

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0121

**DEADLINE FOR RECEIPT: October 7, 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 update your introductory statement for publication in the Code. If you make changes in response to the technical change requests, it will read: "21 NCAC 36 .0121 is adopted with changes as published in 35:02 NCR 113 as follows:" A formatting example is available [here](#).*

*In (a), do petitions need to be directed to a particular mailing or email address?*

*In (b)(1), please delete the "or" after "adopted."*

*In (c), lines 12 and 18, please consider changing "will" to "shall."*

*In (c)(3), please delete or define "appropriate."*

*In your history note, please add general rulemaking authority for the Board of Nursing such as G.S. 90-171.23(b)(3).*

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: September 23, 2020

21 NCAC 36 .0121 is proposed to be adopted as follows:

**21 NCAC 36 .0121 PETITIONING FOR RULEMAKING**

(a) Any person wishing to submit a petition to the Board requesting the adoption, amendment, or repeal of a rule shall file the petition with the Board's chief executive officer.

(b) The petition shall contain the following information:

(1) a proposed draft of the rule to be adopted, or amended, or a citation to the rule to be repealed;

(2) a statement of the reason for the proposal including statutory authority;

(3) effect of the proposed rule change on the practice of nursing;

(4) any data supporting the proposal including cost factors; and

(5) name, address, and telephone number of each petitioner.

(c) The Board will determine whether the public interest would be served by the adoption, amendment, or repeal of the requested rule. Prior to making this determination, the Board may:

(1) request additional information from the petitioner;

(2) contact interested persons or those likely to be affected by the proposed rule and request comments;  
and

(3) it may use any other appropriate method for obtaining information on which to base its determination. It will consider all the contents of the petition submitted plus any other information obtained by the means described herein.

(d) The Board shall act on a petition within the timeframe outlined in G.S. 150B-20.

*History Note: Authority G.S. 150B-20*

*Eff. November, 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0122

**DEADLINE FOR RECEIPT: October 7, 2020**

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

*Please update your introductory statement for publication in the Code. If you make changes in response to the technical change requests, it will read: "21 NCAC 36 .0122 is adopted with changes as published in 35:02 NCR 113 as follows:" A formatting example is available [here](#).*

*In (b)(3), please delete or define "concise."*

*In (c) and (d), I take it the Board determines whether a ruling is "appropriate" or "inappropriate" based on the list in (e), correct?*

*In (e)(2), please change "rule-making" to "rulemaking."*

*In your history note, please add general rulemaking authority for the Board of Nursing such as G.S. 90-171.23(b)(3).*

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: September 23, 2020

21 NCAC 36 .0122 is proposed to be adopted as follows:

**21 NCAC 36 .0122 PETITIONS FOR DECLARATORY RULINGS**

(a) All requests for declaratory rulings shall be written and mailed to the Board at Post Office Box 2129, Raleigh, NC 27602-2129. The envelope containing the request shall bear the notation: "REQUEST FOR DECLARATORY RULING."

(b) Each Request for Declaratory Ruling shall include the following information:

(1) the name and address of the person requesting the ruling;

(2) the statute or rule to which the request relates;

(3) a concise statement of the manner in which the requesting person is affected by the statute or rule or its potential application to that person; and

(4) a statement whether an oral hearing is desired and, if so, the reason.

(c) Upon receipt of a Request for Declaratory Ruling, the Board shall determine whether a ruling is appropriate under the facts stated.

(d) When the Board determines that the issuance of a declaratory ruling is inappropriate, the Board shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request.

(e) The Board shall decline to issue a declaratory ruling where:

(1) there has been a similar controlling factual determination made by the Board in a contested case;

(2) the rule-making record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule;

(3) the subject-matter of the request is involved in pending litigation in any state or federal court in North Carolina; or

(4) the petitioner fails to show that the circumstances are so changed since the adoption of the statute or rule that a ruling is warranted.

History Note: Authority G.S. 150B-4

Eff. November 1, 2020.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0228

**DEADLINE FOR RECEIPT: October 7, 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 update your introductory statement for publication in the Code. If you make changes in response to the technical change requests, it will read: "21 NCAC 36 .0228 is amended with changes as published in 35:02 NCR 115 as follows:" A formatting example for an amendment with changes post-publication is available [here](#).*

*Throughout this Rule, is "recognized" or "approved" the correct term? Note the language in G.S. 90-171.21(d)(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: September 23, 2020

21 NCAC 36 .0228 is proposed to be amended as follows:

**21 NCAC 36 .0228            CLINICAL NURSE SPECIALIST PRACTICE**

(a) ~~Effective July 1, 2015, only~~ Only a registered nurse who meets the qualifications outlined in Paragraph (b) of this Rule shall be ~~recognized~~ approved by the Board as a clinical nurse specialist to perform advanced practice registered nursing activities listed in Paragraph (f) of this Rule.

