

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .0302

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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

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

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

On line 3, you state "A licensee" (singular) but the say "their" plural. Please be consistent.

On lines 3 and 5, I believe "Board-issued" should be hyphenated.

On line 3, define "prominent"

On lines 3 and 4, should "primary place of business" be replaced with the new term defined in Rule .0401, "primary place of practice"?

On line 4, visible for inspection by whom? The public? If so, state that.

On lines 4 and 5, what is the "primary business location"? Is it the same as the "primary place of business/practice"? If so, state that.

On line 6, upon request of whom? The public? A board inspector?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .0302 is proposed for amendment with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 .0302 DISPLAY OF LICENSE

A licensee shall display ~~the~~ their Board issued original license in a prominent place at the licensee's primary place of business so as to be visible for inspection. Licensees providing massage and bodywork therapy outside their primary business location, or at the location of clients, shall have a ~~copy of their~~ Board issued original license or wallet card available for inspection upon request.

*History Note: Authority G.S. 90-626(9);
 Temporary Adoption Eff. February 15, 2000;
 Eff. April 1, 2001;
 Amended Eff. September 2, 2005;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November
 12, 2014;
 Amended Eff. October 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .0401

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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), lines 4 and 5, when is this notice sent? Upon application or renewal? Or is the intent that whenever it changes, the notice shall be sent within a specific period of time?

In (b)(1), line 9 and (b)(2), line 11, replace "at which" with "where"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .0401 is proposed for amendment with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 .0401 ADDRESS OF RECORD

(a) Each licensee shall notify the Board in writing of the licensee's current residence street address and primary place of ~~business~~ practice. The licensee shall ~~indicate~~ provide in writing to the Board ~~his/her~~ his or her mailing ~~address~~ address, email address, and telephone number for the purposes of receiving communication from the Board and for listing in the registry of licensees.

(b) "Primary place of practice" shall mean:

(1) a licensed establishment owned by the licensee at which the licensee provides massage and bodywork therapy; or

(2) a licensed establishment at which the licensee provides massage and bodywork therapy, whether as an employee or independent contractor.

(c) If the licensee provides massage and bodywork therapy only at the location of clients, the primary place of practice is the residence address of the licensee.

History Note: Authority G.S. 90-626(9);

Temporary Adoption Eff. February 15, 2000;

Eff. April 1, 2001;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014;

Amended Eff. October 1, 2018.

21 NCAC 30 .0405 is proposed for adoption with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 .0405 PLACE OF PRACTICE

(a) Licensees may only engage in the practice of massage and bodywork therapy at a massage and bodywork therapy establishment that is licensed by the Board or at a location that is exempt from establishment licensure as set forth in G.S. 90-622(3a).

(b) ~~“Primary place of practice” shall mean:~~

~~(1) a licensed establishment owned by the licensee;~~

~~(2) a licensed establishment at which the licensee provides massage and bodywork therapy, whether as an employee or independent contractor;~~

~~(3) an exempt medical office at which the licensee provides massage and bodywork therapy;~~

~~(4) if the licensee practices at more than one location, the location where the greatest number of hours per week are worked shall be the one reported to the Board; or~~

~~(5) if the licensee provides massage and bodywork therapy only at the location of clients, the place of practice is the residence address of the licensee.~~

History Note: Authority G.S. 90-626(9)b.2

Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .0701

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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 reset the line numbers at 1 for each Page. [See Rule 26 NCAC 02C .0108(1)(f)]

In (a), this is almost entirely a restatement of G.S. 90-630.5(b). Why do you need to state it here?

Assuming you need to retain it, on line 5, G.S. 90-632 was recodified in 2017. Please update the citation to G.S. 90-630.5.

Also on line 5, you state "a licensee" (singular) and the "they" (plural) Please be consistent with your tenses.

On line 5, I take it you need to retain "at least" here?

On line 6, what is "immediately"? Does your regulated public know?

In each of the Subparagraphs in (b), please begin them with lowercase letters (for example, begin (b)(1)(A), (B), and (C) with lowercase letters on lines 13, 19, and 21).

In (b)(1)(A), line 14, the cross-reference is incorrect. Do you mean Rule .0702(7) of this Section?

On line 15, please state "It may also..."

On line 16, what is a "formal assessment"?

In (b)(1)(B), line 19, insert a semicolon after "category"

In (b)(1)(C) and elsewhere you have this sentence structure, please insert articles. "... or similar documentation including the name of the course, ..."

In (b)(2)(C), line 33, what is an "official" transcript?

Also on line 33, define "successful" completion.

In (b)(3)(A), Page 2, line 1, "on-site" is hyphenated in (b)(2)(A). Please be sure to be consistent.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

After publication, the agency made multiple changes to the hours allowed in (b)(3), (b)(5), (b)(6), and (b)(7). Was this in response to public comment?

In (b)(3)(C), line 44, state “The licensee shall....”

Also on line 44, what are the contents of this Form? And where can it be found?

In (b)(4)(A)(i), lines 51-52, if the contract is provided by the Board, what are the contents and how can it be obtained? And if it’s approved by the Board, what is the process for getting this approval and what will it be based upon?

On line 52, what are “specific” goals and objectives?

On line 55, insert a comma after “knowledge”

In (b)(4)(B)(i), so that I’m clear – there is no requirement for the mentee to be licensed, as there is for the mentor?

On line 68, insert a comma after “knowledge”

In (b)(5)(A), Page 3, line 76, insert a comma after “chapter”

In (b)(5)(B), line 79, you state “reviewed” but that was removed from line 76. Shouldn’t that be removed here, as well? If you do need to keep it, insert a comma after “edited”

In (b)(5)(C), line 87, you say “if not yet published” but on line 76, you state “Publication” Doesn’t line 87 contradict line 76?

In (b)(6)(A), line 91, insert a comma after “workshop”

In (b)(7)(C), line 106, replace “must” with “shall” (to be consistent with (b)(5)(C) and (b)(6)(C)).

