

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0109

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Lin 13 – replace “less” with “fewer”

Line 16 – add “of Board member position” after “category”

Lines 22-26 – retain the subparagraph format – it is clearer than listing in a single paragraph

Line 30 – replace “applies” with “shall apply”

Line 33 – replace “which” with “that” twice

Line 36 – delete the comma

Page 2, line 2 – delete both commas and add “or” after “a hospital”

Page 2, line 4 – add a comma after “midwife”

Page 2, line 6 – add a comma after practice and within the quotation mark, thus: practice,”

Page 2, line 18 – delete Paragraph (j) entirely

Page 2, lines 21-22 – consider revising as follows: “be verified by matching the license number of each nurse who voted with the database of licensed nurses maintained by the Board” if that is what is meant.

Page 2, line 23 – delete “A plurality vote shall elect.”

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

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0109 is readopted, **with changes**, as published in 33:1 NCR 10-11 as follows:

2
3 **21 NCAC 36 .0109 SELECTION AND QUALIFICATIONS OF NURSE MEMBERS**

4 (a) Vacancies in nurse member positions on the Board that are scheduled to occur during the next year shall be
5 announced in the last issue of the ~~North Carolina Board of Nursing~~ Board's "Bulletin" for the calendar year, which
6 shall be ~~mailed to the address on record for each North Carolina licensed nurse and~~ posted on the Board's website at
7 www.ncbon.com. The "Bulletin" and Board's website at www.ncbon.com shall include a petition form for nominating
8 a nurse to the Board and information on filing the petition with the Board.

9 (b) Each petition shall be checked with the records of the Board to validate that the ~~nominee candidate~~ and each
10 petitioner holds ~~a current~~ an active unencumbered North Carolina license to practice nursing. If the ~~nominee candidate~~
11 is does not ~~currently licensed~~ hold an active unencumbered license, the petition shall be declared invalid. If any
12 petitioners ~~are do not currently licensed~~ hold an active unencumbered licenses, and this decreases the number of
13 petitioners to less than 10, the petition shall be declared invalid.

14 (c) ~~On forms~~ In a format provided by the Board, each ~~nominee candidate shall~~ shall submit a packet with the
15 following information:

- 16 (1) indicate the category for which the ~~nominee candidate~~ is seeking election;
- 17 (2) attest to meeting the qualifications specified in G.S. 90-171.21(d);
- 18 (3) provide ~~written~~ permission to be listed on the ~~ballot; slate;~~ and
- 19 (4) complete the Application for Boards and Commissions in accordance with ~~Governor Perdue's~~
20 Executive Order 55: 55 Enhanced Disclosures from Applicants to Boards and Commissions.

21 ~~The forms must~~ candidate packet shall be received by the Board ~~or postmarked~~ on or before April 15. ~~15 in one or~~
22 more of the following ways by electronic submission, mailed copy with postmarked envelope, or in-person received
23 by Board staff during normal business hours.

- 24 ~~[(1) — electronic submission;~~
- 25 ~~(2) — mailed copy with postmarked envelope; or~~
- 26 ~~(3) — in-person received by Board staff during normal business hours.]~~

27 (d) Minimum on-going employment requirements for the registered nurse or licensed practical nurse member shall
28 include continuous employment equal to or greater than 50% of a full-time position that meets the criteria for the
29 specified Board member position.

30 (e) This Paragraph applies in determining qualifications for registered nurse categories of membership:

- 31 (1) Nurse Educator includes any nurse who teaches in or directs a ~~Board-approved~~ Board-approved
32 nursing program in the specific category as outlined in G.S. 90-171.21(d).
- 33 (2) Hospital is defined as any facility which has an organized medical staff and which is designed, used,
34 and primarily operated to provide health care, diagnostic and therapeutic services, and continuous
35 nursing services to inpatients, but excludes nursing homes and adult care homes.
- 36 (3) A hospital system is defined as a multihospital system, or a single diversified hospital system that
37 includes a hospital as defined in Subparagraph (e)(2) of this Rule plus non-hospital ~~preacute pre-~~
38 acute and postacute post-acute client services.

1 (4) A nurse accountable for the administration of nursing services shall be the chief nurse executive of
2 a hospital, hospital system, or the director of nursing services for a service division that includes
3 inpatient care within a hospital or hospital system.

4 (5) A nurse practitioner, nurse anesthetist, nurse midwife or clinical nurse specialist includes any
5 advanced practice registered nurse who meets the criteria specified in G.S. 90-171.21(d)(4).

6 (f) The term "nursing practice" when used in determining qualifications for registered or licensed practical nurse
7 categories of membership, means any position for which the holder of the position is required to hold ~~a current~~ an
8 active license to practice nursing at the appropriate licensure level for each category.

9 (g) A ~~nominee~~ candidate shall be listed in only one category on the ~~ballot~~ slate.

10 (h) Separate slates shall be prepared for election of registered nurse ~~nominees~~ candidates and for election of licensed
11 practical nurse ~~nominees~~ candidates. ~~Nominees~~ Candidates shall be listed in random order on the slate for licensed
12 practical nurse ~~nominees~~ candidates and within the categories for registered nurse ~~nominees~~ candidates. Slates shall
13 be published in the "Bulletin" and posted ~~to~~ on the ~~Board~~ Board's website at www.ncbon.com following the Spring
14 Board meeting and shall be accompanied by biographical data on ~~nominees~~ candidates and a ~~passport type~~
15 photograph.

16 (i) The procedure for voting shall be identified in the "Bulletin" and posted on the Board's website at www.ncbon.com
17 following the Spring Board meeting.

18 (j) The Board of Nursing may contract with a computer or other service to receive the votes and tabulate the results.

19 (k) The tabulation of results and verification of the ~~tabulation~~ of votes shall ~~include the following~~:

20 (1) ~~The certificate license number shall be provided for each individual voting; and~~

21 (2) ~~The certificate license number shall be verified by~~ matched matching each license number with the
22 database from the Board.

23 (l) A plurality vote shall elect. If more than one ~~person~~ candidate is to be elected in a category, the plurality vote
24 shall be in descending order until the required number has been elected. In any election, if there is a tie vote between
25 ~~nominees~~ candidates, the tie shall be resolved by a draw from the names of ~~nominees~~ candidates who have tied.

26 (m) The results of an election shall be recorded in the minutes of the next regular meeting of the Board of Nursing
27 following the election and shall include at least the following:

28 (1) the number of nurses eligible to vote;

29 (2) the number of votes cast; and

30 (3) the number of votes cast for each ~~person~~ candidate on the slate.

31 (n) The results of the election shall be ~~forwarded~~ reported to the Governor ~~and the Governor shall commission those~~
32 ~~elected to the Board of Nursing~~ and in the annual report as directed in G.S. 93B-2 and 138A.

33 (o) All petitions to nominate a nurse, signed consents to appear on the slate, verifications of qualifications, and copies
34 of the computerized validation and tabulation shall be retained for a period of ~~three months~~ four years following the
35 close of an election.

36
37 *History Note: Authority G.S. 90-171.21; 90-171.23(b);*

1 *Eff. May 1, 1982;*
2 *Amended Eff. August 1, 1998; January 1, 1996; June 1, 1992; March 1, 1990; April 1, 1989;*
3 *Temporary Amendment Eff. July 2, 2001;*
4 *Amended Eff. December 1, 2010; November 1, 2008; January 1, 2004; August 1, ~~2002, 2002;~~*
5 *Re-adopted Eff. [November 1, 2018] December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0112

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 9 – replace “in the designated area” with “that meets the criteria”

Line 10 – replace “vacant. Provided,” with “vacant; provided,”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0112 is readopted, **with changes**, as published in 33:1 NCR 11 as follows:

2
3 21 NCAC 36 .0112 DETERMINATION OF VACANCY

4 (a) A Board member, with the exception of the At-Large Registered Nurse, shall notify the Executive Director
5 immediately upon change of employment.

6 ~~(a)(b) Except for the RN At Large Member, should a licensed Licensed nurse member members of the Board Board,~~
7 with the exception of the At-Large Registered Nurse, who cease to meet the employment criteria as defined in G.S.
8 90-171.21(d) and Rule .0109 Paragraphs (d) and (e) of this ~~Section, the member~~ Section shall have 60 days to resume
9 employment in the designated area. If employment criteria for the specified area are not met within 60 days, the seat
10 shall be declared vacant. Provided, however, that if such a change in employment for the specified category of Board
11 member occurs within 18 months of the end of the member's term, such member may continue to serve until the end
12 of the term.

13 ~~(b)(c)~~ (c) If at any time a registered nurse ~~member~~ member, with the exception of the At-Large Registered Nurse, no
14 longer meets the eligibility requirements listed in G.S. 90-171.21(d)(1)(a) and (a1), such member shall no longer
15 continue to serve and the position shall be declared vacant.

16 ~~(c)(d)~~ (d) If at any time a licensed practical nurse member no longer meets the eligibility requirements listed in G.S. 90-
17 171.21(d)(2)(a) and (a1), such member shall no longer continue to serve and the position shall be declared vacant.

18 ~~(d) Any vacancy of an unexpired term shall be filled according to G.S. 90-171.21(c).~~

19
20 *History Note: Authority G.S. 90-171.21(c); 90-171.23(b);*

21 *Eff. May 1, 1988;*

22 *Amended Eff. November 1, 2008; January 1, 2004; August 1, 2002; March 1, 1990; May 1, 1989.*

23 **1989.**

24 **Readopted Eff. [November 1, 2018.] December 1, 2018.**

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0113

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 5 – replace “when” with “if”

Line 8 – replace “specified area of practice in which they seek to serve” with “applicable practice area”

Line 11 – replace “specified area of practice in which they seek to serve” with “applicable practice area”

Line 13 – replace “engaging in the specified area of practice” with “employment in the applicable practice area”

Line 15 – delete “any”

Lines 16 and 17 – replace “specified area of practice” with “applicable practice area”

Line 18 – replace “specified nurse member category” with “applicable practice area”

Line 21 – replace “must” with “shall”

Lines 21-22 – replace “specified area of practice that qualifies the member for the position” with “applicable practice area”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0113 is readopted, **with changes**, as published in 33:1 NCR 11 as follows:

2
3 21 NCAC 36 .0113 DETERMINATION OF QUALIFICATIONS

4 (a) For purposes of G.S. ~~90-171.21~~ 90-171.21 and Rule .0109(d) and (e) of this Section, the Board shall ~~determine~~
5 ~~whether a person meets the employment requirements by examining~~ consider the following ~~factors~~: factors when
6 determining whether a candidate is qualified to run for election:

- 7 (1) whether the licensee is presently employed equal to or greater than 50% of a full-time ~~position;~~
8 position in the specified area of practice in which they seek to serve;
9 (2) ~~the number of days during the preceding three years devoted to practice in the specified activity that~~
10 ~~would qualify the licensee for election in that category;~~ whether the licensee has been employed
11 equal to or greater than 50% of a full-time position in the area of practice in which they seek to serve
12 for the preceding three years;
13 (3) the duration of any periods of interruption of engaging in the specified ~~activity~~ area of practice
14 during the preceding three years and the reasons for any such interruptions;
15 (4) job descriptions, contracts, and any other relevant evidence concerning the time, effort, and
16 education devoted to the specified ~~activity;~~ area of practice; and
17 (5) whether engagement in the specified ~~activity~~ area of practice is or has been for compensation, and
18 whether income ~~from the specified activity~~ derived therefrom meets the eligibility requirements for
19 the specified nurse member category.

20 (b) While serving on the Board, currently seated Board members, with the exception of the At-Large Registered Nurse,
21 must maintain employment equal to or greater than 50% of a full-time position in the specified area of practice that
22 qualified the member for the position.

23
24 *History Note* Authority G.S. 90-171.21(d); 90-171.23(b)(2);
25 Eff. May 1, 1988;
26 Amended Eff. January 1, 2004; August 1, 2002; May 1, ~~1989-1989;~~
27 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0120

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 5 – add “licensed to practice in this State” if that is what is meant.

Line 11 – replace “Education approved” with “Education-approved”

Line 16 – add a comma after “nurse-midwife”

Line 20 – delete “in”

Line 21 – replace “where the” with “in which a”

Line 23 – delete “the” before “nursing”

Line 26 – delete “the” before “on-going”

Line 32 – replace “.0223 Subparagraph (a)(2)” with “.0223(a)(2)”

Line 33 – replace “which the” with “which a”

Page 2, lines 1-2 – replace “selected” with “particular” twice

Page 2, line 4 – s debriefing a continuing education activity” If so, replace “activity” with this term. If not, replace “activity” with “organized learning experience” if this is accurate.

Page 2, line 5 – delete the comma

Page 2, line 9 – delete “those”

Page 2, line 9 – replace “practice that include” with “practice, including” if the list that follows is not exclusive.

Page 2, line 20 – consider revising as follows: “experience in nursing, assisting the student in transitioning to an entry-level nursing”

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 21 – delete “There is no specific setting requirement.”

Page 2, line 23 – add “the” before “status” and replace “newly established” with “newly-established”

Page 2, line 25 – move the following sentence out of the definitions rule and into another, appropriate rule: “Programs on initial approval may admit students.”

Page 2, line 32 – add a comma after “registered nurse”

Page 2, lines 35-36 – delete the sentence that begins “The number reflects...”

Page 3, line 3 – replace “place. It is based” with “place, based”

Page 3, line 5 – do you mean any “credentialing body (see line 10)? If not, which ones?

Page 3, line 10 – replace the comma with “that is”

Page 3, line 12 – add “an” before “academic”

Line 16 – consider deleting Item (39).

Page 3, line 20 – delete the comma after “seeking”

Page 3, line 20 – add “the student in” before “a faculty”

Page 3, lines 20-21 – replace “faculty directed” with “faculty-directed”

Page 3, line 25 – replace “state law and regulations” with “State law, regulations, and rules”

Page 3, line 28 – replace “ “Program Types” ” with “types of programs”

Page 3, line 30 – replace “provides” with “provide”

Page 3, lines 33-34 – is the sentence that begins “For this program” part of the definition or a restrict imposed by rule” Is the sentence necessary?

Page 3, line 36 – replace “provides” with “provide”

Page 4, lines 2-3 – is the sentence that begins “For this program” part of the definition or a restrict imposed by rule” Is the sentence necessary?

Page 4, line 4 – replace “prepares” with “components for the practical nurse diploma prepare”

Page 4, line 9 – is the sentence that begins “For this program” part of the definition or a restrict imposed by rule” Is the sentence necessary?

Page 4, line 13 – replace “interview(s)” and “conference(s)” with “interviews” and “conferences”

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Page 4, lines 14-15 – consider deleting Item (46).

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0120 is amended, **with changes**, as published in 33:1 NCR 11-14 as follows:

2
3 **21 NCAC 36 .0120 DEFINITIONS**

4 The following definitions apply throughout this chapter unless the context indicates otherwise:

- 5 (1) "Administrative Law Counsel" means an attorney whom the Board of Nursing has retained to
6 serve as procedural officer for contested cases.
- 7 (2) "Academic term" means one semester of a school year.
- 8 (3) "Accountability/Responsibility" means being answerable for action or inaction of self, and of
9 others in the context of delegation or assignment.
- 10 (4) "Accredited institution" means an institution accredited by a United States Department of
11 Education approved institutional accrediting body.
- 12 (5) "Active Practice" means activities that are performed, either for compensation or without
13 compensation, consistent with the scope of practice for each level of licensure as defined
14 in G.S. 90-171.20(4), (7), and (8).
- 15 (6) "Advanced Practice Registered Nurse (APRN)" means a nurse practitioner, nurse anesthetist,
16 nurse-midwife or clinical nurse specialist.
- 17 (7) "Assigning" means designating responsibility for implementation of a specific activity or set of
18 activities to ~~a person~~ an individual licensed and competent to perform such activities.
- 19 (8) "Bulletin" means the official publication of the Board.
- 20 ~~(8)(9)~~ (9) "Clinical experience" means application of nursing knowledge in demonstrating clinical judgment
21 in a current or evolving practice setting where the student provides care to clients under the
22 supervision of faculty or a preceptor.
- 23 ~~(9)(10)~~ (10) "Clinical judgment" means the application of the nursing knowledge, skills, abilities, and experience
24 in making decisions about client care.
- 25 ~~(10)(11)~~ (11) "Competent" means having the knowledge, skills, and ability to safely perform an activity or role.
- 26 ~~(11)(12)~~ (12) "Continuing Competence" means the on-going acquisition and application of knowledge and the
27 decision-making, psychomotor, and interpersonal skills expected of the licensed nurse resulting in
28 nursing care that contributes to the health and welfare of clients served.
- 29 ~~(12)(13)~~ (13) "Contact Hour" means 60 minutes of an organized learning experience.
- 30 ~~(13)(14)~~ (14) "Continuing Education Activity" means a planned, organized learning experience that is related to
31 the practice of nursing or contributes to the competency of a nurse as outlined in 21 NCAC 36
32 .0223 Subparagraph (a)(2).
- 33 ~~(14)(15)~~ (15) "Controlling institution" means the degree-granting organization or hospital under which the
34 nursing education program is operating.
- 35 ~~(15)(16)~~ (16) "Curriculum" means an organized system of teaching and learning activities directed toward the
36 achievement of specified learning objectives and outcomes.

- 1 ~~(16)~~(17)"Delegation" means transferring to a competent individual the authority to perform a selected
2 nursing activity in a selected situation. The nurse retains accountability/responsibility for the
3 delegation.
- 4 ~~(17)~~(18)"Debriefing" means an activity that follows a clinical or simulated experience and is led by a
5 trained faculty facilitator. Students' reflective thinking is encouraged, and feedback is provided
6 regarding the students' performance during discussion of various aspects of the completed
7 experiences.
- 8 (19) "DHSR" means Division of Health Service Regulation.
- 9 ~~(18)~~(20)"Dimensions of Practice" means those aspects of nursing practice that include professional
10 responsibility, knowledge-based practice, ethical and legal practice, and collaborating with others,
11 consistent with G.S. 90-171.20(4), (7), and (8).
- 12 ~~(19)~~(21)"Distance education" means teaching and learning strategies used to meet the learning needs of
13 students when the students and faculty are not in the same location.
- 14 ~~(20)~~(22)"External standardized examination" means a commercially available standardized predictive test
15 that provides individual student scores that are linked to a probability of passing the NCLEX™
16 examination.
- 17 ~~(21)~~(23)"Faculty directed clinical practice" means clinical experiences provided under the
18 accountability/responsibility and direction of nursing program faculty.
- 19 ~~(22)~~(24)"Focused client care experience" means a clinical experience that emulates an entry-level work
20 experience in nursing. The intent is to assist the student to transition to an entry-level nursing
21 practice. There is no specific setting requirement. Supervision may be by faculty and preceptor
22 dyad or direct faculty supervision.
- 23 (25) "Initial Approval" means status assigned to a newly established nursing education program
24 following submission of a complete application and documented evidence of compliance with
25 Section .0300 of this Chapter. Programs on initial approval may admit students.
- 26 ~~(23)~~(26)"Interdisciplinary faculty" means faculty from professions other than nursing.
- 27 ~~(24)~~(27)"Interdisciplinary team" means all individuals involved in providing a client's care who cooperate,
28 collaborate, communicate, and integrate care to ensure that care is continuous and reliable.
- 29 ~~(25)~~(28)"Learning resources" means materials that faculty use to assist students in meeting the expectations
30 for learning defined by the curriculum.
- 31 ~~(26)~~(29)"Level of Licensure" means practice of nursing by either a ~~Licensed Practical Nurse~~ licensed
32 practical nurse or a ~~Registered Nurse~~ registered nurse as defined in G.S. 90-171.20(7) and (8).
- 33 ~~(27)~~(30)"Level of student" means the point in the program to which the student has progressed.
- 34 ~~(28)~~(31)"Maximum enrollment" means the total number of pre-licensure students that can be enrolled in the
35 nursing program at any one time. The number reflects the capacity of the nursing program based
36 on demonstrated resources sufficient to implement the curriculum.

1 ~~(29)~~(32)"Methods of Instruction" means the planned process through which teacher and student interact
2 with selected environment and content so that the response of the student gives evidence that
3 learning has taken place. It is based upon stated course objectives and outcomes for learning
4 experiences in classroom, laboratory, ~~simulation~~ simulation, and clinical settings.

5 ~~(30)~~(33)"National Credentialing Body" means a credentialing body that offers certification or re-
6 certification in the licensed nurse's or Advanced Practice Registered Nurse's specialty area of
7 practice.

8 ~~(31)~~(34)"NCLEX-PN™" means the National Council Licensure Examinations for Practical Nurses.

9 ~~(32)~~(35)"NCLEX-RN™" means the National Council Licensure Examinations for Registered Nurses.

10 ~~(33)~~(36)"Nursing Accreditation body" means a national nursing accrediting body, recognized by the United
11 States Department of Education.

12 ~~(34)~~(37)"Nursing program faculty" means individuals employed full or part-time by academic institution
13 responsible for developing, implementing, ~~evaluating~~ evaluating, and updating nursing curricula.