(b) The Board shall ~~recognize~~ approve an applicant who:

(1) has an active, unencumbered license to practice as a registered nurse in North Carolina or a state that has adopted the Nurse Licensure Compact;

(2) has an unrestricted previous approval, registration, or license as a clinical nurse specialist if previously approved, registered, or licensed as a clinical nurse specialist in another state, territory, or possession of the United States;

(3) has successfully completed a master's or higher level degree program that is accredited by a nursing accrediting body approved by the United States Secretary of Education or the Council for Higher Education Accreditation and meets the qualifications for clinical nurse specialist certification by an approved national credentialing body under Part (b)(4)(A) of this Rule; and

(4) either:

(A) has current certification as a clinical nurse specialist from a national credentialing body approved by the Board, as defined in Paragraph (h) of this Rule and 21 NCAC 36 .0120(26); or

(B) meets requirements that are equivalent to national certification if no clinical nurse specialist certification is available in the ~~specialty, meets requirements that are equivalent to national certification, specialty.~~ specialty. The Board shall determine equivalence based on consideration of an official transcript and course descriptions validating Subparagraph (b)(3) of this Rule, a current curriculum vitae, work history, professional recommendations indicating evidence of at least 1,000 hours of clinical nurse specialist practice, and documentation of certificates indicating 75 contact hours of continuing education applicable to clinical nurse specialist practice during the previous five years.

(c) An applicant certified as a clinical nurse specialist by a national credentialing body prior to January 1, 2007, and who has maintained that certification and active clinical nurse specialist practice and holds a master's or higher degree in nursing or a related field shall be ~~recognized~~ approved by the Board as a clinical nurse specialist.

(d) New graduates seeking first-time clinical nurse specialist ~~recognition~~ approval in North Carolina shall hold a master's or doctoral degree or a post-master's certificate from a clinical nurse specialist program accredited by a nursing accrediting body approved by the U.S. Secretary of Education or the Council for Higher Education Accreditation and shall meet all requirements in Subparagraph (b)(1) and Part (g)(3)(A) of this Rule.

(e) A clinical nurse specialist seeking Board ~~recognition~~ approval who has ~~not~~ never practiced as a clinical nurse specialist or has not practiced in more than two years shall complete a clinical nurse specialist refresher course

1 approved by the Board in accordance with 21 NCAC 36 .0220(o) and (p), consisting of common conditions and their  
2 management related to the clinical nurse specialist's area of education and certification. A clinical nurse specialist  
3 refresher course participant shall be granted limited clinical nurse specialist recognition that is ~~limited~~ specific to  
4 clinical activities taught in the refresher course.

5 (f) The scope of practice of a clinical nurse specialist shall incorporate the basic components of nursing practice as  
6 defined in Rule .0224 of this Section as well as the understanding and application of nursing principles at an advanced  
7 practice registered nurse level in the area of clinical nursing specialization in which the clinical nurse specialist is  
8 educationally prepared and for which competency is maintained, including:

- 9 (1) assessing clients' health status, synthesizing and analyzing multiple sources of data, and identifying  
10 alternative possibilities as to the nature of a healthcare problem;
- 11 (2) diagnosing and managing clients' acute and chronic health problems within an advanced practice  
12 nursing framework;
- 13 (3) assessing for and monitoring the usage and effect of pharmacologic agents within an advanced  
14 practice nursing framework;
- 15 (4) formulating strategies to promote wellness and prevent illness;
- 16 (5) prescribing and implementing therapeutic and corrective non-pharmacologic nursing interventions;
- 17 (6) planning for situations beyond the clinical nurse specialist's expertise and consulting with or  
18 referring clients to other health care providers as appropriate;
- 19 (7) promoting and practicing in collegial and collaborative relationships with clients, families, other  
20 health care professionals, and individuals whose decisions influence the health of individual clients,  
21 families, and communities;
- 22 (8) initiating, establishing, and using measures to evaluate health care outcomes and modify nursing  
23 practice decisions;
- 24 (9) assuming leadership for the application of research findings for the improvement of health care  
25 outcomes; and
- 26 (10) integrating education, consultation, management, leadership, and research into the clinical nurse  
27 specialist role.