Also, please insert articles in this Part. “Documentation shall include the name of the committee or board...”

On line 108, please replace “must” with “shall”

On line 108, what is “validated”?

In (b)(8)(C), Page 4, line 123, what is the “primary investigator”? Does your regulated public know? What if the licensee is serving in that role?

On line 123, replace “indicating” with “stating”

On line 127, consider stating “of the grant if the licensee is not the author.”

And so that I’m clear, you are seeking verification from the primary investigator and the author?

In (d), line 130, I take it you need to retain the term “at least”?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

In (f), lines 138-139, what do you mean by “consistent with the definitions and requirements set forth in this Section.”

In (g), do you mean “may” and not “shall”? If you mean may, then under what circumstances will the Board decide to randomly audit its licensees to ensure compliance?

In the History Note, line 142, please update the citation to G.S. 90-632 that was recodified.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .0701 is proposed for amendment with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 .0701 CONTINUING EDUCATION ~~[CONTINUING COMPETENCE ACTIVITY]~~
REQUIREMENTS

(a) Pursuant to G.S. 90-632, a licensee, when renewing a license, shall document that they have completed at least 24 contact hours of approved continuing education ~~[continuing competence activities]~~ during the immediately preceding licensure period, provided the licensure period is two years or more. If the licensure period is less than two years, but more than one year, the licensee shall document that they have completed at least 12 contact hours of approved continuing education. ~~[continuing competence activities.]~~

(b) For the purposes of this Section, "approved continuing education" ~~[continuing competence activities"]~~ means a course offered as follows:

(1) ~~by an approved provider as defined in Rule .0702 of this Section; or~~ Continuing Education:

(A) ~~Includes attendance and participation at a live presentation by an approved provider pursuant to Rule .0702(8) of this Chapter such as a workshop, seminar, conference, or in-service educational program. May also include participation in other continuing education activities that require a formal assessment of learning. Examples include distance learning, electronic, or Web-based courses;~~

(B) ~~[A licensee may earn one point for each contact hour or equivalent unit that is awarded by the provider.]~~ There are no maximum contact hours in this category however, distance learning shall not comprise more than 12 contact hours in this category; and

(C) ~~Documentation shall include a certificate of completion or similar documentation including name of course, date, author/instructor, sponsoring organization, location, and number of contact hours attended.~~

(2) ~~a course in anatomy, physiology, pathology, psychology, pharmacology, massage and bodywork therapy or business management taken at a post secondary institution of higher learning.~~ Academic Coursework:

(A) ~~Includes participation in on-site or distance learning academic courses from a university, college, or vocational technical adult education course in anatomy, physiology, pathology, psychology, pharmacology, massage and bodywork therapy or business management;~~

(B) ~~[A licensee may earn one point for each contact hour.]~~ There are no maximum contact hours in this category; and

(C) ~~Documentation shall include an original official transcript indicating successful completion of the course, date, and a description of the course from the school catalogue or course syllabus.~~

(3) Small Group Study:

- (A) Includes onsite, in-person review and ~~[discussion]~~ discussion, by at least two licensed practitioners, of professional medical journal articles, clinical videotapes or audiotapes related to the practice of massage and bodywork therapy: ~~[by at least two licensed practitioners;]~~
- (B) ~~[A licensee may earn one point for one hour spent in an independent study activity, up to]~~ There is a maximum ~~[of three]~~ two contact ~~[hours;]~~ hours in this category; and
- (C) Documentation shall include title, author, publisher, time spent, and date of completion. Licensee must complete the Small Group Study Form provided by the Board and include a statement that describes how the ~~[activity]~~ review and discussion relates to ~~[a]~~ the licensee's current or anticipated roles and responsibilities.
- (4) Mentorship Agreement:
- (A) Participation as a Mentee:
- (i) Participation in a formalized mentorship agreement with a mentor currently licensed by the Board with at least two years of professional experience and as defined by a signed contract between the mentor and mentee provided by or approved by the Board that outlines specific goals and objectives and designates the plan of activities that are to be met by the mentee. These activities must be related to ~~[the development of new]~~ massage and bodywork therapy ~~[skills outside current required job performance;]~~ skills, knowledge or practice;
- (ii) ~~[A licensee may earn one contact hour for each hour spent in activities directly related to achievement of goals and objectives up to]~~ There is a maximum of five contact ~~[hours;]~~ hours in this category; and
- (iii) Documentation shall include name of mentor and mentee, copy of signed contract, dates, hours spent and focus of mentorship activities, and outcomes of mentorship agreement.
- (B) Participation as Mentor:
- (i) Participation in a formalized mentorship agreement with a mentee as defined by a signed contract between the mentor and mentee that designates the responsibilities of the mentor and specific goals and objectives that are to be met by the mentee. These activities must be related to ~~[the development of new]~~ massage and bodywork therapy ~~[skills for the mentee that are outside current required job performance;]~~ skills, knowledge or practice;
- (ii) ~~[A licensee may earn one contact hour for each hour spent in mentorship activities as a mentor up to]~~ There is a maximum of five contact ~~[hours;]~~ hours in this category; and