14 ~~(35)~~(38)"Nursing project" means a project or research study of a topic related to nursing practice that
15 includes a problem statement, objectives, ~~methodology~~ methodology, and summary of findings.

16 ~~(36)~~(39)"Participating in" means to have a part in or contribute to the elements of the nursing process.

17 ~~(37)~~(40)"Pattern of noncompliance" means episodes of recurring non-compliance with one or more Rules
18 in Section .0300.

19 ~~(38)~~(41)"Preceptor" means a registered nurse at or above the level of licensure that an assigned student is
20 seeking, who may serve as a teacher, mentor, role ~~model~~ model, and supervisor for a faculty
21 directed clinical experience.

22 ~~(39)~~(42)"Prescribing Authority" means the legal permission granted by the Board of Nursing and Medical
23 Board for the nurse practitioner and nurse midwife to procure and prescribe legend and controlled
24 pharmacological agents and devices to a client in compliance with Board of Nursing rules and
25 other applicable federal and state law and regulations.

26 ~~(40)~~(43)"Program Closure" means to cease operation of a nursing program.

27 ~~(41)~~(44)"Program" means a course of study that prepares an individual to function as an entry-level
28 practitioner of nursing. The three "Program Types" are:

29 (a) **BSN Bachelor of Science Degree in Nursing (BSN)** - Curriculum components for
30 ~~Bachelor of Science BSN in Nursing~~ provides for the attainment of knowledge and skill
31 sets in the current practice in nursing, nursing theory, nursing research, community and
32 public health, health care policy, health care delivery and finance, communications,
33 therapeutic ~~interventions~~ interventions, and current trends in health care. For this program
34 type, the client is the individual, family, group, and community.

35 (b) Associate Degree in Nursing (ADN)/Diploma in Registered Nursing - Curriculum
36 components for the ADN/Diploma in Registered Nursing provides for the attainment of
37 knowledge and skill sets in the current practice in nursing, community concepts, health

1 care delivery, communications, therapeutic ~~interventions~~ interventions, and current trends
2 in health care. For this program type, client is the individual, group of individuals, and
3 family.

4 (c) Practical Nurse Diploma - Curriculum prepares for providing direct nursing care under
5 the supervision of a registered nurse or other health care provider as defined by the
6 Nursing Practice Act. Curriculum components provide for the attainment of knowledge
7 and skill sets in the current practice of practical nursing, communications, therapeutic
8 interventions, including pharmacology, growth and development, and current trends in
9 health care. For this program type client is the individual or group of individuals.

10 ~~(42)~~(45)"Review" means collecting and analyzing information to assess compliance with Section .0300 of
11 this Chapter. Information may be collected by multiple methods, including review of written
12 reports and materials, on-site observations, review of documents, and in-person or telephone
13 interview(s) and conference(s).

14 ~~(43)~~(46)"Rescind Approval" means a Board action that removes the approval status previously granted by
15 the Board.

16 ~~(44)~~(47)"Self-Assessment" means the process whereby an individual reviews ~~her or his~~ their own nursing
17 practice and identifies the knowledge and skills possessed as well as those skills to be
18 strengthened or acquired.

19 ~~(45)~~(48)"Simulation" means a technique, not a technology, to replace or amplify clinical experiences with
20 guided experiences that evoke or replicate substantial aspects of the real world of nursing practice
21 in a fully interactive manner.

22 ~~(46)~~(49)"Specialty" means a broad, population-based focus of study encompassing the common health-
23 related problems of a particular group of patients and the likely co-morbidities, interventions, and
24 responses to those problems.

25 ~~(47)~~(50)"Supervision" means the provision of guidance or direction, evaluation, and follow-up by a
26 licensed nurse to accomplish an assigned or delegated nursing activity or set of activities.

27 ~~(48)~~(51)"Survey" means an on-site visit for the purpose of gathering data in relation to reviewing a nursing
28 program's compliance with Section .0300 of this Chapter.

29
30 *History Note: Authority G.S. 90-171.23; 90-171.38;*
31 *Eff. April 1, 2003;*
32 *Amended Eff. November 1, 2018; December 1, 2018; June 1, 2017; December 1, 2016; July 1,*
33 *2012; November 1, 2008; May 1, 2006; December 1, 2005; August 1, 2005;*
34 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
35 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0201

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 9 – what statute authorizes the Board to require an attestation under oath or affirmation for license renewal?

Line 14 – add a comma after “Board”

Line 15 – add a comma after “renewal”

Line 20 – replace “is” with “shall be”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0201 is amended, **with changes**, as published in 33:1 NCR 14 as follows:

2
3 21 NCAC 36 .0201 **REGULAR BIENNIAL RENEWAL**

4 (a) ~~Renewal notices~~ Each registered nurse or licensed practical nurse shall biennially renew their ~~be sent no less~~
5 ~~than 60 days prior to expiration date of a license to all registrants whose licenses are due for biennial renewal. The~~
6 ~~notices will be mailed to each eligible registrant's address as it appears in the records of the Board. A license is~~
7 ~~issued for the following biennium when:~~ with the Board no later than the last day of the applicant's birth month by:

8 (1) ~~all required information is submitted as requested on the application form; and~~ submitting a
9 completed application for renewal, attesting under oath or affirmation that the information on the
10 application is true and complete, and authorizing the release to the Board of all information
11 pertaining to the application. Applications for renewal are posted on the Board's website at
12 www.ncbon.com;

13 (2) ~~attesting to completion of continuing competence requirements and submitting evidence of~~
14 ~~completion if requested by the Board as specified in Rule .0232(b) of this Section; and~~

15 (2)(3) ~~all payment of required fees are received.~~ submitting the fee for licensure renewal as established in
16 90-171.27(b).

17 (b) It shall be the duty of each ~~registrant~~ applicant to keep the Board informed of a current mailing ~~address.~~ address,
18 telephone number, and email address.

19 (e) ~~Renewal applications must be postmarked on or before the date the current license expires.~~

20 (d)(c) A member of the United States Armed Services is exempt from compliance if on active duty and to whom
21 G.S. 105-249.2 grants an extension of time to file a tax return.

22
23 *History Note: Authority G.S. 90-171.29; 90-171.23(b); 90-171.34; 90-171.37; 93B-15; 105-249.2;*

24 *Eff. February 1, 1976;*

25 *Amended Eff. [November 1, 2018;] December 1, 2018; January 1, 2011; December 1, 2008; April*
26 *1, 1989; May 1, 1982;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
28 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0202

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “may” with “shall” and “provided” with “if”

Line 12 – what statute authorizes the Board to require an attestation under oath or affirmation for license reinstatement?

Line 17 – replace “conviction(s)” with “convictions”

Line 18 – replace “any” with “all”

Line 18 – replace “report” and “document” with “reports” and “documents”

Line 19 – replace “crime(s)” with “crimes”

Line 19 – replace “may” with “shall”

Lines 22 and 34 – what does “attest to self-certification” mean? Do you really mean that the applicant attests to his or her own mental and physical health?

Line 24 – add a comma after “fee”

Line 24 – delete “and”

Line 26 – add a comma after “Board”

Line 27 – add “and” after the semicolon

Line 30 – delete “the Board determines in its discretion that”

Line 32 – replace “The” with “An”

Lines 37 – page 2, line 3 – retain the parts formatting – it is clearer.

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 2 – replace “provided” with “if”

Page 2, line 4 – replace “the applicant” with “an applicant”

Page 2, line 4 – add “for an active license” after “applicant”

Page 2, line 5 – delete “in order to receive an active license”

Page 2, line 11 – delete the comma and replace “provided” with “if”

Page 2, line 16 – add a comma after “fee

Page 2, line 17 – replace “the applicant” with “an applicant”

Page 2, lines 19 and 21 – replace “The” with “An”

Page 2, line 20 – replace “once” with “after”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0202 is readopted, **with changes**, as published in 33:1 NCR 14-15 as follows:

2
3 **21 NCAC 36 .0202 INACTIVE AND RETIRED STATUS**

4 (a) A licensee who submits a request for inactive status may be granted such status by the Board provided the licensee:

- 5 (1) holds an active unencumbered license issued by the Board; and
6 (2) is not currently the subject of an investigation by the Board for possible
7 violation of the Nursing Practice Act or rules promulgated thereunder.

8 ~~(a)(b) A registrant~~ An applicant whose licensure status is inactive or retired and who desires to resume the practice
9 of nursing in North Carolina ~~shall be removed from inactive status and shall obtain a current license. To this end the~~
10 ~~registrant~~ shall:

- 11 (1) ~~submit evidence of unencumbered license in all jurisdictions in which a license is or has ever been~~
12 ~~held; a completed application for reinstatement, attesting under oath or affirmation that the~~
13 ~~information on the application is true and complete, and authorizing the release to the Board of all~~
14 ~~information pertaining to the application. Application is posted on the Board's website at~~
15 ~~www.ncbon.com;~~
16 (2) ~~submit evidence of completion of all~~ have no pending court conditions resulting from as a result of
17 any misdemeanor or felony conviction(s); conviction(s). The applicant shall provide a written
18 explanation and any investigative report or court document evidencing the circumstances of the
19 crime(s) if requested by the Board. The Board may use these documents when determining if a
20 license should be denied pursuant to G.S. 90-171.48 and 90-171.37;
21 (3) ~~submit evidence showing that the nurse is safe and competent to re-enter the practice of nursing;~~
22 ~~attest to self-certification that the applicant is of mental and physical health necessary to competently~~
23 ~~practice nursing;~~
24 (4) ~~submit the current licensure application fee for renewal; as established in G.S. 90-171.27(b); and~~
25 (5) ~~attest to having completed Continuing Competence~~ continuing competence requirements and ~~be~~
26 ~~prepared to submit evidence of completion if requested by the Board as specified in Rule .0232(b)~~
27 ~~of this Section. Section;~~
28 (6) complete a criminal background check in accordance with G.S. 90-171.48.

29 In the event any of the above-required information indicates a concern about the applicant's qualifications, an applicant
30 may be required to appear in-person for an interview with the Board if the Board determines in its discretion that more
31 information is needed to evaluate the application.

32 ~~(b)(c) The registrant~~ applicant whose license has been inactive or retired for a period of five years or more shall also
33 submit:

- 34 (1) self-certification that the ~~registrant~~ applicant is of mental and physical health necessary to
35 competently practice ~~nursing; nursing; and~~
36 (2) evidence of ~~competency to resume the practice of nursing through:~~
37 (A) satisfactory completion of a Board-approved refresher course; or

1 (B) — ~~proof of an active license in another jurisdiction within the last five years.~~ years or an
2 active license in another country within the last five years provided the individual was
3 originally licensed by national licensure examination in the United States.

4 ~~(e)(d)~~ If a refresher course is required, the ~~registrant~~ applicant shall apply for ~~reactivation~~ reinstatement of license
5 within one year of completing the refresher course in order to receive ~~a current~~ an active license. The application for
6 ~~reactivation~~ reinstatement shall include verification from the provider of the refresher course that the ~~registrant~~
7 applicant has satisfactorily met both theory and clinical objectives.

8 ~~(d) The Board shall decline to reactivate a license if it is not satisfied as to the applicant's competency to practice~~
9 ~~nursing.~~

10 (e) ~~A registrant~~ An applicant who has retired from the practice of nursing may request and be granted by the Board
11 retired nurse status, provided the ~~registrant:~~ applicant:

12 (1) holds ~~a current~~ an active unencumbered license issued by the ~~North Carolina Board of Nursing;~~
13 Board;

14 (2) is not currently the subject of an investigation by ~~this~~ the Board for ~~possible~~ alleged violation of the
15 Nursing Practice Act; and

16 (3) ~~pay~~ pays the application fee pursuant to G.S. 90-171.27(b).

17 (f) While remaining on retired status, the ~~registrant~~ applicant shall not practice nursing in North Carolina and shall
18 not be subject to payment of the license renewal fee.

19 (g) The ~~registrant~~ applicant may use the title ~~Retired~~ “Retired Registered Nurse Nurse” or ~~Retired~~ “Retired Licensed
20 Practical Nurse Nurse” once issued retired status.

21 (h) The ~~registrant~~ applicant whose licensure status is retired shall not be eligible to vote in Board elections.

22 ~~(i) A registrant whose licensure status is retired and who desires to resume the practice of nursing shall apply for~~
23 ~~reinstatement of a license to practice nursing and meet the same reinstatement requirements for a nurse on inactive~~
24 ~~status as set forth in Paragraphs (b) – (e) of this Rule.~~

25 (i) Any license issued shall be issued for the remainder of the biennial period.

26
27 *History Note:* Authority G.S. 90-171.21; 90-171.23(b) 90-171.27(b);90-171.36; 90-171.36A; 90-171.37; 90-
28 171.43;

29 *Eff. February 1, 1976;*

30 *Legislative Objection [(g)] Lodged Eff. June 16, 1980;*

31 *Legislative Objection [(g)] Removed Eff. July 1, 1981;*

32 *Amended Eff. November 1, 2008; January 1, 2004; January 1, 1996; January 1, 1990; May 1, 1982;*

33 *January 1, ~~1980, 1980;~~*

34 *Readopted Eff. [November 1, 2018.] December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0203

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “The” with “An”

Line 6 – what statute authorizes the Board to require an attestation under oath or affirmation for license reinstatement?

Line 7 – delete the comma

Lines 9-10 – what about an applicant who once held out-of-state licenses, one of which is no longer active?

Line 12 – add a comma after “Board”

Line 13 – replace the period with a semicolon

Line 15 – replace “conviction(s)” with “convictions”

Line 15 – replace “Applicant” with “An applicant”

Line 16 – replace “any” with “all”

Line 16 – replace “report” with “reports”

Line 17 – replace “may” with “shall”

Lines 24 and 34 – what does “attest to self-certification” mean? Do you really mean that the applicant attests to his or her own mental and physical health?

Line 26 – add a comma after “fee”

Line 29 – delete “the Board determines in it discretion that”

Line 31 – replace “is” with “shall be”

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Line 33 – replace “The” with “An”

Page 2, line 1 – replace “the applicant” with “an applicant”

Page 2, line 1 – add “for an active license” after “applicant”

Page 2, line 2 – delete “in order to receive an active license”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0203 is readopted, **with changes**, as published in 33:1 NCR 15-16 as follows:

2
3 **21 NCAC 36 .0203 REINSTATEMENT OF ~~LAPSED~~ EXPIRED LICENSE**

4 (a) The ~~registrant~~ applicant whose license has ~~lapsed~~ expired and who desires reinstatement of that license shall:

- 5 (1) ~~furnish information required by these rules on forms provided by the Board; submit a completed~~
6 ~~application for reinstatement, attesting under oath or affirmation that the information on the~~
7 ~~application is true and complete, and authorizing the release to the Board of all information pertaining~~
8 ~~to the application. The Application for Reinstatement is posted on the Board's website at~~
9 ~~www.ncbon.com;~~
10 (2) ~~submit evidence of~~ have an active unencumbered license in all jurisdictions in which a license is or has
11 ever been held;
12 (3) attest to having completed ~~Continuing Competence~~ continuing competence requirements and ~~be~~
13 ~~prepared to~~ submit evidence of completion if requested by the Board as specified in ~~21 NCAC 36~~
14 ~~.0232(b)~~. Rule .0232(b) of this Section.
15 (4) ~~submit evidence of completion of all court conditions resulting from~~ have no pending court conditions
16 ~~as a result of~~ any misdemeanor or felony ~~conviction(s); conviction(s).~~ Applicant shall provide a
17 written explanation and any investigative report or court documents evidencing the circumstances of
18 the crime(s) if requested by the Board. The Board may use these documents when determining if a
19 license should be denied pursuant to G.S. 90-171.48 and G.S. 90-171.37;
20 (5) submit such other evidence that the Board may require according to these rules to determine whether
21 the license should be reinstated;
22 (6) ~~provide a statement of the reason for failure to apply for renewal prior to the deadline; and complete a~~
23 ~~criminal background check after license has been expired for 30 calendar days in accordance with G.S.~~
24 ~~90-171.48;~~
25 (7) ~~attest to self-certification that the applicant is of mental and physical health necessary to competently~~
26 ~~practice nursing; and~~
27 (7)(8) ~~submit payment of reinstatement and renewal fee.~~ the reinstatement fee as established in G.S. 90-
28 171.27(b).

29 In the event any of the above-required information indicates a concern about the applicant's qualifications, an applicant
30 may be required to appear in person for an interview with the Board if the Board determines in its discretion that more
31 information is needed to evaluate the application.

32 (b) A member of the United States Armed Services is exempt from payment of reinstatement fee if on active duty and to
33 whom G.S. 105-249.2 grants an extension of time to file a tax return.

34 (c) The ~~registrant~~ applicant whose license has lapsed for a period of five years or more shall also submit:

- 35 (1) ~~evidence of self-certification that the applicant is of mental and physical health necessary to~~
36 ~~competently practice nursing; and~~

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0207

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – add “the licensure of” after “verify”

Line 5 – do not capitalize “Board” or “Nursing”

Line 5 – replace “which” with “that”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0207 is amended, **with changes**, as published in 33:1 NCR 16 as follows:

2

3 21 NCAC 36 .0207 VERIFICATION TO ANOTHER STATE

4 The ~~North Carolina~~ Board of Nursing ~~will~~ shall verify a ~~registrant~~ licensee to another state ~~or country~~ upon receipt
5 of a request from the ~~registrant~~ licensee or another Board of ~~nursing~~ Nursing which is accompanied by information
6 properly identifying the ~~registrant~~ licensee and by the appropriate fee.

7

8 *History Note:* Authority G.S. 90-171.23(b)(3); 90-171.27(b);

9 *Eff. February 1, 1976;*

10 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; April 1, 1989;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
12 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0208

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – is the request required to be made on a form provided by the Board? If so, where can this form be obtained?

Line 6 – replace “This evidence may ...” with “A licensee may provide evidence such as the following:”

Lines 7-14 – do not capitalize anything other than “Social Security”

Line 16 – add “the” before “change”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0208 is amended, **with changes**, as published in 33:1 NCR 16 as follows:

2

3 **21 NCAC 36 .0208 CHANGE OF NAME AND CONTACT**

4 (a) In the event of a name or address change, the ~~registrant must~~ licensee shall submit a ~~written, signed~~ request for
5 and provide identifying data, including ~~certificate number and social security number.~~ evidence of name or address
6 change. This evidence may include, but is not limited to, the following:

7 (1) Marriage Certificate;

8 (2) Voter Registration Card;

9 (3) Social Security Card;

10 (4) Divorce document reflecting name change;

11 (5) Passport;

12 (6) Change of name certificate as issued by a court;

13 (7) Immigration document; and

14 (8) Driver's license.

15 (b) In the event of an address, email, or telephone change, the licensee shall submit the change online on the
16 Board's website at www.ncbon.com within 30 calendar days of change.

17

18 *History Note: Authority G.S. 90-171.23(b)(3); 90-171.27(b);*

19 *Eff. February 1, 1976;*

20 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; December 1, 2006; May 1, 1989; May 1,*
21 *1988; May 1, 1982;*

22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
23 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0211

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 6 – delete the comma

Line 10 – what about an applicant who once held out-of-state licenses, one of which is no longer active?

Line 11 – replace “conviction(s)” with “convictions”

Line 12 – replace “any” with “all”

Line 12 – replace “report” with “reports”

Line 13 – replace “crime(s)” with “crimes”

Line 13 – replace “may” with “shall”

Line 20 – add “and” after the semicolon

Line 28 – add commas after “program” and “Rules”

Line 31 – delete “preparation”

Line 34 – replace “agency(s)” with “agencies”

Line 35 – add a comma after “NCSBN” and delete “which is hereby”

Line 36 – delete the comma

Line 36 – replace “of the referenced materials” with “and editions”

Line 36 – where can the list be obtained, and at what cost?

Page 2, line 2 – on what basis will the Board determine what test is “acceptable”?

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 25 – what “testing service”?

Page 2, line 32 – what if the Board receives results that are unsatisfactory in less than one year after application?

Page 2, line 34 – replace the period with “and”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0211 is readopted, **with changes**, as published in 33:1 NCR 16-17 as follows:

2
3 21 NCAC 36 .0211 LICENSURE BY EXAMINATION

4 (a) To be eligible for licensure by examination, an applicant shall:

- 5 (1) submit a completed application for licensure, attesting under oath or affirmation that the information
6 on the application is true and complete, and authorizing the release to the Board of all information
7 pertaining to the application. Application for Examination is posted on the Board's website at
8 www.ncbon.com;
9 (2) submit the licensure application fee as established in G.S. 90-171.27(b);
10 (3) have an active unencumbered license in all jurisdictions in which a license is or has ever been held;
11 (4) have no pending court conditions as a result of any misdemeanor or felony conviction(s). The
12 applicant shall provide a written explanation and any investigative report or court documents
13 evidencing the circumstances of the crime(s) if requested by the Board. The Board may use these
14 documents when determining if a license should be denied pursuant to G.S. 90-171.48 and 90-171.37;
15 (5) submit a written explanation and all related documents if the nurse has ever been listed as a nurse aide
16 and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Board may take
17 these findings into consideration when determining if a license should be denied pursuant to G.S. 90-
18 171.37. In the event findings are pending, the Board may withhold taking any action until the
19 investigation is completed;
20 (6) complete a criminal background check in accordance with G.S. 90-171.48;
21 (7) apply to take and pass the National Council Licensure Examination (NCLEX™).

