address."

At line 8, please change "will" to "shall."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0705 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0705 NOTICE OF HEARING**

4 Notices of administrative hearings of the Board shall include the following:

5 (1) The name, position, address and telephone number of a member, employee, or agent of the Board
6 to contact for further information or discussion;

7 (2) A statement that failure to inform the office of the Board, within 10 days after notice is received of
8 intent to appear at any hearing or prehearing conference scheduled in the hearing notice will be
9 deemed a waiver of the right to a hearing;

10 (3) Notice of the date and place of a prehearing conference, if any;

11 (4) Notice of the date of the hearing; and

12 (5) Any other information deemed relevant to informing the party or parties as to the procedure of the
13 hearing.

14

15 *History Note: Authority G.S. 90-113.30; 90-113.39; 90-113.40;*

16 *Eff. ~~August 1, 1996~~ August 1, 1996;*

17 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0706

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 5, at the end of the first sentence, consider adding a cross reference to G.S. 150B-40(e).

At line 5, who is the Chair's designee? A Board member?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0706 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0706 WHO SHALL HEAR CONTESTED CASES**

4 Administrative hearings shall be heard by the Board or, upon determination by the Board, the Office of Administrative
5 Hearings. The ~~President~~ Chair or ~~his or her~~ their designee shall be responsible for the conduct of a Board hearing.

6

7 *History Note: Authority G.S. 90-113.30; 90-113.39; 90-113.40;*

8 *Eff. August 1, 1996;*

9 *Amended Eff. ~~August 1, 2000.~~ August 1, 2000.*

10 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0707

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Why is this Rule necessary given 150B-38(f)?

If you keep this Rule, in (b), please do not capitalize the first word in each subparagraph of the list.

At line 15, please define "promptly."

At line 17, add a comma after "evidence."

At line 17, what else is "deemed necessary?"

At line 19, please define "promptly."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0707 is readopted as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0707 PETITION FOR INTERVENTION**

4 (a) Any person seeking to intervene in a contested case shall file a written petition with the Board. The envelope of
5 such request shall bear the notation "PETITION TO INTERVENE IN THE CASE OF (NAME OF CASE)."

6 (b) The petition shall include the following information:

7 (1) Name and address of petitioner;

8 (2) Business or occupation of petitioner, where relevant;

9 (3) Full identification of the hearing in which petitioner is seeking to intervene;

10 (4) Statutory or non-statutory grounds for intervention or if none, so state;

11 (5) Any claim or defense, in respect of which intervention is sought; and

12 (6) Summary of the arguments or evidence petitioner seeks to present.

13 (c) The Board shall mail copies of the petition to the parties to the case, with the costs, at the rate of twenty-five cents
14 (0.25) per page, chargeable to the petitioner.

15 (d) Upon the determination of the Board to allow intervention, notice of that decision shall be issued promptly to all
16 parties as to the petitioner. In cases of discretionary intervention, such notification shall include a statement of any
17 limitations of time, subject matter, evidence or whatever else is deemed necessary, which are imposed on the
18 intervenor.

19 (e) Upon the Board's decision to deny intervention, the petitioner shall be notified promptly. Such notice shall be in
20 writing, shall state all reasons for the decision and shall be issued to the petitioner and to all parties.

21

22 *History Note: Authority G.S. 90-113.30; 90-113.39; 90-113.40;*

23 *Eff. ~~August 1, 1996.~~ August 1, 1996;*

24 *Readopted Eff. October 1, 2020.*

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: North Carolina Addiction Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0708

RECOMMENDED ACTION:

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

COMMENT:

Staff recommends objection for lack of statutory authority and necessity. Interventions in Article 3A hearings are already governed by G.S. 150B-38(f) and Rule 24 of the North Carolina Rules of Civil Procedure, making the contents of this Rule unnecessary.

Staff also recommends objection for lack of statutory authority because the additional criteria added by the Board for permissive interventions in (b) are not contained in Rule 24. The agency has not provided authority to alter the requirements set in Rule 24.

§ 150B-38. Scope; hearing required; notice; venue.

(a) The provisions of this Article shall apply to:

(1) Occupational licensing agencies.

(2) The State Banking Commission, the Commissioner of Banks, and the Credit Union Division of the Department of Commerce.

(3) The Department of Insurance and the Commissioner of Insurance.

(4) The State Chief Information Officer in the administration of the provisions of Article 14 of Chapter 143B of the General Statutes.

(5) The North Carolina State Building Code Council.

(6) Repealed by Session Laws 2018-146, s. 4.4(b), effective December 27, 2018.

...

Ashley Snyder
Commission Counsel

(f) Any person may petition to become a party by filing with the agency or hearing officer a motion to intervene in the manner provided by G.S. 1A-1, Rule 24. In addition, any person interested in a contested case under this Article may intervene and participate to the extent deemed appropriate by the agency hearing officer.

Rule 24. Intervention.

(a) Intervention of right. - Upon timely application anyone shall be permitted to intervene in an action:

- (1) When a statute confers an unconditional right to intervene; or
- (2) When the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive intervention. - Upon timely application anyone may be permitted to intervene in an action.