- (iii) Documentation shall include name of mentor and mentee, copy of signed contract, dates, hours spent and focus of mentorship activities, and outcomes of mentorship agreement.
- (5) Professional Writing:
- (A) Publication of a ~~peer reviewed~~ book, ~~chapter, article or contracted review of~~ chapter or article evaluated by experts in and related to massage and bodywork therapy; ~~therapy resource material;~~
- (B) During the year written, edited or reviewed a licensee may earn:
- (i) 15 contact hours as author of a book;
- (ii) 10 contact hours as author of a chapter;
- (iii) Five contact hours as author of ~~a peer reviewed~~ an article;
- ~~(iv) Five hours as a contracted reviewer of a print or multimedia massage and bodywork therapy resource; or~~
- ~~(v) (iv) 10~~ Five contact hours as listed editor of a book.
- (C) Documentation shall consist of full reference for publication including title, author, editor, and date of publication; or copy of acceptance letter, if not yet published; and
- (D) Credit for submitted items shall be given for one licensure period only.
- (6) Presentation and Instruction:
- (A) Presentation for the first time of an academic ~~course or peer reviewed or non peer reviewed~~ course, workshop or seminar ~~workshop, seminar, in service, electronic or Web based course for the first time or for which more than 50 percent of the material has been revised;~~ related to massage and bodywork therapy;
- (B) ~~A licensee may earn one contact hour of credit that is awarded for an activity, up to~~ There is a maximum of ~~six~~ five contact ~~hours;~~ hours in this category; and
- (C) Documentation shall include a ~~copy of official program, schedule, or~~ syllabus ~~including presentation title, date,~~ and the date and hours of ~~presentation, and type of audience or verification of such, signed by the sponsor.~~ presentation.
- (7) Professional Meetings and Activities:
- (A) Consistent with Rule ~~0804~~ .0703 of this Section, participation in board or committee work with agencies or organizations to promote and enhance the practice of massage and bodywork therapy;
- (B) ~~A licensee may earn one contact hour for~~ There is a maximum of five contact hours ~~or two contact hours for 10 or more hours for participation on committees or boards;~~ in this category; and
- (C) Documentation must include name of committee or board, name of agency or organization, purpose of service, and description of licensee's role. Participation and hours must be validated by an officer or representative of the organization or committee.

109 ~~[(8)]~~ Board Certification:

110 (A) The Board shall recognize completion of activities that result in board certification by an
111 approved provider during the current licensure period;

112 (B) A licensee may earn 15 hours for each board certification credential earned or re-certified
113 during the current licensure period; and

114 (C) Documentation shall include certificate of completion or other documentation from the
115 recognized certifying body that identifies satisfactory completion of requirements for
116 obtaining board certification.]

117 ~~[(9)]~~(8) Research and Grants:

118 (A) Development of or participation in a research project or grant ~~[proposal;]~~ proposal related
119 to massage and bodywork therapy;

120 (B) A licensee may earn one contact hour for each three hours spent working on a research
121 project or grant ~~[proposal, up to]~~ proposal. There is a maximum of five contact ~~[hours;]~~
122 hours in this category; and

123 (C) Documentation includes verification from the primary investigator indicating the name of
124 the research project, dates of participation, major hypotheses or objectives of the project,
125 and licensee's role in the project or name of grant proposal, name of grant source, purpose
126 and objectives of the project, and verification from the grant author regarding licensee's
127 role in the development of the grant if not the author.

128 (c) Distance learning, as defined in Rule .0702 of this Section, shall not comprise more than 12 hours of the
129 required continuing education hours ~~[continuing competence activities]~~ per licensure period.

130 (d) Licensees shall document that they have completed at least three contact hours of continuing education
131 ~~[continuing competence activities]~~ in professional ethics as defined in Rule .0702 of this Section, out of the
132 minimum of 24 hours of approved continuing education ~~[continuing competence activities]~~ required for license
133 renewal. This may be obtained through supervised classroom instruction or distance learning.

134 (e) Business management, as defined in Rule .0702 of this Section, shall not comprise more than eight hours of the
135 minimum 24 hours of approved continuing education ~~[continuing competence activities]~~ required for license
136 renewal.

137 (f) Licensees shall ensure that each continuing education course ~~[continuing competence activity]~~ for which they
138 claim credit on their application for renewal of licensure is consistent with the definitions and requirements set forth
139 in this Section.

140 (g) The Board may audit licensees at random to assure compliance with these requirements.

141
142 *History Note:* Authority G.S. 90-626(9); 90-632(a)(1);
143 Temporary Adoption Eff. February 15, 2000;
144 Eff. April 1, 2001;
145 Amended Eff. November 1, 2008; September 2, 2005;

146 *Readopted Eff. October 1, 2015;*
147 *Amended Eff. October 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .0702

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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 reset the line numbers at 1 for each Page. [See Rule 26 NCAC 02C .0108(1)(f)]

Why aren't these terms in alphabetical order? I suggest doing this, but please be sure it will not impact other Rules due to a change in cross-references or that you can update them (see Rule .0701(b)(1)(A), for example).

I am simply asking – for every Item in this Rule, why is the term ended with a period and then set off by hyphens? Why are the periods necessary?

In (1), line 8, insert a comma after “enhance”

On line 9, what are “critical reasoning” and “ethical reasoning” skills?

On line 11, insert a comma after “profession”

In (4), line 22, what are “safe” and “effective” practices?

On line 23, please insert a “the” before Practice Act”

In (5), what is “successful professional practice”? I see that “successful completion” is defined in your rules, but not this term.

In (7), line 35, I suggest you replace “does” with “shall”

On line 35, what do you mean “as herein stated”? Where is this stated? Do you need the language “Except as herein stated,” or could you begin the sentence “The provider...”

On line 36, you state the Board “may” recognize these providers. What will be the process for determining which ones to recognize them? Will this be by contract as well?

In the History Note, line 41, please update the citation to G.S. 90-632 that was recodified.

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: August 29, 2018

21 NCAC 30 .0702 is proposed for amendment with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 .0702 CONTINUING EDUCATION DEFINITIONS

The following definitions apply to this Section:

~~(1) Continuing Competence. — A process in which a massage and bodywork therapist develops and maintains the knowledge, performance skills, interpersonal abilities, critical reasoning skills, and ethical reasoning skills necessary to perform his or her professional responsibilities.~~

(1)(2) Continuing education. -- Learning experiences that develop, maintain, enhance and expand the performance skills, interpersonal abilities, critical reasoning skills, ethical reasoning skills, knowledge, and attitudes of massage and bodywork therapists that enable them to render competent professional service to clients, the profession and the public.

(2)(3) Distance learning. -- Courses taken by home study that are produced by an approved provider, whether delivered by videotape, audiotape, printed materials, or computer-based means. The licensee shall demonstrate achievement of learning objectives and completion of course requirements to the provider before credit is given.