22 In the event any of the above required information indicates a concern about the applicant's qualifications, an applicant
23 may be required to appear in person for an interview with the Board if the Board determines in its discretion that more
24 information is needed to evaluate the application.

25 ~~(a)~~(b) An applicant shall meet the educational qualifications to take the examination for licensure to practice as a
26 registered nurse or licensed practical nurse by:

- 27 (1) graduating from a National Council State Board of Nursing (NCSBN) member Board-approved Board-
28 approved nursing program (21 NCAC 36 .0300) in accordance with Section 0300 of these Rules
29 designed to prepare a person for registered nurse or licensed practical nurse licensure; or
30 (2) graduating from a nursing program outside the United States that is designed to provide graduates with
31 comparable education preparation as required in 21 NCAC 36 .0321(b) through (d) for licensure as a
32 registered nurse, nurse or licensed practical nurse, and submitting evidence from an evaluation agency
33 of the required educational qualifications and evidence of English proficiency. The evaluation
34 agency(s) for educational qualifications shall be selected from a list of evaluation agencies published
35 by the National Council of State Boards of Nursing Inc., NCSBN which is hereby incorporated by
36 Reference, including subsequent amendments of the referenced materials. The list of such agencies is
37 available, at no cost, from the North Carolina Board of Nursing. The evidence of English proficiency

1 shall be ~~the Test of English as a Foreign Language or a test determined to be acceptable by the Board~~
2 ~~to be equivalent to the Test of English as a Foreign Language; Board; or~~

3 (3) being eligible for licensure as a registered nurse or licensed practical nurse in the country of nursing
4 education program completion.

5 (b) ~~An applicant shall meet the educational qualifications to take the examination for licensure to practice as a licensed~~
6 ~~practical nurse by:~~

7 (1) ~~graduating from a Board approved nursing program (21 NCAC 36 .0300) designed to prepare a person~~
8 ~~for practical nurse licensure;~~

9 (2) ~~graduating from a nursing program outside the United States that is designed to provide graduates with~~
10 ~~comparable preparation for licensure as a licensed practical nurse, and submitting evidence from an~~
11 ~~evaluation agency of the required educational qualifications and evidence of English proficiency. The~~
12 ~~evaluation agency(s) for educational qualifications shall be selected from a list of evaluation agencies~~
13 ~~published by the National Council of State Boards of Nursing, Inc., which is hereby incorporated by~~
14 ~~Reference, including subsequent amendments of the referenced materials. The list of such agencies is~~
15 ~~available, at no cost, from the North Carolina Board of Nursing. The evidence of English proficiency~~
16 ~~shall be passing the Test of English as a Foreign Language or a test determined by the Board to be~~
17 ~~equivalent to the Test of English as a Foreign Language;~~

18 (3) ~~graduating from a Board approved nursing program designed to prepare graduates for registered nurse~~
19 ~~licensure, and failing to pass the examination for registered nurse licensure; or~~

20 (4) ~~graduating from a nursing program outside the United States that is designed to prepare graduates with~~
21 ~~comparable preparation for licensure as a registered nurse, and submitting the evidence as described in~~
22 ~~Subparagraph (a)(2) of this Rule of the required educational qualifications, and failing to pass the~~
23 ~~examination for registered nurse licensure in any jurisdiction.~~

24 (c) ~~An application shall be submitted to the Board of Nursing and a registration form to the testing service. The~~
25 ~~applicant shall meet all requirements of the National Council of State Boards of Nursing, Inc. NCSBN. Applicants for a~~
26 ~~North Carolina license may take the examination for licensure developed by NCSBN at any NCSBN-approved testing~~
27 ~~site.~~

28 ~~(d)(d) The initial An application for licensure shall be held active until the applicant passes the examination or valid for~~
29 ~~a period of one year, whichever occurs first. The time begins on the date the applicant is determined to be eligible for the~~
30 ~~licensure examination. year from the date the application is filed with the Board or until the Board receives the results of~~
31 ~~the examination.~~

32 (e) ~~The examinations for licensure developed by the National Council of State Boards of Nursing, Inc. NCSBN shall be~~
33 ~~the examinations for licensure as a registered nurse or as a licensed practical nurse in North Carolina.~~

34 (1) ~~These examinations shall be administered in accordance with the contract between the Board of~~
35 ~~Nursing and the National Council of State Boards of Nursing, Inc. NCSBN.~~

36 (2) ~~The examinations for licensure shall be administered at least twice a year.~~

1 (3) — Results for the examination shall be reported to the individual applicant and to the director of the
2 program from which the applicant was graduated. Aggregate results from the examination(s) may be
3 published by the Board.

4 (4) — The passing standard score for each of the five tests comprising the examination for registered nurse
5 licensure, up to and including the February 1982 examination was 350. For the examination offered in
6 July 1982 and through July 1988, the passing score was 1600. Beginning February 1989, the results
7 for registered nurse licensure is reported as "PASS" or "FAIL".

8 (5) — The passing score for the examination for practical nurse licensure, up to and including the April 1988
9 was 350. Beginning October 1988, the results for practical nurse licensure is reported as "PASS" or
10 "FAIL".

11 (f) Applicants who meet the qualifications for licensure by examination shall be issued a certificate of registration and a
12 license to practice nursing for the remainder of the biennial period. The qualifications include:

13 (1) — a "PASS" result on the licensure examination;

14 (2) — evidence of unencumbered license in all jurisdictions in which a license is or has ever been held;

15 (3) — evidence of completion of all court conditions resulting from any misdemeanor or felony convictions;
16 and

17 (4) — a written explanation and all related documents if the nurse has ever been listed as a Nurse Aide and if
18 there have ever been any substantiated findings pursuant to G.S. 131E-255. The Board may take these
19 findings into consideration when determining if a license should be denied pursuant to G.S. 90-171.37.
20 In the event findings are pending, the Board may withhold taking any action until the investigation is
21 completed.

22 (g) Applicants for a North Carolina license may take the examination for licensure developed by the National Council of
23 State Boards of Nursing, Inc. in any National Council approved testing site. Any license issued shall be issued for the
24 remainder of the biennial period.

26 *History Note:* Authority G.S. 90-171.23(15); 90-171.29; 90-171.30; 90-171.37(1); 90-171.48;

27 *Eff. February 1, 1976;*

28 *Amended Eff. December 1, 2004; April 1, 2003; January 1, 1996; July 1, 1994; February 1, 1994;*

29 *August 3, 1992, 1992;*

30 *Readopted Eff. [November 1, 2018.] December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0213

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “must” with “shall”

Line 5 – replace “is” with “shall be”

Line 6 – what timeframe – is this set by a rule that can be cited here?

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0213 is readopted, **with changes**, as published in 33:1 NCR 17-18 as follows:

2

3 **21 NCAC 36 .0213 REEXAMINATION**

4 An applicant who fails an examination and is eligible to retake a subsequent examination must submit a completed Board
5 of Nursing application, a completed testing service registration form, and related fees. The applicant is eligible to retake
6 the examination in accordance with the timeframe specified by ~~the National Council of State Boards of Nursing, Inc.~~
7 NCSBN.

8

9 *History Note: Filed as a Temporary Amendment Eff. June 26, 1985, for a period of 120 days to expire on October*
10 *23, 1985;*

11 *Authority G.S. 90-171.31; 90-171.33; 90-171.38;*

12 *Eff. February 1, 1976;*

13 *Amended Eff. August 1, 2000; July 1, 1994; February 1, 1994; October 1, 1989; May 1, ~~1989-1989;~~*

14 *Readopted Eff. [November 1, 2018.] December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0217

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – add “shall” after “Board”

Line 5 – what does “or other agents” mean?

Line 8 – delete the comma after “use”

Line 12 – delete “any” and move “client information” to immediately after “make”

Line 27 – delete the comma after “receive”

Line 35 – replace “when” with “if”

Line 37 – add a comma after “experience”

Page 2, line 1 – replace “when” with “if”

Page 2, line 3 – delete “by”

Page 2, lines 3 and 6 – what doe “other agents” mean?

Page 2, line 8 – replace “including but not limited to” with “, such as”

Page 2, line 9 – replace “the” with “a” twice

Page 2, line 10 – replace “includes” with “shall include”

Page 2, line 13 – delete “but not limited to”

Page 2, line 13 – delete the comma after “property” and move “real or personal” to immediately after “any”

Page 2, line 15 – replace “includes” with “shall include”

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 19 – replace “is” with “shall be”

Page 2, line 20 – replace “on” with “upon”

Page 2, line 21 – add “suspension” before “proceedings”

Page 2, line 22 – replace “does” with “shall”

Page 2, line 27 – add “shall” before “rule”

Page 3, line 1 – replace “When” with “If”

Page 3, line 5 – it is unclear what this means. Does it mean “Sworn affidavits shall be introduced only with mutual agreement from all parties”? If not, delete it because it is unnecessary. If so, what statute authorizes the Board to impose this restriction?

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0217 is amended, **with changes**, as published in 33:1 NCR 18-19 as follows:

2
3 21 NCAC 36 .0217 INVESTIGATIONS; DISCIPLINARY HEARINGS

4 (a) Behaviors and activities that may result in disciplinary action by the Board include the following:

- 5 (1) drug or alcohol abuse or use of any substance or other agents while on duty or on call to the extent
6 that such use impairs the nurse's ability to practice nursing;
- 7 (2) testing positive on a drug screen for a non-prescribed drug or illicit substance;
- 8 (3) illegally obtaining, possessing, or distributing drugs or alcohol for personal or other use, or other
9 violations of the North Carolina Controlled Substances Act, G.S. 90-86 et seq.;
- 10 (4) conviction of any crime that bears on a licensee's fitness to practice ~~nursing as set forth in G.S. 90-~~
11 ~~171.37(a);~~ nursing;
- 12 (5) failure to make available to another health care professional any client information;
- 13 (6) practicing or offering to practice beyond the scope permitted by law;
- 14 (7) accepting and performing professional responsibilities that the licensee knows or has reason to
15 know that he or she is not competent to perform;
- 16 (8) performing, without supervision, professional services that the licensee is authorized to perform
17 only under the supervision of a licensed professional;
- 18 (9) abandoning an assigned client without making arrangements for the continuation of equivalent
19 nursing care;
- 20 (10) neglecting a client in need of nursing care;
- 21 (11) threatening, harassing, abusing, or intimidating a client;
- 22 (12) failing to maintain an accurate record of all pertinent health care information as defined in Rule
23 .0224(f)(2) or .0225(f)(2) for each client;
- 24 (13) failing to exercise supervision over ~~persons~~ individuals who are authorized to practice only under
25 the supervision of the licensed professional;
- 26 (14) exercising influence on the client for the financial or personal gain of the licensee;
- 27 (15) directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or
28 other consideration to or from a third party for the referral of a client, or other violations of G.S.
29 90-401;
- 30 (16) failing to file a report, or filing a false report, required by law or by the Board or impeding or
31 obstructing such filing or inducing another person to do so;
- 32 (17) obtaining, accessing, or revealing healthcare information from a client record or other source,
33 except as required by professional duties or authorized by law;
- 34 (18) presenting false or fraudulent licensure information for any purpose;
- 35 (19) assigning or delegating professional responsibilities to a person when the licensee assigning or
36 delegating these responsibilities knows or has reason to know that such ~~person~~ individual is not
37 qualified by training, experience or licensure;

- 1 (20) assigning or delegating responsibilities to ~~a person~~ an individual when the licensee assigning or
2 delegating knows or has reason to know that the competency of that ~~person~~ individual is impaired
3 by sleep deprivation, physical or psychological conditions, or by alcohol or other agents,
4 prescribed or not;
- 5 (21) accepting responsibility for client care while impaired by sleep deprivation, physical or
6 psychological conditions, or by alcohol or other agents, prescribed or not;
- 7 (22) falsifying a client's record or the controlled substance records;
- 8 (23) violating boundaries of a professional relationship including but not limited to physical, sexual,
9 emotional, or financial exploitation of the client or the client's family member or caregiver.
10 Financial exploitation includes accepting or soliciting money, gifts, or the equivalent during the
11 professional relationship;
- 12 (24) misappropriating, in connection with the practice of nursing, anything of value or benefit,
13 including but not limited to, any property, real or personal of the client, employer, or any other
14 ~~person~~ individual or entity, or failing to take precautions to prevent such misappropriation. Failure
15 to take precautions to prevent misappropriations includes failing to secure anything of value or
16 benefit, such as medication or property, of the client, employer, or any other ~~person~~ individual or
17 entity; or
- 18 (25) violating any term of probation, condition, or limitation imposed on the licensee by the Board.

19 (b) If a summary suspension is issued pursuant to G.S. 150B-3(c), the order is effective on the date specified in the
20 order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and
21 continues to be effective during the proceedings. Failure to receive the order because of refusal of service or
22 unknown address does not invalidate the order.

23 (c) All motions related to a contested case, except motions for continuance and those made during the hearing, shall
24 be in writing and submitted to the Board ~~of Nursing~~ at least 10 calendar days before the hearing. Pre-hearing
25 motions shall be heard at a pre-hearing conference or at the contested case hearing prior to the commencement of
26 testimony. The designated administrative law counsel shall hear the motions and the response from the non-moving
27 party pursuant to Rule 6 of the General Rules of Practice for the Superior and District Courts and rule on the
28 motions.

29 (d) Motions for a continuance of a hearing may be granted upon a showing of good cause. Motions for a
30 continuance shall be in writing and received in the office of the Board ~~of Nursing~~ no less than seven calendar days
31 before the hearing date. In determining whether good cause exists, consideration shall be given to the ability of the
32 party requesting a continuance to proceed without a continuance. A motion for a continuance filed less than seven
33 calendar days from the date of the hearing shall be denied unless the reason for the motion could not have been
34 ascertained earlier. Motions for continuance filed prior to the date of the hearing shall be ruled on by the
35 administrative law counsel of the Board. Motions for continuance filed on the date of hearing shall be ruled on by
36 the Board.

37 (e) The Board ~~of Nursing~~ shall designate an administrative law counsel who shall advise the Board.

1 (f) When a majority of the members of the Board of Nursing is unable or elects not to hear a contested case, the
2 Board of Nursing shall request the designation of an administrative law judge from the Office of Administrative
3 Hearings to preside at the hearing. The provisions of G.S. 150B, Article 3A and this Rule shall govern a contested
4 case in which an administrative law judge is designated as the Hearing Officer.

5 (g) Sworn affidavits may be introduced by mutual agreement from all parties.

6
7 *History Note: Authority G.S. 90-171.23(b)(3); 90-171.23(b)(7); 90-171.37; 90-171.47; 90-401; 150B-3(c);*
8 *150B-38; 150B-39; 150B-40; 150B-41; 150B-42;*
9 *Eff. February 1, 1976;*
10 *Amended Eff. October 1, 1989; November 1, 1988; July 1, 1986; July 1, 1984;*
11 *Temporary Amendment Eff. December 7, 1990 for a period of 180 days to expire on June 5, 1991;*
12 *ARRC Objection Lodged December 20, 1990;*
13 *Amended Eff. January 1, 1991;*
14 *ARRC Objection Removed February 25, 1991;*
15 *Temporary Amendment Eff. February 26, 1991 for a period of 35 days to expire on April 1, 1991;*
16 *Amended Eff. January 1, 1996; February 1, 1995; April 1, 1991;*
17 *Temporary Amendment Eff. March 5, 2001;*
18 *Amended Eff. [November 1, 2018;] December 1, 2018; June 1, 2017; January 1, 2007; August 2,*
19 *2002;*
20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
21 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0218

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Lines 10-11 – what statute authorizes the Board to require an attestation under oath or affirmation for license reinstatement?

Line 19 – what about an applicant who once held out-of-state licenses, one of which is no longer active?

Line 22 – replace “jurisdiction; if” with “jurisdiction. If”

Line 23 – replace “be subject to” with “meet the”

Line 26 – replace “conviction(s)” with “convictions”

Line 26 – replace “any” with “all”

Line 27 – replace “report” with “reports”

Line 28 – replace “may” with “shall”

Lines 31, 32, and 33 – replace “finding(s)” with “findings”

Line 32 – replace “may” with “shall”

Line 35 – what does “attest to self-certification” mean? Do you really mean that the applicant attests to his or her own mental and physical health?

Line 34 – replace the period with a semicolon

Page 2, lines 4-9 – revise as follows:

evidence that:

(A) applicant has successfully completed a course of study...

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 9 – replace “which shall be” with “that is”

Page 2, line 28 – what does “member jurisdiction” mean?

Page 2, lines 30-31 – replace “full time” with “full-time”

Page 2, line 31 – replace the period with “; and”

Page 2, lines 33-35 – reformat so that the left margin lines up with the number (9)

Page 2, lines 34-35 – delete “the Board determines in its discretion that”

Page 3, line 1 – replace the parentheses with commas

Page 3, line 2 – add “the” before “requirements”

Page 3, lines 9-10 – what does “consistent with educational preparation” mean? Is the phrase needed?

Page 3, line 31 – do not capitalize “board”

Page 3, line 32 – delete the sentence that begins “Status in other...”

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

1 21 NCAC 36 .0218 is readopted, **with changes**, as published in 33:1 NCR 19-21 as follows:

2
3 21 NCAC 36 .0218 LICENSURE ~~WITHOUT EXAMINATION (BY ENDORSEMENT) BY~~
4 ENDORSEMENT

5 (a) ~~The Board shall provide an application form which the applicant who wishes to apply for licensure without~~
6 ~~examination (by endorsement) shall complete in its entirety. To be eligible for licensure by endorsement, an applicant~~
7 ~~shall:~~

8 (b) ~~The applicant for licensure by endorsement as a registered nurse shall show evidence of:~~

9 (1) ~~completion of a program of nursing education for registered nurse licensure which was approved by~~
10 ~~the jurisdiction of original licensure; submit a completed application for endorsement, attesting under~~
11 ~~oath or affirmation that the information on the application is true and complete, and authorizing the~~
12 ~~release to the Board of all information pertaining to the application. The Application for Endorsement~~
13 ~~is posted on the Board's website at www.ncbon.com;~~

14 (2) ~~attainment of the standard score on the examination which was required by the jurisdiction issuing the~~
15 ~~original certificate of registration; submit the licensure application fee as established in G.S. 90-~~
16 ~~171.27(b);~~

17 (3) ~~submit a self certification that the applicant is of mental and physical health necessary to competently~~
18 ~~practice nursing;~~

19 (4)(3) ~~have an unencumbered license in all jurisdictions in which a license is or has ever been held. A~~
20 ~~license that has had all encumbrances resolved in the jurisdictions in which the reasons for the~~
21 ~~encumbrances occurred shall be considered an unencumbered license for purposes of this provision;~~
22 ~~held;~~

23 (5)(4) ~~current have an active unencumbered license in a jurisdiction; if the license has been inactive or lapsed~~
24 ~~expired for five or more years, the applicant shall be subject to requirements for a refresher course as~~
25 ~~indicated in G.S. 90-171.35 and G.S. 90-171.36;~~

26 (6)(5) ~~completion of all have no pending court conditions resulting from as a result of any misdemeanor or~~
27 ~~felony ~~convictions; and conviction(s). The applicant shall provide a written explanation and any~~~~
28 ~~investigative report or court documents evidencing the circumstances of the crime(s) if requested by~~
29 ~~the Board. The Board may use these documents when determining if a license should be denied~~
30 ~~pursuant to G.S. 90-171.48 and 90-171.37;~~

31 (7)(6) ~~submit~~ a written explanation and all related documents if the nurse has ever been listed as a ~~Nurse~~
32 ~~Aide nurse aide and if there has have ever been a any substantiated finding(s) pursuant to G.S. 131E-~~
33 ~~255. The Board may take ~~the~~ these finding(s) into consideration when determining if a license should~~
34 ~~be denied pursuant to G.S. 90-171.37. In the event a finding(s) is are pending, the Board may~~
35 ~~withhold taking any action until the investigation is completed.~~

36 (7) ~~submit a self-certification that the applicant is of mental and physical health necessary to competently~~
37 ~~practice nursing;~~

1 (8) show completion of a nursing education program which was approved by the jurisdiction of original
2 licensure. If applying

3 ~~(e) The applicant for licensure by endorsement as a licensed practical nurse~~ nurse, applicant shall may also show
4 evidence of:

5 (1) ~~completion of:~~ of

6 (A) ~~a program in practical nursing approved by the jurisdiction of original licensure; or~~

7 (B) ~~course(s) of study within a program(s) which shall be comparable to that required of practical~~
8 ~~nurse graduates in North Carolina; or~~

9 (C) ~~course of study for military hospital corpsman which shall be comparable to that required of~~
10 licensed practical nurse graduates in North Carolina. Carolina; or

11 The applicant who was graduated prior to July 1956 shall be considered on an individual basis in light
12 of licensure requirements in North Carolina at the time of original licensure;

13 (2) ~~attainment of the standard score on the examination which was required by the jurisdiction issuing the~~
14 ~~original certificate of registration;~~

15 (3) ~~self certification that the applicant is of mental and physical health necessary to competently practice~~
16 ~~nursing;~~

17 (4) ~~unencumbered license in all jurisdictions in which a license is or has ever been held. A license that~~
18 ~~has had all encumbrances resolved in the jurisdictions in which the reasons for the encumbrances~~
19 ~~occurred shall be considered an unencumbered license for purposes of this provision;~~

20 (5) ~~current license in a jurisdiction; if the license has been inactive or lapsed for five or more years, the~~
21 ~~applicant shall be subject to requirements for a refresher course as indicated in G.S. 90-171.35 and~~
22 ~~G.S. 90-171.36;~~

23 (6) ~~completion of all court conditions resulting from any misdemeanor or felony convictions; and~~

24 (7) ~~a written explanation and all related documents if the nurse has been listed as a Nurse Aide and there~~
25 ~~has been a substantiated finding(s) pursuant to G.S. 131E-255. The Board may take the finding(s) into~~
26 ~~consideration when determining if a license should be denied pursuant to G.S. 90-171.37. In the event~~
27 ~~a finding(s) is pending, the Board may withhold taking any action until the investigation is completed.)~~

28 (B) applicant has been licensed in another member jurisdiction for five or more years
29 immediately prior to application submission and has practiced in a nursing position at the
30 same level of licensure for which application is being made for two calendar years of full
31 time employment immediately prior to application as verified by the employer.