28 (g) A registered nurse seeking ~~recognition~~ approval by the Board as a clinical nurse specialist shall:

- 29 (1) complete the appropriate application that includes the following:
  - 30 (A) evidence of a master's or doctoral degree or a post-master's certificate, as set out in  
31 Subparagraph (b)(3) or Paragraph (d) of this Rule; and either
  - 32 (B) evidence of current certification in a clinical nursing specialty from a national credentialing  
33 body, set out in Part (b)(4)(A) of this Rule; or
  - 34 (C) meet requirements set out in Part (b)(4)(B) of this Rule;
- 35 (2) renew the ~~recognition~~ approval every two years at the time of registered nurse renewal; and
- 36 (3) either:

- 1 (A) submit evidence of initial certification and re-certification by a national credentialing body  
2 at the time such occurs in order to maintain Board recognition, consistent with Paragraphs  
3 (b) and (h) of this Rule; or  
4 (B) if subject to Part (b)(4)(B) of this Rule, submit evidence of at least 1,000 hours of practice  
5 and 75 contact hours of continuing education every five years.

6 (h) The Board shall approve those national credentialing bodies offering certification and recertification in a clinical  
7 nursing specialty that have established the following minimum requirements:

- 8 (1) ~~unrestricted~~ active unencumbered licensure as a registered nurse; and  
9 (2) certification as a clinical nurse specialist that is limited to applicant prepared with a master's or  
10 doctoral degree or a post-master's certificate.

11  
12 *History Note: Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21(d)(4); 90-171.23(b); 90-171.27(b); 90-*  
13 *171.42(b);*  
14 *Eff. April 1, 1996;*  
15 *Amended Eff. January 1, 2015; April 1, 2008; January 1, 2007; November 1, 2005; August 1, 2005;*  
16 *April 1, 2003;*  
17 *Readopted Eff. January 1, ~~2019~~ 2019;*  
18 *Amended Eff. November 1, 2020.*



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0323

**DEADLINE FOR RECEIPT: October 7, 2020**

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

*Please update your introductory statement for publication in the Code. If you make changes in response to the technical change requests, it will read: "21 NCAC 36 .0323 is amended with changes as published in 35:02 NCR 116 as follows:" A formatting example for an amendment with changes post-publication is available [here](#).*

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: September 23, 2020

21 NCAC 36 .0323 is proposed to be amended as follows:

**21 NCAC 36 .0323            RECORDS AND REPORTS**

(a) The controlling institution's publications describing the nursing program shall be current and accurate.

(b) The controlling institution shall maintain a system for maintaining official records. Current and permanent student records shall be stored in a secure manner that prevents physical damage and unauthorized access.

(c) Both permanent and current records shall be available for review by Board staff.

(d) The official permanent record for each graduate shall include documentation of graduation from the program and a transcript of the individual's achievement in the program.

(e) The record for each currently enrolled student shall contain up-to-date and complete information, including the following:

(1) documentation of admission criteria met by the student;

(2) documentation of high school graduation, high school equivalent, or earned credits from post-secondary institution approved pursuant to G.S. 90-171.38(a); and

(3) a transcript of credit hours achieved in the classroom, laboratory, and clinical instruction for each course that reflects progression consistent with program policies.

(f) The nursing program shall file with the Board records, data, and reports in order to furnish information concerning operation of the program as prescribed in the rules in this Section, including:

(1) an annual report to be filed with the Board by November 1 of each year;

(2) a program description report for non-accredited programs filed with the Board at least 30 days prior to a scheduled review by the Board; and

(3) notification by institution administration of any change of the nursing program director. This notification shall include a curriculum vitae for the new director and shall be submitted no later than 10 business days before the effective date of the change.

(g) All communications relevant to accreditation shall be submitted to the Board at the same time that the communications are submitted to the accrediting body.

(h) The Board may require additional records and reports for review at any time to provide evidence and substantiate compliance with the rules in this Section by a program and its controlling institutions.

(i) The part of the application for licensure by examination to be submitted to the Board by the nursing program shall include a statement verifying satisfactory completion of all requirements for ~~graduation~~ program completion and the date of completion. The nursing program director shall verify completion of requirements to the Board no later than one month following completion of the Board-approved nursing program.

*History Note:*     *Authority G.S. 90-171.23(b)(8); 90-171.38;*

*Eff. February 1, 1976;*

*Amended Eff. December 1, 2016; January 1, 2015; December 1, 2005; January 1, 2004; June 1, 1992; January 1, 1989; January 1, 1984;*

- 1                    *Readopted Eff. January 1, ~~2019~~ 2019;*
- 2                    *Amended Eff. November 1, 2020.*