(3)(4) One "contact hour" of continuing education. ~~a continuing competence activity~~ -- At least 50 minutes of any one clock hour during which the student participates in a learning activity in the physical presence of an instructor, or in a distance learning activity designed by an approved provider. One semester credit hour at a post-secondary institution shall be equivalent to 21 contact hours.

(4)(5) Professional ethics. -- A system of conduct guided by principles that are intended to ensure the safe and effective practice of massage and bodywork therapy. Acceptable subject matter for required professional ethics courses may include: compliance with Practice Act and Rules of the Board, management of the client/therapist relationship, boundary functions, professional communication skills, conflict resolution, cultural diversity issues, and standards of practice.

(5)(6) Business management. -- Courses that enable the licensee to learn and apply business skills to create a successful professional practice.

(6)(7) Post secondary institution of higher learning – A degree granting institution accredited by an accrediting agency recognized by the United States Department of Education.

(7)(8) Approved provider. -- One that has been approved by any entity with which the Board has reached a contractual agreement for the approval of continuing education providers and courses. A list of accrediting entities with which the Board has entered into a contractual agreement is available on the Board's website at www.bmbt.org. The provider shall have this designation when the course begins and shall maintain this designation continuously until the course is completed. The Board does not recognize any retroactive designation of provider approval. Except as herein stated, the provider shall follow all regulations set forth by its accrediting agency. The Board may also recognize a continuing education provider outside the United States or its territories that is a post-

38 secondary institution of higher learning approved by the educational regulation authority of that
39 foreign country.

40

41 *History Note: Authority G.S. 90-626(9); 90-632;*
42 *Temporary Adoption Eff. February 15, 2000;*
43 *Eff. April 1, 2001;*
44 *Amended Eff. November 1, 2015; April 1, 2005;*
45 *Amended Eff. October 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .0703

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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), I suggest you replace "must" with "shall"

On line 6, delete "must"

In (b), line 8, insert a colon after "include"

In addition, I suggest breaking this further down into Subparagraphs, like so:

"(b).... include:

- (1) research;*
- (2) theoretical...therapy; or*
- (3) the development... therapists."*

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .0703 is proposed for adoption with changes as published in 32:18 NCR 1789-1797:

**21 NCAC 30 .0703 SCOPE OF QUALIFIED ACTIVITIES FOR MAINTAINING CONTINUING
COMPETENCE EDUCATION**

(a) To be approved by the Board, continuing education activities must be related to roles and responsibilities in massage and bodywork therapy and must serve to protect the public by enhancing the licensee's continuing competence.

(b) Subject matter for approved activities include research; theoretical or practical content related to the practice of massage and bodywork therapy; or the development, administration, supervision, and teaching of clinical practice or service delivery programs by massage and bodywork therapists.

*History Note: Authority G.S. 90-626(9); 90-630.5;
 Eff. October 1, 2018.*

21 NCAC 30 .0902 is proposed for amendment as published in 32:18 NCR 1789-1797:

21 NCAC 30 .0902 COMPLAINTS

(a) A complaint regarding a violation of the Practice Act or the rules in this Chapter shall be submitted in writing and shall document:

(1) ~~The~~ the name of the ~~licensee~~, licensed massage and bodywork therapist, licensed establishment, school, ~~person~~ person, or ~~other~~ entity involved;

(2) ~~A~~ a description of the alleged behavior or incident; and

(3) ~~The~~ the name, mailing ~~address~~ address, and phone number of the person filing the complaint.

~~(b) The complaint shall be delivered to the Board administrative offices by mail, private carrier or in person. Complaints transmitted by facsimile or electronic mail shall not be accepted.~~

~~(c) An incomplete complaint may be corrected and resubmitted.~~

History Note: Authority G.S. 90-626(13);

Temporary Adoption Eff. February 15, 2000;

Eff. April 1, 2001;

Amended Eff. September 2, 2005;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014;

Amended Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .0905

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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 reset the line numbers at 1 for each Page. [See Rule 26 NCAC 02C .0108(1)(f)]

In (a)(2), line 7 and (b)(2), line 21, why do you need "An expression of displeasure" give that the next sentences state "This formal expression of disapproval"?

In (a)(2), line 7, why do you have the sentence, "The mildest form of administrative action."?

In (a)(2) and (b)(2), upon request of whom?

In (c), line 34, delete the comma after "abuse"

In (e), Page 2, line 37, how is it determined was "as necessary to ensure" this?

In the History Note, line 41, please separate the citations within G.S. 90-626 as "G.S. 90-626(4); 90-626(14)"

Also in the History Note, isn't G.S. 90-633 applicable as well?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .0905 is proposed for amendment as published in 32:18 NCR 1789-1797:

21 NCAC 30 .0905 DISCIPLINARY SANCTIONS

(a) The following types of disciplinary sanctions regarding licensed massage and bodywork therapists and massage and bodywork therapy establishments (licensees) ~~may, among others,~~ may be utilized by the Board:

- (1) Denial of Application: Refusal to license the applicant;
- (2) Letter of Reprimand: An expression of displeasure. The mildest form of administrative action. This formal expression of disapproval will be retained in the licensee's file but shall not be publicly announced. It is not published, but is released upon request;
- (3) Probation: A period of time where restrictions or conditions are imposed on a licensee. Continued licensure is subject to fulfillment of specified conditions;
- (4) Suspension of license: A condition of probation. Loss of license for a period after which the ~~individual~~ licensee shall be required to reapply for licensure or remain on probation;
- (5) Refusal of License Renewal: A refusal to reinstate or renew a license;
- (6) Revocation of license: An involuntary termination of a license;
- (7) Injunction: A court action prohibiting or compelling conduct by a licensee; ~~and or~~
- (8) Assessment of a civil penalty.