32 (9) complete a criminal background check in accordance with G.S. 90-171.48.

33 In the event any of the above-required information indicates a concern about the applicant's
34 qualifications, an applicant may be required to appear in person for an interview with the Board if the
35 Board determines in its discretion that more information is needed to evaluate the application.

1 ~~(d)(b)~~ A nurse Applicants for licensure by endorsement educated in a foreign country (including Canada) shall complete
2 all requirements of 21 NCAC 36 (a)(1-7) and shall be eligible for North Carolina licensure by endorsement if the nurse
3 has:

4 (1) shown proof of education as required by the jurisdiction issuing the original certificate; and

5 (2) prior to January 1, 2004 proof of passing either the:

6 (A) ~~Canadian Nurses Association Test Service Examination (CNATS) in the English language;~~

7 ~~or~~

8 (B) ~~Canadian Registered Nurse Examination (CRNE) in the English language; or~~

9 (C) ~~shown evidence of passing the licensing examination developed by the National Council of~~
10 ~~State Board of Nursing (NCLEX). NCLEX-RN™ or NCLEX-PN™ consistent with~~
11 ~~educational preparation.~~

12 (3) ~~beginning January 1, 2004, the applicant educated in a foreign country including Canada shall show~~
13 ~~evidence of Subparagraph (d)(1) and Part (2)(C) of this Paragraph; Parts (d)(2)(A) and (B) shall no~~
14 ~~longer apply;~~

15 (4) ~~self certification that the applicant is of mental and physical health necessary to competently practice~~
16 ~~nursing;~~

17 (5) ~~unencumbered license in all jurisdictions which a license is or has ever been held. A license that has~~
18 ~~had all encumbrances resolved in the jurisdictions in which the reasons for the encumbrances occurred~~
19 ~~shall be considered an unencumbered license for purposes of this provision;~~

20 (6) ~~current license in another jurisdiction or foreign country. If the license has been inactive or lapsed for~~
21 ~~five or more years, the applicant shall be subject to requirements for a refresher course as indicated in~~
22 ~~G.S. 90-171.35 and G.S. 90-171.36;~~

23 (7) ~~completed all court conditions resulting from any misdemeanor or felony conviction(s); and~~

24 (8) ~~a written explanation and all related documents if the nurse has been listed as a Nurse Aide and if~~
25 ~~there has been a substantiated finding(s) pursuant to G.S. 131E 255. The Board may take the~~
26 ~~finding(s) into consideration when determining if a license should be denied pursuant to G.S. 90-~~
27 ~~171.37. In the event a finding(s) is pending, the Board may withhold taking any action until the~~
28 ~~investigation is completed.~~

29 ~~(e) When an applicant is eligible for licensure consistent with Part (d)(2)(A) or (d)(2)(B) of this Rule the license issued~~
30 ~~by the Board will not permit the individual to practice in other states party to the Nurse Licensure Compact.~~

31 (c) An application for endorsement shall be valid for a period of one year from the date the application is filed with the
32 Board or until a license is issued.

33 ~~(d)~~ Facts provided by the applicant and the Board of Nursing of original licensure shall be compared to confirm the
34 identity and validity of the applicant's credentials. Status in other states of current licensure may be verified. ~~When~~
35 ~~eligibility is determined, a certificate of registration and a current license for the remainder of the biennial period shall be~~
36 ~~issued.~~

37 (e) Any license issued shall be issued for the remainder of the biennial period.

1
2
3
4
5
6

History Note: Authority G.S. 90-171.23(b); 90-171.32; 90-171.33; 90-171.37; 90-171.48;
Eff. May 1, 1982;
Amended Eff. December 1, 2005; April 1, 2003; January 1, 1996; July 1, 1994;
February 1, 1994; August 3, ~~1992. 1992.~~;
Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0219

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “may” with “shall”

Lines 6 and 7 – replace “conviction(s)” and “action(s)” with “convictions” and “actions”

Line 9 – replace “is” with “shall be”

Line 10 – replace “applies” with “shall apply”

Line 11 – replace “The” with “A”

Line 12 – replace “when” with “if” and add “that” after “determined”

Line 14 – replace “The” with “A” and “licenses” with “license”

Lines 15-16 – replace “whichever the case may be” with “as applicable”

Line 17 – revise as follows: “A holder of a valid temporary license shall identify himself or herself as a Registered”

Line 18 – add “a” before “Licensed”

Lines 18-19 – replace the case may be” with “applicable”

Line 20 – replace “is” with “shall be”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 **21 NCAC 36 .0219 is readopted, with changes, as published in 33:1 NCR 21 as follows:**

2
3 **21 NCAC 36 .0219 TEMPORARY LICENSE**

4 (a) The Board may issue a ~~Status-P nonrenewable~~ non-renewable temporary license to ~~persons~~ individuals who have
5 filed a completed application for licensure ~~without examination by endorsement~~ with correct fee and provided validation
6 of an active unencumbered license in another jurisdiction. If an applicant indicates prior court conviction(s) or
7 disciplinary action(s) in another jurisdiction, eligibility for a temporary license shall be determined after review of
8 relevant documents.

9 (b) The temporary license is subject to the provisions of G.S. 90-171.37.

10 ~~(b)(c)~~ The following applies to ~~Status-P non-renewable~~ non-renewable temporary licenses:

- 11 (1) The ~~Status-P nonrenewable~~ non-renewable temporary license shall expire on the lesser of six months
12 or the date a full license is issued or when it is determined the applicant is not qualified to practice
13 nursing in North Carolina.
- 14 (2) ~~Status-P temporary license~~ Temporary licenses shall authorize the holder to practice nursing in the
15 same manner as a fully licensed ~~R.N. registered nurse~~ or ~~L.P.N., licensed practical nurse~~, whichever
16 the case may be.
- 17 (3) Holders of valid ~~Status-P~~ temporary license shall identify themselves as ~~R.N. Registered~~
18 Nurse Petitioner (R.N.P.) or ~~L.P.N. Licensed Practical Nurse petitioner~~ Petitioner (L.P.N.P.), as the
19 case may be, after signatures on records.
- 20 (4) Upon expiration or revocation of the ~~Status-P~~ temporary license, the individual is ineligible to practice
21 nursing as described in Subparagraph (b)(2) of this Rule.

22
23 *History Note: Authority G.S. 90-171.33;*

24 *Eff. May 1, 1982;*

25 *Temporary Amendment Eff. June 29, 1988 for a period of 180 days to expire on December 25, 1988;*

26 *Amended Eff. December 1, 2006; January 1, 1996; July 1, 1994; August 3, 1992; January 1, 1989.*

27 1989;

28 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0220

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 6 – replace “is” with “shall be”

Line 20 – replace “When” with “If”

Lines 22-23 – what if these eligibility requirements have not been met? Is the individual then not subject to restrictions?

Line 25 – what rules for refresher courses? Please specify by citing the rules.

Line 26 – replace this line with:

No student shall be enrolled prior to Board approval. Board approval shall be granted to a provider for a period of

Line 27 – replace “However, any” with “All”

Line 28 – add a comma after “implementation”

Line 30 – add a comma after “outline”

Line 31 – add a comma after “experiences”

Line 31 – delete the comma after “methodologies” and replace “methodologies” with “methods”

Line 33 – add “a” before “plan”

Line 34 – replace “which” with “that”

Line 34 – add a comma after “instructors”

Page 2, line 1 – replace “will” with “shall” twice

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 1 – what determines whether a site visit is necessary?

Page 2, line 3 – revise as follows: “A provider of a refresher course shall be a”

Page 2, line 4 – what does “other agency” mean?

Page 2, line 5 – replace “the” with “a refresher”

Page 2, lines 14-15 – revise as follows:

(j) The ratio of instructors to students shall not exceed 1:10.

Page 2, line 16 – add “for” after “program”

Page 2, line 19 – add “refresher” before “course”

Page 2, line 19 – replace “which” with “that”

Page 2, lines 22 and 23 – delete “at least”

Page 2, line 26 – add “the” before “scope

Page 2, line 26 – add a comma after “nurse”

Page 2, line 32 – do not capitalize “refresher course”

Page 2, line 36 – add “the” before “scope

Page 2, line 36 – add a comma after “nurse”

Page 3, line 13 – add a comma after “experiences”

Page 3, line 14 – replace “which” with “that”

Page 3, line 19 – add commas after “indicate” and “contract”

Page 3, line 36 – delete the three commas

Page 3, line 36 – add “and” before “presently”

Page 3, line 36 – replace “these” with “the”

Page 3, line 37 – add “of this Rule” after “requirements” if that is what is meant

Page 3, line 37 – do not capitalize “state board”

Page 4, line 1 – do not capitalize “nursing”

Page 4, line 6 – add a comma before “consistent”

Page 4, lines 8, 14, and 15 – where is the forma specified – in a rule? Please cite the rule.

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Page 4, line 10 – add “refresher” before “course”

Page 4, lines 14 and 15 – begin these lines with “the”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0220 is readopted, **with changes**, as published in 33:1 NCR 21-23 as follows:

2
3 **21 NCAC 36 .0220 REFRESHER COURSE**

4 (a) A refresher course shall be designed for those ~~persons~~, individuals, previously licensed, who are not eligible for re-
5 entry into nursing practice because their license has ~~lapsed~~ expired for five or more years.

6 (b) Satisfactory completion of a Board-approved refresher course is required of the ~~person~~ individual ~~who~~ who has not
7 held an active license in any jurisdiction for five or more years and requests:

8 (1) ~~requests reactivation of an inactive license and who has not held an active license for five or more~~
9 ~~years;~~ license;

10 (2) ~~requests reinstatement of a lapsed license and who has not held an active license for five or more~~
11 ~~years;~~ an expired license; or

12 (3) ~~requests endorsement to North Carolina who has not held an active license for five or more years;~~
13 Carolina.

14 (4) ~~is directed by the Board to complete such a course when the Board takes action as authorized in G.S.~~
15 ~~90-171.37; or~~

16 (5) ~~needs a refresher course as a result of the license being inactive for disciplinary action and has met all~~
17 ~~eligibility requirements for reinstatement of the license.~~

18 ~~Those persons identified in Subparagraph (4) or (5) of this Paragraph may be subject to Board stipulated restrictions in~~
19 ~~the clinical component of the refresher course.~~

20 (c) When satisfactory completion of a Board-approved refresher course is required by the Board based upon action as
21 authorized in G.S. 90-171.37 or based upon a license being inactive due to disciplinary action, the individual may be
22 subject to Board-stipulated restrictions in the clinical component of the refresher course provided all eligibility
23 requirements for reinstatement of the license have been met.

24 ~~(d)~~ Application for approval of a refresher course shall be completed and submitted by the provider at least 90 days
25 prior to the expected date of enrollment and shall include evidence of complying with the rules for refresher courses.
26 Board approval shall be secured prior to the enrollment of students. Provider approval will be granted for a period of
27 time not to exceed five years. However, any changes in faculty, curriculum, or clinical facilities shall be approved by the
28 Board prior to implementation as set out in the Rules of this Chapter.

29 (e) The application for approval of a refresher course shall include:

30 (1) course objectives, content outline and time allocation;

31 (2) didactic and clinical learning experiences including teaching methodologies, for measuring the
32 registrant's abilities to practice nursing;

33 (3) plan for evaluation of student competencies and ability to competently practice nursing;

34 (4) a faculty list which includes the director and all instructors and identifies their qualifications and their
35 functions in teaching roles; and

36 (5) the projected clinical schedule.

1 ~~(d)~~(f) The Board will make site visits if necessary. A decision on an application to offer a refresher course will be given
2 within 30 days following receipt of ~~the~~ a complete application.

3 ~~(e)~~(g) The provider of a refresher course shall be approved by the Board as set out in these Rules. A provider may be a
4 post-secondary educational institution, a health care institution, or other agency.

5 ~~(f)~~(h) Administrative responsibility for developing and implementing the course shall be vested in a registered nurse
6 director.

7 ~~(g)~~(i) Instructors in the course shall be directly accountable to the nurse director. The director shall have had at least one
8 year prior teaching experience preparing individuals for ~~LPN or RN~~ registered nurse or licensed practical nurse licensure
9 at the post-secondary level or in a nursing staff development position. The director and each instructor shall:

10 (1) ~~be licensed to hold an active unencumbered license to practice nursing~~ as a registered nurse in North
11 Carolina;

12 (2) hold a baccalaureate or higher ~~degree~~; degree in nursing; and

13 (3) have had at least two years experience in direct patient nursing practice as ~~an RN~~; a registered nurse.

14 ~~(h)~~(j) Proximity of the instructor to students is the major factor in determining faculty-student ratio for clinical learning
15 experiences. In no case shall this ratio exceed 1:10.

16 (k) Clinical preceptors shall have competencies, assessed by the refresher program registered nurse director or
17 designated instructor, related to the area of assigned clinical precepting responsibilities. Clinical preceptors shall hold an
18 active unencumbered license to practice as a registered nurse in North Carolina.

19 ~~(i)~~(l) The course shall include both theory and clinical instruction. Course objectives shall be stated which:

20 (1) show relationships between nursing theory and practice; and

21 (2) ~~indicate~~ identify behaviors consistent with the ability to ~~safely~~ competently practice nursing.

22 ~~(j)~~(m) The curriculum for the R.N. Refresher Course a registered nurse refresher course shall include at least 240 hours
23 of instruction, at least 120 of which shall consist of clinical learning experiences, and shall incorporate:

24 (1) ~~common medical surgical conditions and management of common nursing problems associated with~~
25 ~~these conditions, including mental health principles associated with management of nursing problems;~~

26 ~~(2)~~(1) functions scope of practice for the registered nurse as defined in G.S. 90-171.20 and 21 NCAC 36
27 .0221, .0224, .0225 and .0401; and

28 ~~(3)~~(2) instruction in and opportunities to demonstrate ability to safely knowledge, skills, and abilities to
29 competently practice nursing and knowledge in caring for clients with common medical surgical
30 problems. according to components of practice for the registered nurse as defined in 21 NCAC 36
31 .0224.

32 ~~(k)~~(n) The curriculum for the L.P.N. a licensed practical nurse Refresher Course shall include at least 180 hours of
33 instruction, at least 90 of which shall consist of clinical learning experiences, and shall incorporate:

34 (1) ~~common medical surgical conditions and common nursing approaches to their management, including~~
35 ~~mental health principles;~~

36 ~~(2)~~(1) functions scope of practice for the licensed practical nurse as defined in G.S. 90-171.20(8) and 21
37 NCAC 36 .0221, .0225 and .0401; and

1 ~~(3)~~(2) instruction in and ~~opportunity~~ opportunities to demonstrate ~~ability~~ knowledge, skills, and abilities to
2 safely competently practice nursing and ~~knowledge in caring for clients with common medical-~~
3 ~~surgical problems.~~ according to components of nursing practice for the licensed practical nurse as
4 defined in 21 NCAC 36 .0225.

5 (o) The refresher course director or the designated refresher course instructor shall assess each refresher student and
6 ensure the appropriateness of all clinical learning settings and assignments.

7 (f) ~~The course shall include both theory and clinical instruction:~~

8 (1) ~~— The R.N. Refresher Course shall include at least 240 hours of instruction, at least 120 of which shall~~
9 ~~consist of clinical learning experiences.~~

10 (2) ~~— The L.P.N. Refresher Course shall include at least 180 hours of instruction, at least 90 of which shall~~
11 ~~consist of clinical learning experiences.~~

12 (p) Registered nurse and licensed practical nurse refresher courses shall limit simulation experiences to no more than
13 50% of clinical learning experiences pursuant to 21 NCAC 26 .0321(m).

14 ~~(m)~~(q) Evaluation processes shall be implemented which effectively measure the refresher student's: student's ability to
15 competently practice nursing consistent with the level of licensure and scope as set forth in 21 NCAC 36 .0221, .0224,
16 .0225, and .0401.

17 (1) ~~— knowledge and understanding of curriculum content; and~~

18 (2) ~~— ability to provide safe nursing care to clients with common medical-surgical conditions.~~

19 ~~(n)~~(r) Clinical resources shall indicate in written contract their support and availability to provide the necessary clinical
20 experiences.

21 ~~(e)~~ The application for approval of a refresher course shall include:

22 (1) ~~— course objectives, content outline and time allocation;~~

23 (2) ~~— didactic and clinical learning experiences including teaching methodologies, for measuring the~~
24 ~~registrant's abilities to practice nursing;~~

25 (3) ~~— plan for evaluation of student competencies and ability to practice safe nursing;~~

26 (4) ~~— a faculty list which includes the director and all instructors and identifies their qualifications and their~~
27 ~~functions in teaching roles; and~~

28 (5) ~~— the projected clinical schedule.~~

29 ~~(p)~~ A course or combination of courses within a basic nursing curriculum may be considered a refresher course for re-
30 entry into practice if:

31 (1) ~~— such course or combination of courses equals or exceeds requirements for refresher courses;~~

32 (2) ~~— such course or combination of courses is taught on a level commensurate with level of relicensure~~
33 ~~sought; and~~

34 (3) ~~— the Board designee approves such course or combination of courses as a substitute for a refresher~~
35 ~~course.~~

36 ~~(q)~~(s) Individuals, previously licensed in North Carolina, presently residing outside of North Carolina, may meet these
37 requirements by successfully completing a ~~North Carolina approved~~ refresher course approved by another State Board of

1 ~~Nursing, completed in another state or country. Agencies desiring approval for conducting refresher courses shall submit~~
2 ~~applications per Paragraphs (c) through (p) of this Rule. Clinical experiences shall be in agencies approved by the~~
3 ~~comparable state/country agency to the Board of Nursing. The agency applying for refresher course approval shall~~
4 ~~submit evidence of the agency approval.~~

5 ~~(t)~~(t) Individuals enrolled in refresher courses shall identify themselves as ~~R.N.~~ RN Refresher Student (~~RN-RS~~)
6 (R.N.R.S.) or LPN Refresher Student (~~LPN-RS~~) (L.P.N.R.S.) consistent with the course level, after signatures on records
7 or on name pins.

8 ~~(u)~~(u) ~~Upon completion of a Board-approved refresher course, In a format specified by the Board, the course provider~~
9 ~~shall furnish provide~~ the Board with the names and ~~North Carolina certificate~~ license numbers of those ~~persons~~
10 individuals who have satisfactorily completed the course ~~and are deemed safe to practice nursing~~ at the appropriate level
11 ~~of licensure on the Board-supplied form.~~ licensure.

12 ~~(v)~~(v) Upon request, the Board shall provide:

- 13 (1) a list of approved providers;
- 14 (2) ~~forms~~ format for applications for program approval; and
- 15 (3) ~~forms~~ format for verification of successful completion to all approved programs.

16
17 *History Note:* Authority G.S. 90-171.23(b)(3); 90-171.35; 90-171.36; 90-171.37; 90-171.38; 90-171.83;
18 Eff. May 1, 1982;
19 Amended Eff. January 1, 2007; July 1, 2000; June 1, 1993; April 1, ~~1989.~~ 1989.
20 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0221

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – add a comma after “insignia”

Line 4 – delete the comma after “public”

Lines 6, 9, 14, 16, 18, 19 (twice), and 29 – replace “which” with “that”

Line 8 – replace “the nurse aide” with “a Nurse Aide” twice, and capitalize that term if it is a proper noun such as a job title.