- (1) When a statute confers a conditional right to intervene; or
- (2) When an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or State governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, such officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. - A person desiring to intervene shall serve a motion to intervene upon all parties affected thereby. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute gives a right to intervene, except when the statute prescribes a different procedure. Intervention as of right by both the Speaker of the House of Representatives and the President Pro Tempore of the Senate pursuant to G.S. 1-72.2 shall be effected upon the filing of a notice of intervention of right in the trial or appellate court in which the matter is pending regardless of the stage of the proceeding.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0708

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

Why is this Rule necessary give G.S. 150B-38(f)? Pursuant to that statute, Rule 24 already applies.

If you keep this Rule, please define "timely" at line 5.

At line 6, define "substantial added expense."

At lines 6-7, define "compellingly serious inconvenience."

At lines 10 and 12, please do not capitalize "There" and "Permitting."

At line 10, please delete or define "sufficient."

Since Rule 24 applies, where is your statutory authority to add the criteria contained in (b)(1) and (2)?

At line 13, what limits and restrictions are deemed appropriate? How is this determination made? What factors are considered?

At line 14, please define "timely."

At lines 15 and 16, please do not capitalize "the."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0708 is readopted with changes as published in 34:24 NCR 2384 as follows:

2

3 **21 NCAC 68 .0708 TYPES OF INTERVENTION**

4 (a) Intervention of Right. A petition to intervene of right, as provided in the North Carolina Rules of Civil Procedure,
5 Rule 24, shall be granted if the petitioner meets the criteria of that rule and ~~his or her~~ petition is timely. If allowing
6 the petition shall cause substantial prejudice to the right of the parties, substantial added expense or compellingly
7 serious inconvenience to the parties or the office of the Board, the petition to intervene shall be deemed untimely.

8 (b) Permissive intervention. A petition to intervene permissively as provided in the North Carolina Rules of Civil
9 Procedure, Rule 24, shall be granted if the petitioner meets the criteria of that rule and the Board determines that:

10 (1) There is sufficient legal or factual similarity between the petitioner's claimed rights, privileges or
11 duties and those of the parties to the hearing; and

12 (2) Permitting intervention by the petitioner as a party will aid the purpose of the hearing.

13 (c) The Board may allow discretionary intervention, with whatever limits and restrictions it deems appropriate. Upon
14 the filing of a timely petition, discretionary intervention will be deemed advisable if:

15 (1) The information the petitioner desires to present is relevant and not repetitious or cumulative; and

16 (2) The petitioner will lend added impact to the argument of the parties.

17

18 *History Note: Authority G.S. 90-113.30; 90-113.39; 90-113.40;*

19 *Eff. ~~August 1, 1996.~~ August 1, 1996.*

20 *Readopted Eff. October 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Addictions Specialist Professional Practice Board

RULE CITATION: 21 NCAC 68 .0709

DEADLINE FOR RECEIPT: September 11, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

At line 11, please change "must" to "shall."

At line 20, please consider deleting "with such assistance as it deems appropriate" since this relates to the internal management of the agency.

At line 22, please change "will" to "shall" in both instances.

At line 26, please change "will" to "shall."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: August 27, 2020

1 21 NCAC 68 .0709 is readopted with changes as published in 34:24 NCR 2384 as follows:

2
3 **21 NCAC 68 .0709 DISQUALIFICATION OF BOARD MEMBER**

4 (a) Self-disqualification of Board Member. If for any reason the Board member determines that factors render ~~him~~
5 ~~or her~~ ~~them~~ unable to conduct or participate in the hearing and perform all duties in an impartial manner, ~~he or she~~
6 ~~they~~ shall ~~submit, in writing, to the~~ notify the Board Chair of ~~his or her~~ ~~their~~ disqualification.

7 (b) Petition for Disqualification. If for any reason any party in a contested case believes that the Board member
8 personally is biased or otherwise unable to conduct or participate in the hearing and perform all duties in an impartial
9 manner, the party may file a sworn, notarized affidavit with the Board. The envelope of such affidavit shall bear the
10 notation: "AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (NAME OF CASE)."

11 (c) Contents of Affidavit. The affidavit must state all facts the party deems relevant to the disqualification of the
12 Board member.

13 (d) Timeliness of Affidavit. An affidavit of disqualification shall be considered timely if filed at least 10 days before
14 commencement of the hearing. Any other affidavit shall be considered timely provided it is filed at the first
15 opportunity after the party becomes aware of the facts which give rise to a reasonable belief that the Board member
16 may be disqualified pursuant to this Rule.

17 (e) Procedure for Determining Disqualification is as follows:

- 18 (1) The ~~President~~ Chair of the Board may appoint a member of the Board to investigate the allegations
19 of the affidavit and report his or her findings and recommendations to the Board.
- 20 (2) The Board, with such assistance as it deems appropriate, shall decide whether to disqualify the
21 challenged individual.
- 22 (3) The person whose disqualification is to be determined will not participate in the decision but will
23 have the right to furnish information to the Board.
- 24 (4) A record of proceedings and the reasons for decisions reached shall be maintained as part of the
25 contested case.

26 (f) Disqualification or withdrawal of a Board member because of personal bias or otherwise will not cause the hearing
27 to be postponed unless a quorum is not available.

28
29 *History Note: Authority G.S. 90-113.30; 90-113.39; 90-113.40;*
30 *Eff. ~~August 1, 1996.~~ August 1, 1996;*
31 *Readopted Eff. October 1, 2020.*