(b) The following types of disciplinary sanctions regarding schools of massage and bodywork therapy ~~may, among others,~~ may be utilized by the Board:

- (1) Denial of Application: Refusal to grant approval to the applicant school;
- (2) Letter of Reprimand: An expression of displeasure. A formal expression of disapproval will be retained in the school's file but shall not be publicly announced. It is not published, but is released upon request;
- (3) Probation: A period of time where restrictions or conditions are imposed on an approved school. Continued approval is subject to fulfillment of specified conditions;
- (4) Suspension of approval: A condition of probation. Loss of approval status for a period after which the school shall be required to reapply for approval or remain on probation;
- (5) Refusal of Approval: A refusal to reinstate or renew a school's approval status;
- (6) Revocation of Approval: An involuntary termination of school's approval status;
- (7) Injunction: A court action prohibiting or compelling conduct by a school; ~~and or~~
- (8) Assessment of a civil penalty.

(c) ~~The~~ During an investigation, the Board may request information from professional associations, professional review organizations (PROs), hospitals, clinics or other institutions in which a licensee performs professional services, regarding chemical abuse, or incompetent or unethical behavior.

(d) ~~The~~ During an investigation, the Board may request information from state regulatory agencies, accrediting commissions, or other institutions that oversee the activities of a school.

(e) The Board shall provide notice of sanction taken by it to other public entities as necessary to ensure that other state boards, national certification boards, professional associations, enforcement authorities, and accrediting agencies receive the names of licensees and schools disciplined.

History Note: Authority G.S. 90-626(4), (14); 90-634.1;
Temporary Adoption Eff. February 15, 2000;
Eff. April 1, 2001;
Amended Eff. April 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014;
Amended Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1001

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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), lines 4-6 basically recite G.S. 90-632.10. Do you need to retain it here because the requirement is new?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1001 is adopted with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 .1001 ESTABLISHMENT LICENSE REQUIRED

(a) Unless exempt pursuant to G.S. 90-622(3a) from the Board licensure process, no individual, association, partnership, corporation, or other entity shall open, operate, or advertise a massage and bodywork therapy establishment in this State unless it has been licensed by the Board. For purposes of the rules in this Chapter, “establishment” means “massage and bodywork therapy establishment” as defined in G.S. 90-622.

(b) An establishment license granted by the Board shall be for a single location. An owner who intends to operate additional locations shall submit an application for licensure for each location.

(c) Establishments already in operation on the date this Section becomes effective shall have ~~60~~ 180 days from the effective date to submit an application for licensure to the Board.

History Note: Authority G.S. 90-626(9)b.2; 90-632.10;

Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1002

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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 note, if you do not make any changes to the Rule as published in the Register, you will need to reinsert the underlining in this Rule.

What is your authority to grant license that last 2 years and 3 months for a license? G.S. 90-630.5(a) states:

§ 90-630.5. Renewal of license to practice and license to operate massage and bodywork therapy establishment; continuing education.

- (a) The license to practice and the license to operate a massage and bodywork therapy establishment under this Article shall be renewed every two years.

Is it your interpretation that the law only addresses renewals, not initial licensure?

What do you mean on line 6, "minus the period following January 1"?

In (b), what authority are you relying upon to state that all licenses expire on January 1? What if this means a license is only good for 18 months if initially issued in June? Or again, is the Board interpreting the two-year requirement to apply to only renewals?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1002 is adopted as published in 32:18 NCR 1789-1797:

21 NCAC 30 .1002 TERM OF LICENSE

(a) Initial establishment license applications submitted between October 1 and December 31 shall be granted for two years, plus an additional period of up to three months. Initial establishment license applications submitted between January 1 and September 30 shall be granted for two years, minus the period following January 1.

(b) Pursuant to G.S. 90-630.5, an establishment license shall be renewed for a term of two years, beginning on January 1 following the initial expiration date.

*History Note: Authority G.S. 90-630.5(a);
 Eff. October 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1003

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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

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

In (a), line 4, so that I'm clear – the form will require information required by G.S. 90-632.11 and what is set forth in this Rule?

If that is correct, will this include the “proof of good moral character, as determined by the Board” required by G.S. 90-632.11(6)? If so, what constitutes that proof should be in Rule.

On line 5, consider stating “the following”: and delete “additional information:”

In (1), line 6, and (2), line 12, do you need “all of the following:”?

In (1)(b), line 8, insert a comma after “phone numbers”

In (2)(b), should this be “if any”

Consider beginning (3), (4), (5) and (6) with articles, which will be consistent with (7).

In (4), lines 19-20, it seems that you need additional language that the list will be sent to the Board within the 60 days.

In (5), so that I'm clear – in lieu of the lease, the individual can send the contact information for the lessor?

In (7), line 32, is this the correct cross-reference? Do you mean to cite to Rule .1004 instead?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1003 (proposed as .1004) is adopted with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 ~~.1004~~ .1003 INITIAL APPLICATION FOR LICENSURE

A massage and bodywork therapy establishment seeking initial licensure shall submit an application on a form provided by the Board containing the information set forth in G.S. 90-632.11 and the following additional information:

- (1) Ownership information, including all of the following:
 - (a) type of ownership structure;
 - (b) names, residence addresses, phone numbers and email addresses of all persons who have an ownership interest in the establishment, including parent corporations; and
 - (c) if the operator is not the owner, the operator shall provide the information required in Rule .1004.
- (2) Location information, including all of the following:
 - (a) Physical address of the establishment, and mailing address if different;
 - (b) Website address; and
 - (c) Business phone number.
- (3) Trade name of establishment, if different from owner's name;
- (4) List of all LMBTs hired as employees or contracted with as independent contractors to provide treatment to clients, if known, or or, signed letters of intent from LMBTs with a projected start date of work pending the opening of the establishment if not known, within 60 days following granting of a license to operate;
- ~~(5) Facility plan, including floor plans with dimensions and fixtures, uses of each room, specifications on lighting, ventilation and temperature control, location of lavatories for hand washing and toilet facilities;~~
- ~~(6) Equipment list, including furniture, office equipment, and equipment used for massage and bodywork therapy treatment;~~
- ~~(7)~~(5) Copy of deed if establishment owns its facility, or copy Copy of lease or name, address, phone number and email address of lessor, if establishment does not own its facility;
- ~~(8) Copies of reports from city or county inspections for fire, safety, health, and sanitation, made within the three months prior to submission of application for approval;~~
- ~~(9)~~(6) Copy of city or county business license, if required; and
- ~~(10)~~(7) A completed self-evaluation inspection report demonstrating compliance with ~~this section.~~ Rule .1005.