Line 15 – replace “procedure(s) itself” with “tasks themselves”

Line 16 – add a period at the end of the sentence

Line 17 – replace “The” with “A”

Line 18 – replace “any” with “a”

Line 19 and 26 – what does “unusual effects” mean?

Line 19 – delete the semicolon

Line 20 – capitalize “State” if North Carolina is meant

Line 20– replace “The” with “A”

Line 27 – add “a” before “client’s”

Line 31 – replace “When” with “If”

Line 31 – replace “an individual” with “a client” twice if that is what is meant

Line 31 – replace “nurses” with “a nurse”

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 **21 NCAC 36 .0221 is readopted, with changes, as published in 33:1 NCR 23 as follows:**

2
3 **21 NCAC 36 .0221 LICENSE REQUIRED**

4 (a) No cap, pin, uniform, insignia or title shall be used to represent to the public, that an unlicensed person is a registered
5 nurse or a licensed practical nurse as defined in G.S. 90-171.43.

6 (b) The repetitive performance of a common task or procedure which does not require the professional judgment of a
7 registered nurse or licensed practical nurse shall not be considered the practice of nursing for which a license is required.
8 Tasks that may be delegated to the ~~Nurse Aide~~ nurse aide I and ~~Nurse Aide~~ nurse aide II shall be established by the
9 Board of Nursing pursuant to 21 NCAC 36 .0403. Tasks may be delegated to an unlicensed person which:

- 10 (1) frequently recur in the daily care of a client or group of clients;
- 11 (2) are performed according to an established sequence of steps;
- 12 (3) involve little or no modification from one client-care situation to another;
- 13 (4) may be performed with a predictable outcome; and
- 14 (5) do not inherently involve ongoing assessment, interpretation, or decision-making which cannot be
15 logically separated from the procedure(s) itself.

16 Client-care services which do not meet all of these criteria shall be performed by a licensed nurse

17 (c) The registered nurse or licensed practical nurse shall not delegate the professional judgment required to implement
18 any treatment or pharmaceutical regimen which is likely to produce side effects, toxic effects, allergic reactions, or other
19 unusual effects; or which may rapidly endanger a client's life or well-being and which is prescribed by ~~a person~~ an
20 individual authorized by state law to prescribe such a regimen. The nurse who assumes responsibility directly or through
21 delegation for implementing a treatment or pharmaceutical regimen shall be accountable for:

- 22 (1) recognizing side effects;
- 23 (2) recognizing toxic effects;
- 24 (3) recognizing allergic reactions;
- 25 (4) recognizing immediate desired effects;
- 26 (5) recognizing unusual and unexpected effects;
- 27 (6) recognizing changes in client's condition that contraindicates continued administration of the
28 pharmaceutical or treatment regimen;
- 29 (7) anticipating those effects which may rapidly endanger a client's life or well-being; and
- 30 (8) making judgments and decisions concerning actions to take in the event such effects occur.

31 (d) When health care needs of an individual are incidental to the personal care needs of the individual, nurses shall not
32 be accountable for care performed by clients themselves, their families or significant others, or by caretakers who provide
33 personal care to the individual.

34 (e) Pharmacists may administer drugs in accordance with 21 NCAC 46 .2507.

35
36 *History Note: Authority G.S. 90-85.3; 90-171.23(b); 90-171.43; 90-171.83;*
37 *Eff. May 1, 1982;*

1 *Amended Eff. July 1, 2004; April 1, 2002; December 1, 2000; July 1, 2000; January 1, 1996;*
2 *February 1, 1994; April 1, 1989; January 1, 1984;*
3 *Emergency Amendment Eff. September 10, 2004;*
4 *Amended Eff. April 1, 2008; December 1, ~~2004.~~ 2004;*
5 *Readopted Eff. [~~November 1, 2018.~~] December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0223

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 5 – replace “is” with “shall be”

Line 5 – add a comma after “experience”

Line 6 – add a comma after “program”

Line 6 – replace “which” with “that”

Line 10 – revise as follows: “courses or components of courses in an academic degree-oriented program or”

Line 11 – replace “which” with “that”

Line 11 – replace “the” with “a”

Line 12 – add a comma after “midwife”

Lines 14-15 – replace “are those which” with “shall”

Lines 16-18 – these attributes are vague – what is meant, precisely?

Line 19 – revise as follows: “Programs that teach nurses advanced skills shall provide:”

Line 20 – replace “the skill taught is” with “skills”

Line 21 – replace “the” with “a” and delete “is”

Line 22 – add “or” before “behavioral”

Line 22 – delete the comma after “sciences”

Line 22 – replace “includes” with “shall include”

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Line 24 – replace “may” with “shall”

Line 26 – replace “when” with “if”

Lines 30 and 32 – replace “which” with “that”

Lines 33 and 34 – replace “program(s)” with “programs”

Line 36 – delete “as”

Page 2, line 7 – add “license” before “expiration”

Page 2, line 9 – replace “the” with “an”

Page 2, lines 10, 12, and 14 – replace “; for example,” with “; such as”

Page 2, line 20 – add a comma after “experiences”

Page 2, line 25 – add “required by Part (b)(2) of this Paragraph” after “objectives”

Page 2, line 28 – replace “methodologies” with “methods”

Page 2, line 29 – replace “utilize” with “use”

Page 2, line 31 – revise as follows: “include informing participants of the course objectives required by Part (b)(2) of this Paragraph”

Page 2, line 33 – replace “learned to meet” with “participants in meeting”

Page 2, line 34 – replace “learner” with “participant”

Page 2, line 35 – replace “must” with “shall”

Page 2, line 36 – add “to the Board” after “provided”

Page 3, line 1 – replace “which” with “that”

Page 3, line 1 – what does “adequate and appropriate” mean, specifically?

Page 3, line 2 – what does “available and appropriate” mean, specifically?

Page 3, line 3 – replace “must” with “shall”

Page 3, lines 4-5 – replace “content and will” with “content. This evaluation shall”

Page 3, line 6 – replace “learner” with “participant”

Page 3, line 8 – add “a” before “roster”

Page 3, line 8 – add “the” before “course”

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Page 3, lines 15-16 – replace “; for example,” with “; such as”

Page 3, line 17 – replace “is” with “shall be”

Page 3, line 17 – replace “Any” with “A”

Page 3, line 18 – replace “must” with “shall”

Page 3, line 21 – replace “regularly scheduled” with “regularly-scheduled”

Page 3, line 21 – delete the comma after “Board”

Page 3, line 23 – delete “deemed”

Page 3, line 25 – how is the maintenance of quality measured or determined?

Page 3, line 26 – delete “to the satisfaction of the Board”

Page 3, line 28 – replace “will” with “shall”

Page 3, line 29 – replace “is” with “shall be”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0223 is readopted, **with changes**, as published in 33:1 NCR 23-25 as follows:

2
3 **21 NCAC 36 .0223 CONTINUING EDUCATION PROGRAMS**

4 (a) Definitions.

5 (1) Continuing education in nursing is a planned, organized learning experience taken after completion of
6 a basic nursing program which prepares a nurse to perform advanced skills. Types of learning
7 experiences that may be considered continuing education as defined in Subparagraph (a)(3) of this
8 Rule include:

9 (A) a non-degree oriented program;

10 (B) a course(s) or component(s) of a course(s) within an academic degree-oriented program; or

11 (C) an advanced academic degree-granting program which prepares the registered nurse for
12 advanced practice as a clinical nurse specialist, nurse anesthetist, nurse midwife or nurse
13 practitioner.

14 (2) Programs offering an educational experience designed to enhance the practice of nursing are those
15 which include one or more of the following:

16 (A) enrichment of knowledge;

17 (B) development or change of attitudes; or

18 (C) acquisition or improvement of skills.

19 (3) Programs are considered to teach nurses advanced skills when:

20 (A) the skill taught is not generally included in the basic educational preparation of the nurse; and

21 (B) the period of instruction is sufficient to assess or provide necessary knowledge from the
22 physical, biological, behavioral and social sciences, and includes supervised clinical practice
23 to ensure that the nurse is able to practice the skill safely and properly.

24 (4) Student status may be granted to an individual who does not hold a North Carolina nursing license but
25 who participates in a clinical component of a continuing education ~~programs~~ program in North
26 Carolina when:

27 (A) the individual possesses ~~a current~~ an active unencumbered license to practice nursing in a
28 jurisdiction other than North Carolina;

29 (B) the course offering meets one of the following criteria:

30 (i) is part of an academic degree-granting nursing program which has approval in a
31 jurisdiction other than North Carolina or national accreditation; or

32 (ii) is offered through an in-state academic institution which has Board approval for
33 basic nursing education program(s) or national accreditation for advanced nursing
34 education program(s); or

35 (iii) is approved by the Board as a continuing education offering, thereby meeting the
36 criteria as defined in Paragraph (b) of this Rule;

- 1 (C) the individual receives supervision by a qualified preceptor or member of the faculty who has
- 2 a valid license to practice as a registered nurse in North Carolina;
- 3 (D) the course of instruction has a specified period of time not exceeding ~~twelve~~ 12 months;
- 4 (E) the individual is not employed in nursing practice in North Carolina during participation in
- 5 the program; and
- 6 (F) the Board has been given advance notice of the name of each student, the jurisdiction in
- 7 which the student is licensed, the license number, and the expiration date.

8 (b) Criteria for voluntary approval of continuing education programs in nursing.

- 9 (1) Planning the educational program shall include:
 - 10 (A) definition of learner population; for example, registered nurse, licensed practical nurse, or
 - 11 both;
 - 12 (B) identification of characteristics of the learner; for example, clinical area of practice, place of
 - 13 employment, and position; and
 - 14 (C) assessment of needs of the learner; for example, specific requests from individuals or
 - 15 employers, pre-tests, or audits of patient records.
- 16 (2) Objectives shall:
 - 17 (A) be measurable and stated in behavioral terms;
 - 18 (B) reflect the needs of the learners;
 - 19 (C) state desired outcomes;
 - 20 (D) serve as criteria for the selection of content, learning experiences and evaluation of
 - 21 achievement;
 - 22 (E) be achievable within the time allotted; and
 - 23 (F) be applicable to nursing.
- 24 (3) Content shall:
 - 25 (A) relate to objectives;
 - 26 (B) reflect input by qualified faculty; and
 - 27 (C) contain learning experiences appropriate to objectives.
- 28 (4) Teaching methodologies shall:
 - 29 (A) utilize pertinent educational principles;
 - 30 (B) provide adequate time for each learning activity; and
 - 31 (C) include sharing objectives with participants.
- 32 (5) Resources shall include:
 - 33 (A) faculty who have knowledge and experience necessary to assist the learner to meet the
 - 34 program objectives and are in sufficient number not to exceed a faculty-learner ratio in a
 - 35 clinical practicum of 1:10. If higher ratios are desired, sufficient justification must be
 - 36 provided; and

- 1 (B) physical facilities which ensure that adequate and appropriate equipment and space are
2 available and appropriate clinical resources are available.
- 3 (6) Evaluation must be conducted:
- 4 (A) by the provider to assess the participant's achievement of program objectives and content and
5 will be documented; and
- 6 (B) by the learner in order to assess the program and resources.
- 7 (7) Records shall be maintained by the provider for a period of three years and shall include a summary of
8 program evaluations, roster of participants, and course outline. The provider shall award a certificate
9 to each participant who successfully completes the program.
- 10 (c) Approval process.
- 11 (1) The provider shall:
- 12 (A) make application on forms provided by the Board no less than 60 days prior to the proposed
13 enrollment date;
- 14 (B) present written documentation as specified in (b)(1) through (b)(7) of this Rule; and
- 15 (C) notify the Board of any significant changes relative to (b)(1) through (b)(7) of this Rule; for
16 example, changes in faculty or total program hours.
- 17 (2) Approval is granted for a ~~two-year~~ two-year period. Any request to offer an approved program by
18 anyone other than the original provider must be made to the ~~North Carolina Board of Nursing- Board.~~
- 19 (3) If a course is not approved, the provider may appeal in writing for reconsideration within 30 days after
20 notification of the disapproval. If the course is not approved upon reconsideration, the provider may
21 request, within 10 days, a hearing at the next regularly scheduled meeting of the Board, or no later
22 than 90 days from the date of request, whichever shall come first.
- 23 (4) Site visits may be made by the Board as deemed appropriate to determine compliance with the criteria
24 as specified in Paragraph (b) of this Rule.
- 25 (5) The Board shall withdraw approval from a provider if the provider does not maintain the quality of the
26 offering to the satisfaction of the Board or if there is misrepresentation of facts within the application
27 for approval.
- 28 (6) Approval of continuing education programs will be included in published reports of Board actions. A
29 list of approved programs ~~will be maintained in~~ is posted on the Board's ~~file.~~ website at
30 www.ncbon.com.

31

32 *History Note:* Authority G.S. 90-171.23(b); 90-171.42;
33 Eff. January 1, 1984;
34 Amended Eff. October 1, 1992; October 1, 1991; October 1, 1989; January 1, ~~1989.~~ 1989;
35 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0224

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Lines 4-5 – revise as follows:

The responsibilities that a registered nurse can safely accept shall be determined by such variables as:

Line 6 – delete “own”

Line 6 – add a comma before “including”

Line 9 – replace “a given” with “his or her”

Lines 10 and 11 – is “personnel” with same as “staff”? If so, choose one term and use it consistently.

Lines 10, 11, 12, and 14 – add “in the facility in which the nurse practices” at the end of each of these lines if that is what is meant.

Line 13 – replace “which” with “that”

Lines 15 – revise as follows: “Assessment is an on-going process and shall consist of a determination of nursing care needs based upon collection and”

Line 16 – add a comma after “group”

Line 17 – replace “includes” with “shall include”

Line 18 – add a comma after “social”

Line 21 – what does “subjective reporting” mean? Is this a term of art?

Line 23 – add “and” after the semicolon

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Line 24 – what does “available resources” mean – health care resources?

Line 25 – add “the” before “data”

Line 26 – replace “includes” with “shall include”

Line 30 – replace “includes” with “shall include”

Line 32 – delete the comma

Line 35 – replace “includes” with “shall include”

Page 2, line 3 – replace “which” with “that”

Page 2, line 5 – replace “is” with “shall be”

Page 2, line 6 – delete “but is not limited to”

Page 2, line 13 – add “the” before “nursing”

Page 2, line 15 – replace “(7)(i)” with “(7)i.”

Page 2, line 16 – replace “consists” with “shall consist”

Page 2, line 17 – replace “subsequent care. Components of evaluation include:” with “subsequent care, including:”

Page 2, lines 20-21 – revise either as:

newly collected data, new problem identification, a change in the client's status, and expected outcomes.

or

newly collected data, new problem identification, and a change in the client's status and expected outcomes.

Page 2, line 22 – replace “are” with “shall be”

Page 2, line 25 – replace “is accountable for” with “shall”

Page 2, lines 26-28 – consider revising as follows (and renumbering lines 29-31):

- (A) direct the communication to the appropriate individuals;*
- (B) assure that these communications are consistent with established policies, procedures, practices, and channels of communication that lend support to the types of nursing services offered;*

Page 2, line 29 – replace “communicating” with “communicate”

Page 2, line 29 – replace “which” with “that”

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 30 – replace “evaluating” with “evaluate”

Page 2, line 31 – replace “determining” with “determine”

Page 2, line 33 – replace “must” with “shall”

Page 2, line 35 – add a comma after “care”

Page 3, line 4 – replace “includes” with “shall include”

Page 3, line 10 -replace “is” with “shall be”

Page 3, line 11 – replace “90-171.20(7)(g)” with “90-171.20(7)g.”

Page 3, line 12 – add “shall” before “consist”

Page 3, line 12 – add a comma after “demonstrations”

Page 3, line 13 – add a comma after “families”

Page 3, line 13 – delete the semicolon

Page 3, line 15 – add “of clients regarding their health” after “knowledge” if that is what is meant.

Page 3, line 19 – add “shall” before “include”

Page 3, line 19 – delete “but are not limited to”

Page 3, line 22 – replace “client(s)” with “clients”

Page 3, line 26 – replace “is” with “shall be”

Page 3, line 26 – add commas after “nurse” and “nursing”

Page 3, line 27 – delete “but is not limited to”

Page 3, line 30 – add “the” before “plan”

Page 3, line 35 – add a comma after “nurse”

Page 3, line 36 – replace “90-171.20(7)(i)” with “90-171.20(7)i.”

Page 3, line 36 – delete “but is not limited to”

Page 4, line 1 – add a comma after “policies”

Page 4, line 7 – replace “and which includes” with “, including”

Page 4, line 10 – add a comma after “knowledge”

Page 4, line 13 – delete “validation of” if it not needed

Page 4, line 14 – replace “is” with “shall be”

Page 4, line 15 – replace “which includes” with “including”

Page 4, line 18 – delete the comma

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 **21 NCAC 36 .0224 is readopted, with changes, as published in 33:1 NCR 25-27 as follows:**

2
3 **21 NCAC 36 .0224 COMPONENTS OF NURSING PRACTICE FOR THE REGISTERED NURSE**

4 (a) The responsibilities which any registered nurse can safely accept are determined by the variables in each nursing
5 practice setting. These variables include:

- 6 (1) the nurse's own qualifications including:
 - 7 (A) basic educational preparation; and
 - 8 (B) knowledge and skills subsequently acquired through continuing education and practice;
- 9 (2) the complexity and frequency of nursing care needed by a given client population;
- 10 (3) the proximity of clients to personnel;
- 11 (4) the qualifications and number of staff;
- 12 (5) the accessible resources; and
- 13 (6) established policies, procedures, practices, and channels of communication which lend support to the
14 types of nursing services offered.

15 (b) Assessment is an on-going process and consists of the determination of nursing care needs based upon collection and
16 interpretation of data relevant to the health status of a client, group or community.

- 17 (1) Collection of data includes:
 - 18 (A) obtaining data from relevant sources regarding the biophysical, psychological, social and
19 cultural factors of the client's life and the influence these factors have on health status,
20 including:
 - 21 (i) subjective reporting;
 - 22 (ii) observations of appearance and behavior;
 - 23 (iii) measurements of physical structure and physiological functions;
 - 24 (iv) information regarding available resources; and
 - 25 (B) verifying data collected.
- 26 (2) Interpretation of data includes:
 - 27 (A) analyzing the nature and inter-relationships of collected data; and
 - 28 (B) determining the significance of data to client's health status, ability to care for self, and
29 treatment regimen.

- 30 (3) Formulation of a nursing diagnosis includes:
 - 31 (A) describing actual or potential responses to health conditions. Such responses are those for
32 which nursing care is indicated, or for which referral to medical or community resources is
33 appropriate; and
 - 34 (B) developing a statement of a client problem identified through interpretation of collected data.

35 (c) Planning nursing care activities includes identifying the client's needs and selecting or modifying nursing
36 interventions related to the findings of the nursing assessment. Components of planning include:

- 37 (1) prioritizing nursing diagnoses and needs;

- 1 (2) setting realistic, measurable goals and outcome criteria;
- 2 (3) initiating or participating in multidisciplinary planning;
- 3 (4) developing a plan of care which includes determining and prioritizing nursing interventions; and
- 4 (5) identifying resources based on necessity and availability.

5 (d) Implementation of nursing activities is the initiating and delivering of nursing care according to an established plan,
6 which includes, but is not limited to:

- 7 (1) procuring resources;
- 8 (2) implementing nursing interventions and medical orders consistent with 21 NCAC 36 .0221(c) and
9 within an environment conducive to client safety;
- 10 (3) prioritizing and performing nursing interventions;
- 11 (4) analyzing responses to nursing interventions;
- 12 (5) modifying nursing interventions; and
- 13 (6) assigning, ~~delegating~~ delegating, and supervising nursing activities of other licensed and unlicensed
14 personnel consistent with Paragraphs (a) and (i) of this Rule, ~~G.S. 90-171.20(7)~~ G.S. 90-171.20(7)(d)
15 and ~~(7)~~, (7)(i), and 21 NCAC 36 .0401.

16 (e) Evaluation consists of determining the extent to which desired outcomes of nursing care are met and planning for
17 subsequent care. Components of evaluation include:

- 18 (1) collecting evaluative data from relevant sources;
- 19 (2) analyzing the effectiveness of nursing interventions; and
- 20 (3) modifying the plan of care based upon newly collected data, new problem identification, change in the
21 client's status and expected outcomes.

22 (f) Reporting and Recording by the registered nurse are those communications required in relation to all aspects of
23 nursing care.

24 (1) Reporting means the communication of information to other ~~persons~~ individuals responsible for, or
25 involved in, the care of the client. The registered nurse is accountable for:

- 26 (A) directing the communication to the appropriate ~~person(s)~~ individual(s) and consistent with
27 established policies, procedures, ~~practices~~ practices, and channels of communication which
28 lend support to types of nursing services offered;
- 29 (B) communicating within a time period which is consistent with the client's need for care;
- 30 (C) evaluating the responses to information reported; and
- 31 (D) determining whether further communication is indicated.