*History Note: Authority G.S. 90-632.11; 90-632.13;
Eff. October 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1004

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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 reset the line numbers at 1 for each Page. [See Rule 26 NCAC 02C .0108(1)(f)]

In (1)(b), line 9, please insert an "a" before "soap dispenser"

On line 12, insert a comma after "ventilated"

Also on line 12, what is "good repair"?

In (1)(c), line 15, what is "clean"?

In (d), line 21, define "prominent"

On line 21, visible for inspection by whom? The public? If so, state that.

In (2)(a), line 23, define "safe and unobstructed"

In (2)(b), line 24, what is the difference between "garbage" and "refuse"?

In (2)(c), line 25, define "safe"

In (2)(e), line 28, what is "safe and sanitary"?

On line 29, define "Clean" Is this what is contemplated by the laundering in (2)(f)?

In (2)(f), doesn't this repeat the language on line 30? Do you need it both places?

On line 31, please "clean" Is it laundered between uses?

In (3)(b), Page 2, line 38, insert a comma after "employees"

In (4)(a), line 42, G.S. 66-68 was repealed. Please update the citation.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

On line 47, is it the intent that advertising will be part of (4)? If so, insert a (c) before it. If it's intended to remain as (5), you need to keep the (5) on line 46.

On line 48, so that I'm clear – you are purposely excluding Paragraph (a) of Rule .0404, even though Paragraphs (b) and (c) reference it? And how does this interact with the mandate that advertisements comply with Rule 21 NCAC 30 .0404 in G.S. 90-632.12(b)?

In the History Note, isn't G.S. 90-632.12(b) applicable?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1004 (proposed as .1005) is adopted with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 .1004 ESTABLISHMENT OPERATIONS

Licensed establishments shall comply with the following requirements:

(1) Facility requirements:

- (a) comply with State and local building code requirements, State fire safety codes, and State health inspection codes;
- (b) provide for the use of clients and therapists a restroom with at least one toilet and one sink with running water. The facilities shall be equipped with toilet tissue, soap dispenser with soap or other hand cleaning materials, sanitary towels or other hand drying device such as a wall-mounted electric blow dryer, and waste receptacle. Restroom and shower facilities shall be lighted, ventilated and maintained in good repair. Establishments located in buildings housing multiple businesses under one roof, such as shopping malls, terminals, or hotels, may substitute centralized toilet facilities;
- (c) if equipped with a whirlpool bath, sauna, steam cabinet, or steam room, maintain clean shower facilities on the premises; and
- ~~(d) provide treatment rooms for massage and bodywork therapy that are least 10 feet by 12 feet in size, with a minimum of three linear feet of open floor space around all sides of the massage treatment table; and~~
- ~~(e)~~(d) display the original Massage and Bodywork Therapy Establishment License, and the licenses of all LMBTs in a prominent place at the establishment so as to be visible for inspection.

(2) Safety and sanitary requirements:

- (a) provide for safe and unobstructed human passage in the public areas of the premises;
- (b) provide for removal of garbage and refuse;
- (c) provide for safe storage or removal of flammable materials;
- (d) exterminate all vermin, insects, termites, and rodents on the premises;
- (e) maintain all equipment used to perform massage and bodywork therapy services on the premises in a safe and sanitary ~~condition, including the application of cleansers and bactericidal agents to the massage table.~~ condition. Clean sheets, towels, blankets, or other coverings shall be used for each client and to cover the massage table for each client; and
- (f) maintain a supply of clean drapes, towels, gowns, or sheets, for the purpose of draping each client while the client is being massaged, and launder before reuse all linens furnished for the personal use of the client.

(3) Treatment requirements:

- (a) All massage and bodywork therapy treatments shall be administered by LMBTs licensed in North Carolina;

- (b) The establishment is responsible for ensuring that the Standards of Professional Conduct set forth in Section .0500 of this Chapter are maintained in its facility by all owners, employees and independent contractors.
- (4) Business and ethical requirements:
- (a) notify the Board in writing of all assumed name certificates filed by the establishment owner with any county register of deeds pursuant to the requirements of G.S. 66-68;
- (b) notify the Board within ~~40~~ 30 days of changes to the LMBT staff who provide massage and bodywork therapy services at the establishment, including employees and independent contractors; and
- ~~(5) Advertising requirements:~~
- (a) ~~any advertisement~~ Advertisement of massage and bodywork therapy services ~~in any "advertising medium" as defined herein~~ shall comply with Rule .0404 .0404(b) and (c) and shall include the establishment's ~~name and license number; and name.~~
- ~~(b) a licensed establishment that employs or contracts with LMBTs may advertise on behalf of those licensees, by complying with the requirements of this Rule.~~

History Note: Authority G.S. 90-632.13;
Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1005

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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:

Does this Rule apply to sole practitioners that do not require licensure pursuant to G.S. 90-622(3a)(d)? I would think not, but I wanted to check given the reference to the individual LMBT on lines 4, 9, and 13. What do you mean by these references?

End (b) on line 6 with a period.

In (d), line 12, what "regulation" do you mean? Do you mean "rule"?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1005 (proposed as .1006) is adopted as published in 32:18 NCR 1789-1797:

21 NCAC 30 ~~.1006~~ .1005 CLIENT RECORDS RETENTION AND OWNERSHIP

(a) Records shall be maintained by the establishment or the LMBT in compliance with Rules .0504 and .0505 of this Chapter.

(b) Records stored electronically shall be maintained with a weekly back-up system;

(c) Client records are the property of the:

(1) Establishment; or

(2) LMBT, when working as a sole practitioner.

(d) Release of Records:

(1) Client records shall be released within 30 days from being requested and authorized by the client in writing or when compelled by law or regulation; and

(2) The establishment or LMBT may charge cost for duplicating client records pursuant to G.S. 90-411.

History Note: Authority G.S. 90-632.13(3);

Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1006

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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

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

In (a), line 5, and (b), line 6, since you state "may" under what circumstances will the Board inspect or not inspect?

On line 5, did you mean to update the cross-references since you've renumbered the rules?

On line 5, what do you mean by "satisfied"? That the requirements of the Rules are met?

In (b), lines 6-7, is there a reason you're not using "Practice Act" rather than the full citation, as you do in other rules?

What is the purpose of the language added to line 7? And isn't this internal management for your inspectors?

Assuming you need to retain it, insert a comma after "comfort"

In (c), lines 8, 11, and 14, what is the difference between "current" and "valid"?

On line 9, removed and returned by whom? I note that you state it is the inspector on line 12 for individual therapists.

On line 10, notified by whom?

On line 10, replace "inspection, should it be determined" with "inspection"

On line 12, remove the first "by the inspector" so it reads "... removed from the establishment and returned to the Board by the inspector..."

On line 12, end the sentence after "inspector." The begin a new sentence "The person whose..."

On line 13, who determines if the hearing is "necessary" and based upon what?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1006 (proposed as .1007) is adopted with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 ~~.1007~~ .1006 INSPECTIONS

(a) Upon receipt of an application for a massage and bodywork therapy establishment license, employees or representatives of the Board may inspect the location to verify Rules .1004 and .1005 of this Chapter are satisfied.

(b) The Board may inspect all licensed establishments to ensure compliance with the rules in this Chapter and Article 36 of G.S. Chapter 90. Inspectors shall respect the client's safety, comfort and privacy.

(c) During any inspection, if the posted establishment license is not current and valid, the establishment license shall be removed from the establishment and returned to the Board, and the owner whose license was not current and valid shall be notified. During any inspection, should it be determined that any license for a massage and bodywork therapist posted in the establishment is not current and valid, the massage and bodywork therapist license shall be removed from the establishment by the inspector and shall be returned to the Board by the inspector and the person whose license was not current and valid shall be ~~notified.~~ notified and a hearing scheduled as necessary.

History Note: Authority G.S. 90-632.13(5);

Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1007

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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:

Based upon the language of Rules .0402 and .0403, why do you need most of the language in this Rule? Can you not say that when there is no change in owner or location, the owner may change the trade name in compliance with Rules .0402 and .0403 by submitting the change, and that no fee is required?

On line 6, you refer to this as a "request" and that it needs to be "approved." However, Rule .0403 does not require a request or approval, but simply notice after the fact:

21 NCAC 30 .0403 CHANGE OF ADDRESS OR TRADE NAME

All licensees shall notify the Board in writing of each change of trade name or address of record within 30 days of such change.

So, it appears that requiring approval contradicts Rule .0403. What is the intent here?

Assuming you need to retain the language, on line 6, what is contained in the request and how is it obtained?

On line 6, how does the Board approve this name change? At a meeting? And what guidance will it use in determining whether to approve it?

On line 6- 7, what do you mean by the language "until the establishment is in compliance with this Rule."? Are you saying this Rule is supreme to Rules .0402 and .0403?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1007 (proposed as .1008) is adopted as published in 32:18 NCR 1789-1797:

21 NCAC 30 ~~.1008~~ .1007 CHANGE OF TRADE NAME

When there is no change of owner or location, the owner may change the trade name of the establishment in compliance with Rules .0402 and .0403 of this Chapter. The owner shall apply for a change of name by submitting to the Board a written change of name request. A new trade name shall not be used or approved by the Board until the establishment is in compliance with this Rule. When an establishment trade name is changed without a change in owner or location, a new establishment facility inspection shall not be required.

*History Note: Authority G.S. 90-632.12; 90-632.13(6);
Eff. October 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1008

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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:

So that I'm clear – will the new application required on line 5 follow the requirements of Rule .1003?

On line 6, delete the "if" at the end of the line after "and"

On line 7, the Board will determine if the new location will qualify after the initial review?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

1 21 NCAC 30 .1008 (proposed as .1009) is adopted with changes as published in 32:18 NCR 1789-1797:

2
3 **21 NCAC 30 ~~.1009~~ .1008 CHANGE OF LOCATION**

4 An establishment license shall not be transferable when there is a change in the physical location of the establishment.
5 The ~~new~~ owner shall submit a new application for licensure. The Board may issue temporary operating approval to the
6 owner for the new location for a period of 90 days if the establishment held a valid license prior to the change, and if
7 the Board finds that the new location will qualify for licensure upon preliminary review of the application.

8
9 *History Note: Authority G.S. 90-632.13(6);*

10 *Eff. October 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1009

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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 note, if you do not make any changes to the Rule as published in the Register, you will need to reinsert the underlining in this Rule.

On line 6, delete the "if" after "and"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

1 21 NCAC 30 .1009 (proposed as .1010) is adopted as published in 32:18 NCR 1789-1797:

2
3 **21 NCAC 30 ~~4010~~ .1009 CHANGE OF OWNERSHIP**

4 (a) An establishment license shall not be transferable when there is a change in the majority ownership interest of the
5 business. The new owner shall submit a new application for licensure. The Board may issue temporary operating
6 approval to the new owner for a period of 90 days if the establishment held a valid license prior to the change, and if
7 the Board finds that the new owner will qualify for licensure upon preliminary review of the application.

8 (b) In the case of a change of ownership that does not involve a change in the majority ownership interest in the
9 business, or a change in the ownership structure, the owner shall notify the Board of the changes within 30 days, and
10 submit fingerprint cards as required by G.S. 90-632.11 for new persons with ownership interests.

11
12 *History Note:* Authority G.S. 90-632.13(6);

13 *Eff. October 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1010

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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)(2), line 9, who determines whether there is "potential"? Will this be entirely up to the establishment licensee to determine?