32 (2) Recording means the documentation of information on the appropriate client record, nursing care plan
33 or other documents. This documentation must:

- 34 (A) be pertinent to the client's health care;
- 35 (B) accurately describe all aspects of nursing care including assessment, planning,
36 ~~implementation~~ implementation, and evaluation;
- 37 (C) be completed within a time period consistent with the client's need for care;

- 1 (D) reflect the communication of information to other ~~persons~~; individuals; and
- 2 (E) verify the proper administration and disposal of controlled substances.
- 3 (g) Collaborating involves communicating and working cooperatively with individuals whose services may have a direct
- 4 or indirect effect upon the client's health care and includes:
- 5 (1) initiating, coordinating, ~~planning~~ planning, and implementing nursing or multidisciplinary approaches
- 6 for the client's care;
- 7 (2) participating in decision-making and in cooperative goal-directed efforts;
- 8 (3) seeking and utilizing appropriate resources in the referral process; and
- 9 (4) safeguarding confidentiality.
- 10 (h) Teaching and ~~Counseling~~ counseling clients is the responsibility of the registered nurse, consistent with ~~G.S.~~
- 11 ~~90-171.20(7)g.~~ G.S. 90-171.20(7)(g).
- 12 (1) Teaching and counseling consist of providing accurate and consistent information, demonstrations and
- 13 guidance to clients, their families or significant others regarding the client's health ~~status~~ status, and
- 14 health care for the purpose of:
- 15 (A) increasing knowledge;
- 16 (B) assisting the client to reach an optimum level of health functioning and participation in ~~self~~
- 17 ~~care~~; self-care; and
- 18 (C) promoting the client's ability to make informed decisions.
- 19 (2) Teaching and counseling include, but are not limited to:
- 20 (A) assessing the client's needs, ~~abilities~~ abilitites, and knowledge level;
- 21 (B) adapting teaching content and methods to the identified needs, abilities of the ~~client(s)~~
- 22 client(s), and knowledge level;
- 23 (C) evaluating effectiveness of teaching and counseling; and
- 24 (D) making referrals to appropriate resources.
- 25 (i) Managing the delivery of nursing care through the on-going supervision, ~~teaching~~ teaching, and evaluation of nursing
- 26 personnel is the responsibility of the registered nurse as specified in the legal definition of the practice of nursing and
- 27 includes, but is not limited to:
- 28 (1) continuous availability for direct participation in nursing care, onsite when necessary, as indicated by
- 29 client's status and by the variables cited in Paragraph (a) of this Rule;
- 30 (2) assessing capabilities of personnel in relation to client status and plan of nursing care;
- 31 (3) delegating responsibility or assigning nursing care functions to personnel qualified to assume such
- 32 responsibility and to perform such functions;
- 33 (4) accountability for nursing care given by all personnel to whom that care is assigned and delegated; and
- 34 (5) direct observation of clients and evaluation of nursing care given.
- 35 (j) Administering nursing services is the responsibility of the registered nurse as specified in the legal definition of the
- 36 practice of nursing in ~~G.S. 90-171.20(7)i.~~ G.S. 90-171.20(7)(i). and includes, but is not limited to:

- 1 (1) identification, ~~development~~ development, and updating of standards, policies and procedures related to
2 the delivery of nursing care;
- 3 (2) implementation of the identified standards, ~~polieies~~ policies, and procedures to promote safe and
4 effective nursing care for clients;
- 5 (3) planning for and evaluation of the nursing care delivery system; and
- 6 (4) management of licensed and unlicensed personnel who provide nursing care consistent with
7 Paragraphs (a) and (i) of this Rule and which includes:
- 8 (A) appropriate allocation of human resources to promote safe and effective nursing care;
- 9 (B) defined levels of accountability and responsibility within the nursing organization;
- 10 (C) a mechanism to validate qualifications, ~~knowledge~~ knowledge and skills of nursing
11 personnel;
- 12 (D) provision of educational opportunities related to expected nursing performance; and
- 13 (E) validation of the implementation of a system for periodic performance evaluation.
- 14 (k) Accepting responsibility for self for individual nursing actions, ~~competene~~ competence, and behavior is the
15 responsibility of the registered nurse, which includes:
- 16 (1) having knowledge and understanding of the statutes and rules governing nursing;
- 17 (2) functioning within the legal boundaries of registered nurse practice; and
- 18 (3) respecting client rights and property, and the rights and property of others.

19

20 *History Note:* Authority G.S. 90-171.20(7); 90-171.23(b); 90-171.43(4);
21 Eff. January 1, 1991;
22 Temporary Amendment Eff. October 24, 2001;
23 Amended Eff. August 1, ~~2002.~~ 2002;
24 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0225

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 5 – replace “The” with “A”

Line 6 – replace “which” with “that”

Lines 6-7 – revise as follows:

... can safely accept, which shall be determined by such variables as:

Line 8 – delete “own”

Line 15 – replace “which” with “that”

Line 17 – revise as follows: “Assessment is an on-going process and shall consist of ...”

Line 19 – replace “collection of data consists of” with “Collection of data shall consist of”

Line 21 – add a comma after “policies”

Line 21 – replace “and includes” with “including”

Line 22 – what does “subjective reporting” mean? Is this a term of art?

Line 25 – what does “available resources” mean – health care resources?

Line 26 – replace “interpretation of data is limited to:” with “Interpretation of data shall be limited to:”

Line 30 – add a comma after “regimen”

Line 32 – replace “includes” with “shall include”

Line 34 – replace “intervention and medical orders” with “intervention, medical orders,”

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 1 – replace “consists” with “shall consist”

Page 2, line 2 – replace “individual(s)” with “individuals”

Page 2, line 3 – replace “90-171.20(8)(c)” with ““90-171.20(8)c.””

Page 2, line 4 – replace “which” with “that”

Page 2, line 4 – add “shall” before “include”

Page 2, line 7 – replace “Paragraph (c) of 21 NCAC 36 .0221” with “21 NCAC 36 .0221(c)”

Page 2, line 13 – delete the comma

Page 2, line 17 – add a comma after “activities” and replace “and providing” with “if”

Page 2, line 30 – replace “is” with “shall be”

Page 2, line 30 – replace “which” with “that”

Page 2, line 31 – delete “but is not limited to”

Page 2, line 36 – replace “When” with “If”

Page 3, line 1 – replace “participates” with “may participate” or “shall participate”

Page 3, line 1 – replace “When” with “If”

Page 3, line 2 – replace “participates” with “may participate” or “shall participate”

Page 3, line 3 – replace “individual(s)” with “individuals”

Page 3, line 5 – add a comma after “task”

Page 3, line 7 – replace “When” with “If”

Page 3, line 7 – replace “participates” with “shall participate”

Page 3, line 8 – replace “individual(s)” with “individuals”

Page 3, line 10 – replace “a given” with “his or her”

Page 3, lines 11 and 12 – is “personnel” with same as “staff”? If so, choose one term and use it consistently.

Page 3, lines 11, 12, 13, and 15 – add “in the facility in which the nurse practices” at the end of each of these lines if that is what is meant.

Page 3, line 14 – replace “which” with “that”

Page 3, line 16 – replace “consists” with “shall consist”

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Page 3, lines 17-18 – replace “subsequent care. Components of evaluation include:” with “subsequent care, including:”

Page 3, line 23 – replace “individual(s)” with “individuals”

Page 3, line 24 – replace “are” with “shall be”

Page 3, line 27 – replace “is accountable for” with “shall”

Page 3, lines 28-30 – consider revising as follows (and renumbering lines 31-33):

- (A) direct the communication to the appropriate individuals;*
- (B) assure that these communications are consistent with established policies, procedures, practices, and channels of communication that lend support to the types of nursing services offered;*

Page 3, line 31 – replace “communicating” with “communicate”

Page 3, line 32 – replace “which” with “that”

Page 3, line 33 – replace “evaluating” with “evaluate”

Page 3, line 35 – replace “must” with “shall”

Page 3, line 36 – add a comma after “care”

Page 4, line 2 – replace “individual(s)” with “individuals”

Page 4, line 7 – replace “includes” with “shall include”

Page 4, line 13 -replace “is” with “shall be”

Page 4, line 14 – replace “includes” with “shall include”

Page 4, line 17 – add “of clients regarding their health” after “knowledge” if that is what is meant.

Page 4, lines 22-23 – replace “which includes” with “including”

Page 4, line 26 – delete the comma

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 **21 NCAC 36 .0225 is readopted, with changes, as published in 33:1 NCR 27-29 as follows:**

2
3 **21 NCAC 36 .0225 COMPONENTS OF NURSING PRACTICE FOR THE LICENSED PRACTICAL**
4 **NURSE**

5 (a) The licensed practical nurse shall accept only those assigned nursing activities and responsibilities, as defined in
6 Paragraphs (b) through (i) of this Rule, which the licensee can safely perform. That acceptance shall be based upon the
7 variables in each practice setting which include:

- 8 (1) the nurse's own qualifications in relation to client need and plan of nursing care, including:
9 (A) basic educational preparation; and
10 (B) knowledge and skills subsequently acquired through continuing education and practice;
11 (2) the degree of supervision by the registered nurse consistent with Paragraph (d)(3) of this Rule;
12 (3) the stability of each client's clinical condition;
13 (4) the complexity and frequency of nursing care needed by each client or client group;
14 (5) the accessible resources; and
15 (6) established policies, procedures, practices, and channels of communication which lend support to the
16 types of nursing services offered.

17 (b) Assessment is an on-going process and consists of participation in the determination of nursing care needs based
18 upon collection and interpretation of data relevant to the health status of a client.

- 19 (1) collection of data consists of obtaining data from relevant sources regarding the biophysical,
20 psychological, ~~social~~ social, and cultural factors of the client's life and the influence these factors have
21 on health status, according to structured written guidelines, policies and forms, and includes:
22 (A) subjective reporting;
23 (B) observations of appearance and behavior;
24 (C) measurements of physical structure and physiologic function; and
25 (D) information regarding available resources.
26 (2) interpretation of data is limited to:
27 (A) participation in the analysis of collected data by recognizing existing relationships between
28 data gathered and a client's health status and treatment regimen; and
29 (B) determining a client's need for immediate nursing interventions based upon data gathered
30 regarding the client's health status, ability to care for self, and treatment regimen consistent
31 with Paragraph (a)(6) of this Rule.

32 (c) Planning nursing care activities includes participation in the identification of client's needs related to the findings of
33 the nursing assessment. Components of planning include:

- 34 (1) participation in making decisions regarding implementation of nursing intervention and medical orders
35 and plan of care through the utilization of assessment data;
36 (2) participation in multidisciplinary planning by providing resource data; and
37 (3) identification of nursing interventions and goals for review by the registered nurse.

1 (d) Implementation of nursing activities consists of delivering nursing care according to an established health care plan
2 and as assigned by the registered nurse or other ~~person(s)~~ individual(s) authorized by law as specified in G.S. 90-171.20
3 (8)(c).

- 4 (1) Nursing activities and responsibilities which may be assigned to the licensed practical nurse include:
5 (A) procuring resources;
6 (B) implementing nursing interventions and medical orders consistent with Paragraph (b) of this
7 Rule and Paragraph (c) of 21 NCAC 36 .0221 and within an environment conducive to client
8 safety;
9 (C) prioritizing and performing nursing interventions;
10 (D) recognizing responses to nursing interventions;
11 (E) modifying immediate nursing interventions based on changes in a client's status; and
12 (F) delegating specific nursing tasks as outlined in the plan of care and consistent with Paragraph
13 (d)(2) of this Rule, and 21 NCAC 36 .0401.

- 14 (2) The licensed practical nurse may participate, consistent with 21 NCAC 36 .0224(d)(6), in
15 implementing the health care plan by assigning nursing care activities to other licensed practical
16 nurses and delegating nursing care activities to unlicensed personnel qualified and competent to
17 perform such activities and providing all of the following criteria are met:

- 18 (A) validation of qualifications of personnel to whom nursing activities may be assigned or
19 delegated;
20 (B) continuous availability of a registered nurse for supervision consistent with 21 NCAC 36
21 .0224(i) and Paragraph (d)(3) of this Rule;
22 (C) accountability maintained by the licensed practical nurse for responsibilities accepted,
23 including nursing care given by self and by all other personnel to whom such care is assigned
24 or delegated;
25 (D) participation by the licensed practical nurse in on-going observations of clients and
26 evaluation of clients' responses to nursing actions; and
27 (E) provision of supervision limited to the validation that tasks have been performed as assigned
28 or delegated and according to established standards of practice.

- 29 (3) The degree of supervision required for the performance of any assigned or delegated nursing activity
30 by the licensed practical nurse when implementing nursing care is determined by variables which
31 include, but are not limited to:

- 32 (A) educational preparation of the licensed practical nurse, including both the basic educational
33 program and the knowledge and skills subsequently acquired by the nurse through continuing
34 education and practice;
35 (B) stability of the client's clinical condition, which involves both the predictability and rate of
36 change. When a client's condition is one in which change is highly predictable and would be
37 expected to occur over a period of days or weeks rather than minutes or hours, the licensed

1 practical nurse participates in care with minimal supervision. When the client's condition is
2 unpredictable or unstable, the licensed practical nurse participates in the performance of the
3 task under close supervision of the registered nurse or other ~~person(s)~~ individual(s)
4 authorized by law to provide such supervision;

5 (C) complexity of the nursing task which is determined by depth of scientific body of knowledge
6 upon which the action is based and by the task's potential threat to the client's well-being.
7 When a task is complex, the licensed practical nurse participates in the performance of the
8 task under close supervision of the registered nurse or other ~~person(s)~~ individual(s)
9 authorized by law to provide such supervision;

10 (D) the complexity and frequency of nursing care needed by a given client population;

11 (E) the proximity of clients to personnel;

12 (F) the qualifications and number of staff;

13 (G) the accessible resources; and

14 (H) established policies, procedures, ~~practices~~ practices, and channels of communication which
15 lend support to the types of nursing services offered.

16 (e) Evaluation, a component of implementing the health care plan, consists of participation in determining the extent to
17 which desired outcomes of nursing care are met and in planning for subsequent care. Components of evaluation by the
18 licensed practical nurse include:

19 (1) collecting evaluative data from relevant sources according to written guidelines, ~~policies~~ policies, and
20 forms;

21 (2) recognizing the effectiveness of nursing interventions; and

22 (3) proposing modifications to the plan of care for review by the registered nurse or other ~~person(s)~~
23 individual(s) authorized by law to prescribe such a plan.

24 (f) Reporting and recording are those communications required in relation to the aspects of nursing care for which the
25 licensed practical nurse has been assigned responsibility.

26 (1) Reporting means the communication of information to other ~~persons~~ individuals responsible for or
27 involved in the care of the client. The licensed practical nurse is accountable for:

28 (A) directing the communication to the appropriate ~~person(s)~~ individual(s) and consistent with
29 established policies, procedures, ~~practices~~ practices, and channels of communication which
30 lend support to types of nursing services offered;

31 (B) communicating within a time period which is consistent with the client's need for care;

32 (C) evaluating the nature of responses to information reported; and

33 (D) determining whether further communication is indicated.

34 (2) Recording means the documentation of information on the appropriate client record, nursing care ~~plan~~
35 plan, or other documents. This documentation must:

36 (A) be pertinent to the client's health care including client's response to care provided;

37 (B) accurately describe all aspects of nursing care provided by the licensed practical nurse;

- 1 (C) be completed within a time period consistent with the client's need for care;
- 2 (D) reflect the communication of information to other persons; and
- 3 (E) verify the proper administration and disposal of controlled substances.

4 (g) Collaborating involves communicating and working cooperatively in implementing the health care plan with
5 individuals whose services may have a direct or indirect effect upon the client's health care. As delegated by the
6 registered nurse or other ~~person(s)~~ individual(s) authorized by law, the licensed practical nurse's role in collaborating in
7 client care includes:

- 8 (1) participating in planning and implementing nursing or multidisciplinary approaches for the client's
9 care;
- 10 (2) seeking and utilizing appropriate resources in the referral process; and
- 11 (3) safeguarding confidentiality.

12 (h) ~~"Participating Participating"~~ in the teaching and ~~"counseling"~~ counseling of clients as assigned by the registered nurse,
13 physician or other qualified professional licensed to practice in North Carolina is the responsibility of the licensed
14 practical nurse. Participation includes:

- 15 (1) providing accurate and consistent information, demonstrations, and guidance to clients, their ~~families~~
16 families, or significant others regarding the client's health status and health care for the purpose of:
 - 17 (A) increasing knowledge;
 - 18 (B) assisting the client to reach an optimum level of health functioning and participation in ~~self~~
19 care; self-care; and
 - 20 (C) promoting the client's ability to make informed decisions.
- 21 (2) collecting evaluative data consistent with Paragraph (e) of this Rule.

22 (i) Accepting responsibility for self for individual nursing actions, ~~competence~~ competence, and behavior which
23 includes:

- 24 (1) having knowledge and understanding of the statutes and rules governing nursing;
- 25 (2) functioning within the legal boundaries of licensed practical nurse practice; and
- 26 (3) respecting client rights and property, and the rights and property of others.

27
28 *History Note:* Authority G.S. 90-171.20(7),(8); 90-171.23(b); 90-171.43(4);
29 Eff. January 1, 1991;
30 Amended Eff. January 1, 1996;
31 Temporary Amendment Eff. October 24, 2001;
32 Amended Eff. August 1, ~~2002~~ 2002;
33 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0226

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Lines 4-6 – delete Paragraph (a) and line 6

Lines 7-20 – consider revising as follows:

(a) Only a registered nurse who completes a program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs, is credentialed as a certified registered nurse anesthetist by the Council on Certification of Nurse Anesthetists, and who maintains recertification through the Council on Recertification of Nurse Anesthetists, shall perform nurse anesthesia activities in collaboration with a physician, dentist, podiatrist, or other lawfully qualified health care provider. A nurse anesthetist shall not prescribe a medical treatment regimen or make a medical diagnosis except under the supervision of a licensed physician.

(b) For the purposes of this Rule, collaboration means a process by which the certified registered nurse anesthetist works with one or more qualified health care providers, each contributing his or her respective area of expertise consistent with the appropriate occupational licensure laws of the State and according to the established policies, procedures, practices, and channels of communication that lend support to nurse anesthesia services and that define the roles and responsibilities of a qualified nurse anesthetist within the practice setting.

Line 21 – replace “which with “that”

Line 22 – replace “are dependent” with “shall depend”

Line 22 – replace the “and” after “knowledge” with a comma

Line 23 – replace “.0224(a). These activities include” with “.0224(a), including”

Lines 24 and 28 – replace “client to include” with “client, including”

Page 2, line 2 – delete the comma

Page 2, line 5 – replace “client to include” with “client, including”

Page 2, line 16 – add a comma after “anesthesia”

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 18 – replace “as per” with “in accord with” or “in compliance with”

Page 2, line 20 – add “shall” before “include”

Page 2, lines 20-21 – delete “but are not limited to”

Page 2, line 27 – replace “utilizing” with “using”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0226 is readopted, **with changes**, as published in 33:1 NCR 29-30 as follows:

2
3 21 NCAC 36 .0226 NURSE ANESTHESIA PRACTICE

4 (a) Only those registered nurses who meet the qualifications as outlined in Paragraph (b) of this Rule may perform nurse
5 anesthesia activities outlined in Paragraph (c) of this Rule.

6 (b) Qualifications and Definitions:

7 (1) The registered nurse who completes a program accredited by the Council on Accreditation of Nurse
8 Anesthesia Educational Programs, is credentialed as a certified registered nurse anesthetist by the
9 Council on Certification of Nurse Anesthetists, and who maintains recertification through the Council
10 on Recertification of Nurse Anesthetists, may perform nurse anesthesia activities in collaboration with
11 a physician, dentist, podiatrist, or other lawfully qualified health care provider, but may not prescribe a
12 medical treatment regimen or make a medical diagnosis except under the supervision of a licensed
13 physician; and

14 (2) Collaboration is a process by which the certified registered nurse anesthetist works with one or more
15 qualified health care providers, each contributing his or her respective area of expertise consistent with
16 the appropriate occupational licensure laws of the State and according to the established policies,
17 procedures, ~~practices~~ practices, and channels of communication which lend support to nurse anesthesia
18 ~~services~~ services, and which define the role(s) and responsibilities of the qualified nurse anesthetist
19 within the practice setting. The individual nurse anesthetist maintains accountability for the outcome
20 of his or her actions.

21 (c) Nurse Anesthesia activities and responsibilities which the appropriately qualified registered nurse anesthetist may
22 safely accept are dependent upon the individual's knowledge and ~~skills~~ skills, and other variables in each practice setting
23 as outlined in 21 NCAC 36 .0224(a). These activities include:

24 (1) Preanesthesia preparation and evaluation of the client to include:

- 25 (A) performing a pre-operative health assessment;
26 (B) recommending, ~~requesting~~ requesting, and evaluating pertinent diagnostic studies; and
27 (C) selecting and administering preanesthetic medications.