In the History Note, please put the citations in numerical order as they were when published in the NC Register.

Also in the History Note, the proper citation is to 90-632.15(a)(5).

The proper citation is to G.S. 90-632(a)(6)

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1010 (proposed as .1011) is adopted with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 ~~.1011~~ .1010 INFORMING BOARD OF VIOLATIONS

(a) Establishment licensees with knowledge of alleged violations of the rules of this Chapter or the Practice Act shall inform the Board within ~~two~~ five business days, whether or not the alleged violations are also reported to a law enforcement agency. This shall include the following violations:

- (1) An LMBT or other employee or contractor of the establishment who has violated the prohibition on sexual activity, as defined in Rules .0508 and .0509 of this Chapter;
- (2) An LMBT who has engaged in behavior where there is a potential for malpractice as defined in Rule .0102(6) of this Chapter; or
- (3) Any person practicing massage and bodywork therapy without a license.

(b) Establishment licensees that have discharged an LMBT for cause, related to failure to uphold the Standards of Professional Conduct set forth in Section .0500 of this Chapter shall inform the Board within 10 business days of the action.

History Note: Authority G.S. 90-626(9); 90-626(9)b.2; 90-632.10; 90-632.15(5); 90-633(6); 90-632.17; 90-632.18; 90-634(b3);
Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1011

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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

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

In (a), line 4, why do you need "knowledge" when you have the language in (c)?

On line 5, insert a comma after "contractors"

What is your authority to require the reporting of (a)(1), (3), (4), and (5)? Are you relying upon G.S. 90-632.15(a)(5)?

I the History Note, the proper citation is to 90-632.15(a)(5).

The proper citation is to G.S. 90-632(a)(6)

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1011 (proposed as .1012) is adopted with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 .1011 CONTINUING DUTY TO REPORT CERTAIN CRIMES AND CIVIL SUITS

(a) Establishment licensees with knowledge shall report to the Board any charges, convictions of, or pleas of guilty or no contest to the following criminal offenses, whether committed by themselves, employees, independent contractors or by other licensees:

- (1) felonies;
- (2) crimes that involve moral turpitude;
- (3) alcohol or drug-related offenses;
- (4) sexual-related offenses; and
- (5) assault.

(b) Establishment licensees shall report to the Board if they are named as a defendant in a civil suit arising out of a licensee's practice of massage and bodywork therapy or out of the practice of massage and bodywork therapy by any employee or independent contractor.

(c) Establishment licensees shall report a charge, conviction, plea in a criminal case, or involvement as a defendant in a civil suit, as set forth in Paragraphs (a) or (b) of this Rule, within 30 days after ~~it occurs.~~ the licensee obtains knowledge.

History Note: Authority G.S. 90-626(9); 90-626(9)b.2; 90-632.10; 90-632.15(5); 90-632.17; 90-632.18; 90-633(6); 90-634(b3);
Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1012

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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:

This Rule establishes a fee in Paragraph (a). Pursuant to G.S. 12-3.1, the agency is required to consult with the Joint Legislative Commission on Governmental Operations before the Rule can go into effect. [See G.S. 150B-21.3(c1)] Therefore, while the Rule is eligible to be approved by RRC, it will not be effective until the agency satisfies the requirement of the consultation.

In (b), you state that failure to renew prior to expiration means the license is expired. However, G.S. 90-635.14(a)(4) states that the Board can charge a late renewal penalty. How can this happen if the license is expired and the Board is requiring a new application?

On line 6, who shall submit the application?

On line 7, should the cross-reference now be to rule .1003?

In (c), line 9, consider replacing "will" with "shall"

In (d), line 13, please replace "must" with "shall"

In the History Note, please insert G.S. 90-632.14, since that is the statute that gives the Board to establish fees.

Also in the History Note, isn't G.S. 93B-15 applicable?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

21 NCAC 30 .1012 (proposed as .1013) is adopted with changes as published in 32:18 NCR 1789-1797:

21 NCAC 30 ~~.4013~~ .1012 LICENSE RENEWAL

(a) Any establishment licensee renewing a license shall comply with all requirements for licensure and shall submit the required renewal fee of one hundred dollars (\$100) pursuant to G.S. 90-632.14.

(b) An establishment license that has not been renewed prior to its expiration date is expired and shall submit an initial application for licensure pursuant to Rule .1004 of this Chapter.

(c) Any owner whose establishment license has expired and who engages in or permits any massage and bodywork therapy activities governed by the Practice Act will be subject to the penalties prescribed in G.S. 90-634 and G.S. 90-634.1.

(d) Members of the armed forces whose establishment licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall be granted that same extension of time to pay the establishment license renewal fee. A copy of military orders and the extension approval by the Internal Revenue Service must be furnished to the Board to be granted the extension of time to pay the renewal fee.

History Note: Authority G.S. 90-630.5;
Eff. October 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .1013

DEADLINE FOR RECEIPT: Thursday, September 13, 2018

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:

I note this Rule recites a portion of Rule .0401. Is there a reason for the differences between the two (for instance, using "place of business" rather than "place of practice"?)

On lines 4 and 5, when is this notice sent? Upon application or renewal? Or is the intent that whenever it changes, the notice shall be sent within a specific period of time?

On line 5, insert "the" before "owner's"

On line 5, how will this be provided to the Board?

In the History Note, the correct citation is G.S. 90-632.11(a)(5)

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 29, 2018

1 21 NCAC 30 .1013 (proposed as .1014) is adopted as published in 32:18 NCR 1789-1797:

2
3 **21 NCAC 30 ~~.1014~~ .1013 ADDRESS OF RECORD**

4 Each licensed establishment shall notify the Board in writing of the street address of the licensee's current place of
5 business and owner's residence or business address. The establishment shall provide to the Board the mailing address
6 and telephone number of the owner for the purposes of receiving communication from the Board and for listing in the
7 registry of licensed establishments.

8
9 *History Note: Authority G.S. 90-632.11(5)*

10 *Eff. October 1, 2018.*