28 (2) Anesthesia induction, ~~maintenance~~ maintenance, and emergence of the client to include:

- 29 (A) securing, ~~preparing~~ preparing, and providing safety checks on all equipment, monitors,
30 ~~supplies~~ supplies, and pharmaceutical agents used for the administration of anesthesia;
31 (B) selecting, implementing, and managing general anesthesia; monitored anesthesia care; and
32 regional anesthesia modalities, including administering anesthetic and related pharmaceutical
33 agents, consistent with the client's needs and procedural requirements;
34 (C) performing tracheal intubation, ~~extubation~~ extubation, and providing mechanical ventilation;
35 (D) providing perianesthetic invasive and non-invasive monitoring, recognizing abnormal
36 findings, implementing corrective action, and requesting consultation with appropriately
37 qualified health care providers as necessary;

- (E) managing the client's fluid, blood, ~~electrolyte~~ electrolyte, and acid-base balance; and
- (F) evaluating the client's response during ~~emergency~~ emergence from ~~anesthesia~~ anesthesia, and implementing pharmaceutical and supportive treatment to ensure the adequacy of client recovery from anesthesia.

(3) Postanesthesia Care of the client to include:

- (A) providing postanesthesia follow-up care, including evaluating the client's response to anesthesia, recognizing potential anesthetic complications, implementing corrective actions, and requesting consultation with appropriately qualified health care professionals as necessary;
- (B) initiating and administering respiratory support to ensure adequate ventilation and oxygenation in the immediate postanesthesia period;
- (C) initiating and administering pharmacological or fluid support of the cardiovascular system during the immediate postanesthesia period;
- (D) documenting all aspects of nurse anesthesia care and reporting the client's status, perianesthetic course, and anticipated problems to an appropriately qualified postanesthetic health care provider who assumes the client's care following anesthesia consistent with 21 NCAC 36 .0224(f); and
- (E) releasing clients from the postanesthesia care or surgical setting as per established agency policy.

(d) Other clinical activities for which the qualified registered nurse anesthetist may accept responsibility include, but are not limited to:

- (1) inserting central vascular access catheters and epidural catheters;
- (2) identifying, responding ~~to~~ to, and managing emergency situations, including initiating and participating in cardiopulmonary resuscitation;
- (3) providing consultation related to respiratory and ventilatory care and implementing such care according to established policies within the practice setting; and
- (4) initiating and managing pain relief therapy utilizing pharmaceutical agents, regional anesthetic ~~techniques~~ techniques, and other accepted pain relief modalities according to established policies and protocols within the practice setting.

History Note: Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21; 90-171.23; 90-171.42(b);
Eff. July 1, 1993;
Temporary Amendment Eff. July 25, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. December 1, 2010; December 1, ~~1994, 1994~~;
Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0228

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – delete “as”

Line 6 – replace “as outlined” with “listed”

Line 13 – add “level” after “higher”

Line 13 – add “that is” before “accredited”

Lines 21-28 – consider seeking permission from the Codifier of Rules to add a fourth-level subdivision and list these equivalency factors separately as (b)(1)(B)(i), etc.

Line 22 – replace “determined by the Board to be” with “that are”

Line 24 – add “a” before “current”

Line 25 – delete the “and” before “professional”

Line 29 – add a comma after “2007”

Line 30 – delete the comma after “practice”

Line 35 – delete “as acceptable by the Board”

Line 35 – replace “meets” with “shall meet”

Page 2, lines 3-4 – is the phrase “and consisting of common conditions and their management related to the clinical nurse specialist’s area of education and certification” necessary? If not, Delete it. If it is, replace the “and” after “(p)” with a comma.

Page 2, line 6 – replace “required by” with taught in”

Page 2, line 7 – replace “incorporates” with “shall incorporate”

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 10 – replace “maintained that includes the following” with “maintains, including”

Page 2, line 11 – delete the comma after “synthesizing”

Page 2, lines 13-14 and 15-16 – what does “within an advanced practice nursing framework” mean in this context? Is it necessary? Is the meaning understood by your regulated public?

Page 2, line 20 – delete the comma

Page 2, line 25 – replace “utilizing” with “using”

Page 2, line 32 – replace “shall include” with “includes”

Page 2, line 33 – add a comma after “certificate”

Page 2, line 35 – delete the comma

Page 2, line 37 – add a comma after “body”

Page 3, line 1 – delete “as”

Page 3, line 5 – add a comma after “recognition”

Page 3, line 9 – replace “may” with “shall” if that is what is meant

Page 3, line 11 – add “licensure as” before “an”

Page 3, line 11 – delete “license”

Page 3, line 12 – replace “shall be” with “that is”

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

1 21 NCAC 36 .0228 is readopted, **with changes**, as published in 33:1 NCR 30-32 as follows:

2
3 **21 NCAC 36 .0228 CLINICAL NURSE SPECIALIST PRACTICE**

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

7 (b) The Board of Nursing shall recognize an applicant who:

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

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

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

17 (4) either:

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

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

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

32 (d) New graduates seeking first-time clinical nurse specialist recognition in North Carolina shall hold a ~~Master's,~~
33 [master's,] master's or doctoral degree or a post-master's [post-master's,] post-master's certificate or higher degree
34 from a clinical nurse specialist program accredited by a nursing accrediting body approved by the U.S. Secretary of
35 Education or the Council for Higher Education Accreditation as acceptable by the Board, and meets all requirements
36 in Subparagraph (b)(1) and Part (g)(5)(A) of this Rule.

1 (e) A clinical nurse specialist seeking Board of Nursing recognition who has not practiced as a clinical nurse
2 specialist in more than two years shall complete a clinical nurse specialist refresher course approved by the Board of
3 Nursing in accordance with 21 NCAC 36 .0220(o) and (p) and consisting of common conditions and their
4 management related to the clinical nurse specialist's area of education and certification. A clinical nurse specialist
5 refresher course participant shall be granted clinical nurse specialist recognition that is limited to clinical activities
6 required by the refresher course.

7 (f) The scope of practice of a clinical nurse specialist incorporates the basic components of nursing practice as
8 defined in Rule .0224 of this Section as well as the understanding and application of nursing principles at an
9 advanced practice registered nurse level in the area of clinical nursing specialization in which the clinical nurse
10 specialist is educationally prepared and for which competency has been maintained that includes the following:

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

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

- 32 (1) complete the appropriate application that shall include the following:
 - 33 (A) evidence of a ~~masters, master's or doctoral degree or a~~ post-master's certificate
34 [certificate,] or doctoral degree as set out in Subparagraph (b)(3) or Paragraph (d) of this
35 Rule; and, either
 - 36 (B) evidence of current certification in a clinical nursing specialty from a national
37 credentialing body as set out in Part (b)(4)(A) of this Rule; or

- 1 (C) meet requirements as set out in Part (b)(4)(B) of this Rule;
- 2 (2) renew the recognition every two years at the time of registered nurse renewal; and
- 3 (3) either:
 - 4 (A) submit evidence of initial certification and re-certification by a national credentialing
 - 5 body at the time such occurs in order to maintain Board of Nursing recognition consistent
 - 6 with Paragraphs (b) and (h) of this Rule; or
 - 7 (B) if subject to Part (b)(4)(B) of this Rule, submit evidence of at least 1,000 hours of
 - 8 practice and 75 contact hours of continuing education every five years.

9 (h) The Board of Nursing may approve those national credentialing bodies offering certification and recertification
10 in a clinical nursing specialty that have established the following minimum requirements:

- 11 (1) an unrestricted registered nurse license; and
- 12 (2) certification as a clinical nurse specialist shall be limited to applicant prepared with a masters,
13 [master's,] master's or doctoral degree or a post-master's certificate, or doctorally prepared
14 applicant certificate.

15
16 *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-
17 171.42(b);
18 Eff. April 1, 1996;
19 Amended Eff. January 1, 2015; April 1, 2008; January 1, 2007; November 1, 2005; August 1,
20 2005; April 1, 2003. 2003;
21 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0232

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Lines 5, 7, and 8 – do not capitalize the first word in these lines

Line 5 – add a comma after “practice”

Line 5 – delete “the dimensions of:”

Line 6 – replace “legal/ethical” with “legal and ethical”

Lines 12-27 – do not capitalize anything other than “Board”

Lines 14, 19, 22, 24, and 27 – use numerals rather than text for numbers larger than 9.

Line 20 – replace “to include” with “, including”

Line 21 – add “a” before “summary”

Line 29 – replace “outlined” with “described”

Line 31 and page 2, lines 1, 4, 7, 15 and 17 – replace “shall include” with “that includes”

Line 31 – replace “which includes” with “that states”

Line 33 – delete “or”

Line 35 – replace “shall include” with “that states”

Page 2, line 1 – replace “shall include” with “that states”

Page 2, line 2 – replace “with” with “stating”

Page 2, line 4 – add “a” before “transcript”

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 4 – replace “with” with “stating”

Page 2, line 9 – add “a” before “summary”

Page 2, line 12 – replace “which shall include” with “that includes”

Page 2, line 12 – replace “to include” with “stating”

Page 2, line 15 – add “the” before “program”

Page 2, lines 19, 21, and 24 – replace “may” with “shall”

Page 2, line 30 – add “the” before “license”

Page 2, line 32 – add “of the” before “requirements”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0232 is readopted, **with changes**, as published in 33:1 NCR 32-33 as follows:

2
3 21 NCAC 36 .0232 CONTINUING COMPETENCE

4 (a) ~~Effective July 1, 2006, upon~~ Upon application for license renewal or reinstatement, each licensee shall:

- 5 (1) Complete a self-assessment of practice including the dimensions of: professional responsibility,
6 knowledge based practice, legal/ethical ~~practice~~ practice, and collaborating with others;
7 (2) Develop a plan for continued learning; and
8 (3) Select and implement a learning activity option from those outlined in Paragraph (b) of this Rule.

9 (b) ~~Effective July 1, 2008, upon~~ Upon application for license renewal or reinstatement, each licensee shall attest to
10 having completed one of the following learning activity options during the preceding renewal cycle and ~~be prepared to~~
11 submit evidence of completion if requested by the Board:

- 12 (1) National Certification or re-certification related to the nurse's practice role by a national credentialing
13 body recognized by the Board, consistent with 21 NCAC 36 .0120 and 21 NCAC 36 .0801;
14 (2) Thirty contact hours of continuing education activities related to the nurse's practice;
15 (3) Completion of a ~~Board-approved~~ Board-approved refresher course, consistent with 21 NCAC 36 .0220
16 and 21 NCAC 36 .0808(d);
17 (4) Completion of a minimum of two semester hours of post-licensure academic education related to
18 nursing practice;
19 (5) Fifteen contact hours of a continuing education activity related to the nurse's practice and completion
20 of a nursing project as principal or co-principal investigator to include a statement of the problem,
21 project objectives, ~~methods~~ methods, and summary of findings;
22 (6) Fifteen contact hours of a continuing education activity related to the nurse's practice and authoring or
23 co-authoring a published nursing-related article, paper, ~~book~~ book, or book chapter;
24 (7) Fifteen contact hours of a continuing education activity related to the nurse's practice and designing,
25 developing, and conducting an educational presentation or presentations totaling a minimum of five
26 contact hours for nurses or other health professionals; or
27 (8) Fifteen contact hours of a continuing education activity related to the nurse's practice and 640 hours of
28 active practice within the previous two years.

29 (c) The following documentation shall be accepted as evidence of completion of learning activity options outlined in
30 Paragraph (b) of this Rule:

- 31 (1) Evidence of national certification shall include a copy of a certificate which includes name of licensee,
32 name of certifying body, date of certification, date of certification expiration. Certification shall be
33 initially attained during the licensure period, or have been in effect during the entire licensure period,
34 or have been re-certified during the licensure period.
35 (2) Evidence of contact hours of continuing education shall include the name of the ~~licensee~~; licensee, title
36 of educational activity, name of the provider, number of contact ~~hours~~ hours, and date of activity.

- 1 (3) Evidence of completion of a ~~Board-approved~~ Board-approved refresher course shall include written
2 correspondence from the provider with the name of the licensee, name of the provider, and verification
3 of successful completion of the course.
- 4 (4) Evidence of post-licensure academic education shall include a copy of transcript with the name of the
5 licensee, name of educational institution, date of attendance, name of course with ~~grade~~ grade, and
6 number of credit hours received.
- 7 (5) Evidence of completion of a nursing project shall include an abstract or summary of the project, the
8 name of the licensee, role of the licensee as principal or co-principal investigator, date of project
9 completion, statement of the problem, project objectives, methods ~~used~~ used, and summary of
10 findings.
- 11 (6) Evidence of authoring or co-authoring a published nursing-related article, paper, ~~book~~ book, or book
12 chapter which shall include a copy of the publication to include the name of the licensee and
13 publication date.
- 14 (7) Evidence of developing and conducting an educational presentation or presentations totaling at least
15 five contact hours for nurses or other health professionals shall include a copy of program brochure or
16 course syllabi, objectives, content and teaching methods, and date and location of presentation.
- 17 (8) Evidence of 640 hours of active practice in nursing shall include documentation of the name of the
18 licensee, number of hours worked in calendar or fiscal year, name and address of ~~employer~~ employer,
19 and signature of supervisor. If self-employed, hours worked may be validated through other methods
20 such as tax records or other business records. If active practice is of a volunteer or gratuitous nature,
21 hours worked may be validated by the recipient agency.

22 (d) A licensee shall retain supporting documentation to provide proof of completion of the option chosen in Paragraph

23 (b) of this Rule ~~throughout the renewal cycle.~~ for three years.

24 (e) ~~Effective July 1, 2008, at~~ At the time of license renewal or reinstatement, licensees may be subject to audit for proof
25 of compliance with the Board's requirements for continuing competence.

26 (f) The Board shall inform licensees of their selection for audit ~~upon notice~~ at the time of license renewal or request for
27 reinstatement. Documentation of acceptable evidence shall be consistent with Paragraph (c) of this Rule and shall be
28 submitted to the Board no later than the last day of the renewal month.

29 (g) Failure of a licensee to meet the requirements of this Rule at the time of renewal shall result in ~~disciplinary action~~
30 pursuant to G.S. 90-171.37 and 21 NCAC 36.0217. license not being renewed until evidence of compliance is submitted
31 and approved by the Board.

32 (h) Licensee shall not be reinstated until licensee has met all requirements of this Rule.

33
34 *History Note:* Authority G.S. 90-171.23(b); 90-171.37(1) and (8);

35 *Eff. May 1, 2006;*

36 *Amended Eff. November 1, 2008 2008;*

37 *Readopted Eff. [November 1, 2018.] December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0233

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “out-of-state” with “out-of-State”

Lines 4-5 – replace “are requesting utilization” with “request use”

Lines 8, 10, 12, and 14 – do not capitalize the first word of these lines

Line 8 – add “a” before “letter”

Line 8 – add a comma after “offering”

Lines 12 and 14 – add “the” before “name”

Line 15 – add “the” before “preceptor”

Line 19 – what does “related interpretations” mean?

Line 22 – replace “in” with “of” before “Paragraph”

Line 23 – add a comma after “status”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 **21 NCAC 36 .0233 is readopted, with changes, as published in 33:1 NCR 33 as follows:**

2
3 **21 NCAC 36 .0233 OUT OF STATE STUDENTS**

4 (a) Unlicensed nursing students enrolled in ~~out-of-state~~ out-of-state nursing education programs who are requesting
5 utilization of North Carolina clinical facilities shall be allowed such experiences following approval by the ~~Board of~~
6 ~~Nursing Board~~. Upon receiving such a request, the chief nursing administrator of a North Carolina clinical facility shall
7 provide the Board with the following at least 30 days prior to the start of the requested experience:

- 8 (1) Letter of request for approval to provide the clinical offering including proposed starting and
9 completion dates;
- 10 (2) Documentation that the nursing program is currently approved by the Board of Nursing in the state in
11 which the parent institution is located;
- 12 (3) Name, ~~qualifications~~ qualifications, and evidence of ~~current RN~~ an active, unencumbered registered
13 nurse licensure of the faculty responsible for coordinating the student's experience; and
- 14 (4) Name, ~~qualifications~~ qualifications, and evidence of current active unencumbered license to practice
15 as ~~an RN~~ a registered nurse in ~~NC~~ North Carolina for preceptor or on-site faculty.

16 (b) Copies of the following shall be distributed by the chief nursing administrator of the clinical facility to all students
17 and faculty involved in the clinical experiences:

- 18 (1) North Carolina Nursing Practice Act;
- 19 (2) North Carolina administrative rules and related interpretations regarding the role of the ~~RN~~, registered
20 nurse, ~~LPN~~, licensed practical nurse, and unlicensed nursing personnel; and
- 21 (3) North Carolina Board of Nursing developed Suggestions for Utilization of Preceptors.

22 (c) Failure to continue in compliance with the requirements in Paragraph (a) of this Rule shall result in the immediate
23 withdrawal of the Board's approval of the clinical offering and student status consistent with G.S. 90-171.43(2).
24

25 *History Note: Authority G.S. 90-85.3; 90-171.23(b) 90-171.43; 90-171.83;*

26 *Eff. April 1, 2008.*

27 ~~[Amended Eff. November 1, 2018.]~~

28 Readopted Eff. ~~[November 1, 2018.]~~ December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0302

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Throughout this Rule, do not capitalize nouns that are not proper nouns; for instance, do not capitalize "initial approval" or "application."

Line 7 – add "the" before "proposed"

Line 8 – replace "which" with "that"

Lines 28 and 31 – delete "of this Section"

Line 32 – add a comma after "evaluation"

Page 2, line 5 – add a comma after "program"

Page 2, lines 6-11 – begin each line with "the"

Page 2, line 12 – replace "when" with "if"

Page 2, line 13 – what "standard" is referred to here?

Page 2, line 15 – replace "0300" and "0323" with ".0300" and ".0323"

Page 2, line 23 – delete the comma

Page 2, line 34 – add a comma after "curriculum"

Page 3, line 3 – delete "it comes to the attention of the board"

Page 3, line 7 – delete "the Board determines that"

Page 3, lines 9 and 11 – delete "the Board finds that"

Page 3, line 17 – add "at a meeting of the Board that is" before "scheduled"

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0302 is readopted, **with changes**, as published in 33:1 NCR 33-35 as follows:

2
3 **21 NCAC 36 .0302 ESTABLISHMENT OF A NURSING PROGRAM - INITIAL APPROVAL**

4 (a) ~~At least six months prior to the proposed enrollment of students in a nursing program, an~~ An institution seeking
5 ~~Initial approval~~ Approval to operate a nursing program shall employ a program director qualified pursuant to ~~21~~
6 ~~NCAC 36 .0317(e) to develop an application documenting the following:~~ Rule .0317(c) of this Section.

7 (b) The program director shall submit an Application for Initial Approval at least six months prior to proposed
8 program start date which documents the following:

- 9 (1) a narrative description of the organizational structure of the program and its relationship to the
10 controlling institution, including accreditation status. The controlling institution shall be an
11 accredited institution;
- 12 (2) a general overview of the entire proposed curriculum that includes:
- 13 (A) the program philosophy, purposes, and objectives;
- 14 (B) a master plan of the curriculum, indicating the sequence for both nursing and non-nursing
15 courses, as well as prerequisites and corequisites;
- 16 (C) course descriptions and course objectives for all courses; and
- 17 (D) course syllabi pursuant to 21 NCAC 36. 0321(i) for all first-year nursing courses;
- 18 (3) the proposed student population;
- 19 (4) the projected student enrollment;
- 20 (5) evidence of learning resources and clinical experiences available to implement and maintain the
21 program;
- 22 (6) financial resources adequate to begin and maintain the program;
- 23 (7) physical facilities adequate to house the program;
- 24 (8) support services available to the program from the controlling institution;
- 25 (9) approval of the program by the governing body of the controlling institution; and
- 26 (10) a plan with a specified time frame for:
- 27 (A) availability of qualified faculty as specified in 21 NCAC 36 .0318;
- 28 (B) course syllabi as specified in 21 NCAC 36. 0321(h) of this Section for all nursing
29 courses;
- 30 (C) student policies for admission, progression, and graduation of students, pursuant to 21
31 NCAC 36 .0320 of this Section; and
- 32 (D) comprehensive program evaluation pursuant to 21 NCAC 36 .0317(d).

33 ~~(b)(c)~~ The application to establish a nursing program shall ~~be on a Board form~~, contain current and accurate
34 information required in Paragraph (a) of this Rule, be complete, and be signed by the program director and the chief
35 executive officer of the controlling institution.

36 ~~(c)(d)~~ The completed application shall be received by the Board not less than 120 days prior to a regular meeting of
37 the Board to be considered for placement on the agenda of that meeting.

1 (e) If another program exists in the institution, the application shall include:

2 (1) the organizational relationship of the existing program and the proposed
3 program in the institution;

4 (2) the NCLEX pass rate of the existing program for the past three years; and

5 (3) a description of the expected impact of the proposed program on the existing program including:

6 (A) availability of a program director for each program;

7 (B) availability of qualified faculty;

8 (C) physical facilities adequate to house both programs;

9 (D) availability of learning resources;

10 (E) availability of clinical experiences; and

11 (F) adequacy of student services.

12 (f) No new program application shall be considered when a nursing program currently exists in the institution if:

13 (1) the NCLEX pass rate of the existing program has not met the standard for the past three years; and

14 (2) resources are not demonstrated to be adequate to maintain both the existing and the proposed
15 program in compliance with Rules 0300 to 0323 of this Section.

16 ~~(d)(g)~~ The Board shall conduct an on-site survey of the proposed program after the application meets all the
17 requirements set forth in this Rule, shall prepare a survey report, and afford the petitioning institution an opportunity
18 to respond to the survey report.

19 ~~(e)(h)~~ The Board shall consider all evidence, including the application, the survey report, comments from
20 representatives of the petitioning institution, public comments, and the status of other nursing programs at the
21 institution in determining whether to approve the application.

22 ~~(f)(i)~~ If the Board finds, from the evidence presented, that the resources and plans meet all requirements set forth in
23 this Rule for establishing a new nursing program, application is approved, the Board shall grant Initial Approval,
24 and shall establish a maximum enrollment and implementation date.

25 ~~(g)~~ If the Board determines that a proposed program does not comply with all rules, Initial Approval shall be
26 denied.

27 ~~(h)(j)~~ The Board shall rescind the Initial Approval of a program if the controlling institution fails to submit
28 documentation as set forth in the plan required by Subparagraph ~~(a)(10)~~ (b)(10) of this Rule.

29 ~~(i)(k)~~ The Board shall rescind the Initial Approval of a program if the first class of students is not enrolled in the
30 program within one year after issuing the Initial Approval.

31 ~~(j)(l)~~ For 12 months following rescission of approval, the controlling institution shall not submit an application for
32 establishing a nursing program.

33 ~~(k)(m)~~ A program shall retain Initial Approval Status for the time necessary for full implementation of the
34 curriculum provided that the program complies with Section .0300 of this Chapter.

35 ~~(l)(n)~~ Programs with Initial Approval shall be surveyed:

36 (1) during the final term of curriculum implementation of the program; and

1 (2) upon receipt by the Board of information that the program may not be complying with Section
2 .0300.

3 ~~(m)~~(o) If at any time it comes to the attention of the Board that a program on Initial Approval is not complying with
4 Section .0300 of this Chapter, the program, upon written notification, shall:

- 5 (1) correct the area of noncompliance and submit written evidence of this correction to the Board; or
- 6 (2) submit and implement a plan for correction to the Board.

7 ~~(n)~~(p) The Board shall rescind the Initial Approval of a program if the Board determines that the program does not
8 comply with Paragraph ~~(m)~~ (o) of this Rule.

9 ~~(o)~~(q) If, following the survey and during final curriculum implementation, the ~~Boards~~ Board finds that the program
10 is complying with Section .0300 of this Chapter, the Board shall place the program on Full Approval status.

11 ~~(p)~~(r) If, following the survey and during final curriculum implementation, the Board finds that the program does
12 not comply with the Section .0300 of this Chapter, the Board shall rescind the program's Initial Approval and
13 provide the program with written notice of the Board's decision.

14 ~~(q)~~(s) Upon written request from the program submitted within 10 business days of the Board's written notice of
15 rescinding the Initial Approval, the Board shall schedule a hearing ~~within 30 business days from the date on which~~
16 ~~the request was received. at the next available meeting of the Board for which appropriate notice can be provided, or~~
17 scheduled by consent of the parties.

18 ~~(r)~~(t) Following the hearing and consideration of all evidence provided, the Board shall assign the program Full
19 Approval status or shall enter an Order rescinding the Initial Approval status, which shall constitute program closure
20 pursuant to 21 NCAC 36 .0309.

21
22 *History Note:* Authority G.S. 90-171.23(b)(8); 90-171.38;
23 Eff. February 1, 1976;
24 Amended Eff. June 1, 1992; January 1, 1989; November 1, 1984; May 1, 1982;
25 Temporary Amendment Eff. October 11, 2001;
26 Amended Eff. December 1, 2016; January 1, 2009; December 1, 2005; August 1, ~~2002- 2002;~~
27 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0303

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Throughout this Rule, do not capitalize nouns that are not proper nouns; for instance, do not capitalize "warning status"

Line 4 – replace "under the authority of the Board" with "that are governed by the rules in this Chapter" or "in this Section" if that is what is meant.

Line 6 – replace "to" with "with"

Line 8 – add "of this Chapter" or "of this Section" after "violations"

Line 14 – replace "for" with "of"

Lines 23 and 29 – replace "determines" with "finds"

Line 30 – do you mean "may" or "shall"? If "may," what standards, factors, or circumstances determine whether the Board assigns warning status to a program?

Line 34 – replace "is" with "shall be"

Page 2, line 1 – replace "identified in this Paragraph" with "specified in Part (d)(1)(B) of this Rule" if that is what is meant

Page 2, line 5 – replace the colon with a comma

Page 2, line 6 – replace the comma with a colon

Page 2, line 8– do you mean "may" or "shall"? If "may," what standards, factors, or circumstances determine whether the Board continues warning status?

Page 2, line 9 – do you mean "may" or "shall"? If "may," what standards, factors, or circumstances determine whether the Board withdraws approval of a program?

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 11 – add “a” before “program”

Page 2, line 14 – add “at a meeting of the Board that is” before “scheduled”

Page 2, line 17 – replace “When” with “If”

Page 2, line 18 – replace the colon with a comma

Page 2, line 18 – replace the comma with a colon

Page 2, line 20– do you mean “may” or “shall”? If “may,” what standards, factors, or circumstances determine whether the Board continues warning status?

Page 2, line 21 – do you mean “may” or “shall”? If “may,” what standards, factors, or circumstances determine whether the Board withdraws approval of a program?

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0303 is readopted, **with changes**, as published in 33:1 NCR 35-36 as follows:

2
3 **21 NCAC 36 .0303 EXISTING NURSING PROGRAM**

4 (a) All nursing programs under the authority of the Board may obtain national program accreditation by a nursing
5 accreditation body as defined in 21 NCAC ~~36 .0120(29)~~, 36 .0120(30).

6 (b) Board action is based upon each program's performance and demonstrated compliance to the Board's
7 requirements and responses to the Board's recommendations. The Board may, depending on the severity and pattern
8 of violations, require corrective action for identified deficiencies, impose a monitoring plan, conduct a program
9 survey, change program approval status, issue discipline, or close a program.

10 ~~(b)(c)~~ Full Approval

11 (1) The Board shall review approved programs at least every eight years as specified in G.S. 90-
12 171.40. Reviews of individual programs shall be conducted at shorter intervals upon request from
13 the individual institution or as considered necessary by the Board. National accreditation self-
14 study reports shall provide a basis for review for accredited programs.

15 (2) The Board shall send a written report of the review no more than 20 business days following the
16 completion of the review process. Responses from a nursing education program regarding a
17 review report or Warning Status as referenced in Paragraph ~~(e)~~ (d) of this Rule shall be received in
18 the Board office by the deadline date specified in the letter accompanying the report or notification
19 of Warning Status. If no materials or documents are received by the specified deadline date, the
20 Board shall act upon the findings in the review report and the testimony of the Board staff.

21 ~~(3) If the Board determines that a program has complied with the rules in this Section, the program~~
22 ~~shall be continued on Full Approval status.~~

23 ~~(4)(3) If the Board determines a pattern of noncompliance with one or more rules in this Section, a~~
24 ~~review shall be conducted. The program shall submit to the Board a plan of compliance to correct~~
25 ~~the identified pattern. Failure to comply with the correction plan shall result in withdrawal of~~
26 ~~approval, constituting program closure, consistent with 21 NCAC 36 .0309. the Board may take~~
27 action as outlined in (b) of this Section.

28 ~~(e)(d)~~ Warning Status

29 (1) If the Board determines that a program is not complying with the ~~rules~~ Rules in this Section, the
30 Board ~~shall~~ may assign the program Warning Status and shall give written notice by certified mail
31 to the program specifying:

32 (A) the areas in which there is noncompliance;

33 (B) the date by which the program must comply with the rules in this Section. The maximum
34 time for compliance is two years after issuance of the written notice; and

35 (C) the opportunity to schedule a hearing. Any request for a hearing regarding the program
36 Warning Status shall be submitted to the Board. A hearing shall be afforded pursuant to
37 the provisions of G.S. 150B, Article 3A.

- 1 (2) On or before the required date of compliance identified in this Paragraph, if the Board determines
2 that the program is complying with the rules in this Section, the Board shall assign the program
3 Full Approval Status.
- 4 (3) If the Board finds the program is not in compliance with the rules in this Section by the date
5 specified in Part ~~(e)(1)(B)~~ (d)(1)(B) of this Rule, the program shall remain on Warning Status:
6 and,
7 (A) a review by the Board shall be conducted during that time;
8 (B) following review, the Board may continue the program on Warning Status; or
9 (C) the Board may withdraw approval, constituting program closure consistent with
10 Subparagraph (b)(4) of this Rule.
- 11 (4) Upon written request from the program submitted within 10 business days of the Board's written
12 notice of Warning Status, the Board shall schedule a hearing ~~within 30 business days after the date~~
13 ~~on which the request was received.~~ at the next available meeting of the Board for which
14 appropriate notice can be provided, or scheduled by consent of the parties.
- 15 ~~(5) When a hearing is held at the request of the program and the Board determines the program is in~~
16 ~~compliance with the rules in this Section, the Board shall assign the program Full Approval Status.~~
- 17 ~~(6)(5)~~ (5) When a hearing is held at the request of the program and the Board determines that the program is
18 not in compliance with the rules in this Section, the program shall remain on Warning Status; and,
19 (A) a review by the Board shall be conducted during that time;
20 (B) following review, the Board may continue the program on Warning Status; or
21 (C) the Board may withdraw approval, constituting program closure consistent with
22 Subparagraph ~~(b)(4)~~ (c)(4) of this Rule.

23
24 *History Note:* Authority G.S. 90-171.23(b); 90-171.38; 90-171.39; 90-171.40;
25 Eff. February 1, 1976;
26 Amended Eff. December 1, 2016; August 1, 2011; July 3, 2008; March 1, 2006; January 1, 2004;
27 June 1, 1992; January 1, ~~1989, 1989;~~
28 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0309

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 6 – replace “reason(s)” with “reasons”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0309 is readopted, **with changes**, as published in 33:1 NCR 36 as follows:

2

3 **21 NCAC 36 .0309 PROCESS FOR PROGRAM CLOSURE**

4 (a) When the controlling institution makes the decision to close a nursing program, the Administration of the
5 institution shall submit a written plan for the discontinuation of the program to the Board and shall include the
6 reason(s) for program closure, the date of intended closure, and a plan for students to complete this or another
7 approved program.

8 (b) When the Board closes a nursing program, the program director shall, within 30 days, develop and submit a plan
9 for discontinuation of the program for Board approval. The plan shall address transfer of students to approved
10 programs.

11 (c) The controlling institution shall notify the Board of the arrangement for secure storage and access to academic
12 records and transcripts.

13

14 *History Note: Authority G.S. 90-171.38; 90-171.39; 90-171.40;*

15 *Eff. June 1, 1992;*

16 *Amended Eff. December 1, 2016; December 1, ~~2005, 2005~~;*

17 *Readopted Eff. [November 1, 2018.] December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0317

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Lines 7-8 – replace “have the authority for the direction of” with “direct”

Lines 9-10 – replace “have the authority and responsibility for maintaining” with “ensure”

Line 10 – replace “Rules” with “the Rules in this Chapter” or “in this Section”

Line 18 – what does “experientially qualified” mean? Is Subparagraph (e)(3) necessary?

Line 32 – add “or” after the semicolon

Line 35 – add “shall” before “include”

Line 35 – replace “within the” with “in”

Line 37 – replace “; or” with a period

Page 2, line 1 – delete “(F)” and capitalize “Any”

Page 2, line 1 – move the margin of this sentence left to match the margin of Subparagraph (5).

Page 2, line 2 – replace “is” with “shall be”

Page 2, line 2 –replace “this Subparagraph” with “Part (e)(5)(E) if that is what is meant.

Page 2, line 6 – replace “The” with “A”

Page 2, line 8 – how is student achievement reported? By passing rate, or by verbal description, or what?

Page 2, line 18 – replace “utilized” with “used”

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0317 is readopted, **with changes**, as published in 33:1 NCR 36-37 as follows:

2
3 21 NCAC 36 .0317 ADMINISTRATION

4 (a) The controlling institution of a nursing program shall provide those human, physical, technical, and financial
5 resources and services essential to support program processes and outcomes, including those listed in Paragraph ~~(d)~~
6 ~~(f)~~ and ~~(e)~~ ~~(g)~~ of this Rule, and maintain compliance with Section .0300 of this Chapter.

7 (b) A full-time registered nurse qualified pursuant to Paragraph ~~(e)~~ (e) of this Rule shall have the authority for the
8 direction of the nursing program.

9 ~~(c) This authority~~ The program director shall encompass responsibilities have the authority and responsibility for
10 maintaining compliance with ~~rules~~ Rules and other legal requirements in all areas of the program.

11 ~~(d)~~ The program director shall have non-teaching time sufficient to allow for program organization, administration,
12 continuous review, planning, and development.

13 ~~(e)~~~~(c)~~ Program The program director in a program preparing students for initial nurse licensure shall satisfy the
14 following requirements:

15 (1) hold ~~a current unrestricted~~ an active unencumbered license or multistate licensure privilege to
16 practice as a registered nurse in North Carolina;

17 (2) have two years of full-time experience as a faculty member in a Board-approved nursing program;

18 (3) be experientially qualified to lead the program to accomplish the mission, goals, and expected
19 program outcomes;

20 (4) hold either a baccalaureate in nursing or a graduate degree in nursing from an accredited
21 institution. If newly employed on or after January 1, 2016, hold a graduate degree from an
22 accredited institution. If newly employed on or after January 1, 2021, hold a graduate degree in
23 nursing from an accredited institution;

24 (5) prior to or within the first three years of employment, have education in teaching and learning
25 principles for adult education, including curriculum development, implementation, and evaluation,
26 appropriate to the program director role. Once completed, this preparation need not be repeated if
27 employing organization is changed. This ~~education preparation~~ preparation may be demonstrated by one of the
28 following:

29 (A) completion of 45 contact hours of Board-approved continuing education courses;

30 (B) completion of a certificate program in nursing education;

31 (C) nine semester hours of graduate course work in adult learning and learning principles;

32 (D) national certification in nursing education; ~~or~~

33 (E) documentation of successful completion of structured, individualized development
34 activities of at least 45 contact hours approved by the Board. Criteria for approval
35 include content in the faculty role within the curriculum implementation, curricular
36 objectives to be met and evaluated, review of strategies for identified student population,
37 and expectations of student and faculty performance; or

1 (F) any registered nurse who was employed as a nurse program director for the first time
2 prior to January 1, 1984 is exempt from the requirements in ~~(5)(E)~~ this Subparagraph.

3 (6) maintain competence in the areas of assigned responsibility; and

4 (7) have ~~current~~ knowledge of current nursing practice for the registered nurse and the licensed
5 practical nurse.

6 ~~(4)(f)~~ The nursing education program shall implement, for quality improvement, a comprehensive program
7 evaluation that shall include the following:

8 (1) students' achievement of program outcomes;

9 (2) evidence of program resources, including fiscal, physical, human, clinical, and technical learning
10 resources; student support services; and the availability of clinical sites and the viability of those
11 sites adequate to meet the objectives of the program;

12 (3) measures of program outcomes for graduates;

13 (4) evidence that accurate program information for the public is available;

14 (5) evidence that the controlling institution and its administration support program outcomes;

15 (6) evidence that program director and program faculty meet Board qualifications and are sufficient in
16 number to achieve program outcomes;

17 (7) evidence that the academic institution assures security of student information;

18 (8) evidence that collected evaluative data is utilized in implementing quality improvement activities;
19 and

20 (9) evidence of student participation in program planning, implementation, evaluation, and continuous
21 improvement.

22 ~~(e)(g)~~ The controlling institution and the nursing education program shall communicate information describing the
23 nursing education program that is accurate, complete, consistent across mediums, and accessible by the public. The
24 following shall be accessible to all applicants and students:

25 (1) admission policies and practices;

26 (2) policy on advanced placement and transfer of credits;

27 (3) the number of credits required for completion of the program;

28 (4) tuition, fees, and other program costs;

29 (5) policies and procedures for withdrawal, including refund of tuition or fees;

30 (6) the grievance procedure;

31 (7) criteria for successful progression in the program, including graduation requirements; and

32 (8) policies for clinical performance.

33
34 *History Note:* Authority G.S. 90-171.23(b)(8); 90-171.38;

35 *Eff. June 1, 1992;*

36 *Amended Eff. December 1, 2016; January 1, 2015; April 1, 2008; March 1, 2006. 2006;*

37 *Readopted Eff. ~~November 1, 2018.~~ December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0318

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “to include” with “including”

Lines 6-7 – replace “...the institution. Variations in these policies shall be necessary due to...” with “...the controlling institution, with variations as needed due to...”

Lines 9 and 10 – delete “at least”

Line 18 – delete “on or after January 1, 2016” if it is no longer needed.

Line 29 – add “or” after the semicolon

Line 32 – add “shall” before “include”

Line 34 – replace “; or” with a period

Line 35 – delete “(F)” and capitalize “Any”

Line 35 – move the margin of this sentence left to match the margin of Subparagraph (4).

Line 36 – replace “is” with “shall be”

Page 2, lines 16 and 17 – replace “larger” with “greater”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0318 is readopted, **with changes**, as published in 33:1 NCR 37-38 as follows:

2
3 21 NCAC 36 .0318 FACULTY

4 (a) ~~All Nursing~~ nursing program **faculty shall faculty**, to include both full-time and part-time faculty ~~members.~~
5 ~~Part-time faculty members~~, shall participate in curriculum implementation and evaluation.

6 (b) Policies for nursing program faculty members shall be consistent with those for other faculty of the institution.
7 Variations in these policies ~~may shall~~ be necessary due to the nature of the nursing curriculum.

8 (c) Fifty percent or more of the nursing faculty shall hold a graduate degree.

9 (d) As of January 1, 2021, at least 80 percent of the full-time faculty shall hold a graduate degree in nursing.

10 (e) As of January 1, 2021, at least 50 percent of the part-time faculty shall hold a graduate degree in nursing.

11 (f) All faculty shall hold ~~a current unrestricted~~ an active unencumbered license or multistate licensure privilege to
12 practice as a registered nurse in North Carolina.

13 (g) Nurses licensed pursuant to this Chapter who are full-time and part-time faculty and who teach in a program
14 leading to initial licensure as a nurse shall:

15 (1) hold either a baccalaureate in nursing or a graduate degree in nursing from an accredited
16 institution;

17 (2) have two calendar years or the equivalent of full-time clinical experience as a registered nurse;

18 (3) if newly employed in a full-time faculty position on or after January 1, 2016, hold a graduate
19 degree from an accredited institution or obtain a graduate degree in nursing from an accredited
20 institution within five years of initial full-time employment;

21 (4) prior to or within the first three years of employment, have education in teaching and learning
22 principles for adult education, including curriculum development, implementation, and evaluation,
23 appropriate to faculty assignment. Once completed, this preparation need not be repeated if
24 employing organization is changed. This preparation may be demonstrated by one of the
25 following:

26 (A) completion of 45 contact hours of Board-approved continuing education courses;

27 (B) completion of a certificate program in nursing education;

28 (C) nine semester hours of graduate course work in adult learning and learning principles;

29 (D) national certification in nursing education; ~~or~~

30 (E) documentation of successful completion of structured, individualized development
31 activities of at least 45 contact hours approved by the Board. Criteria for approval
32 include content in the faculty role in the curriculum implementation, curricular objectives
33 to be met and evaluated, review of strategies for identified student population, and
34 expectations of student and faculty performance; or

35 (F) any registered nurse who was employed as a nurse faculty member or program director
36 prior to January 1, 1984 is exempt from the requirements in .0318(g)(4) as noted above.

37 (5) maintain competence in the areas of assigned responsibility; and

1 (6) have ~~current~~ knowledge of current nursing practice for the registered nurse and the licensed
2 practical nurse.

3 (h) Interdisciplinary faculty who teach in nursing program courses shall have academic preparation in the content
4 area they are teaching.

5 (i) Clinical preceptors shall have competencies, assessed by the nursing program, related to the area of assigned
6 clinical teaching ~~responsibilities and shall serve as role models to students.~~ responsibilities. Clinical preceptors may
7 be used to enhance faculty-directed clinical learning experiences after a student has received basic instruction for
8 that specific learning experience. Clinical preceptors shall hold ~~a current, unrestricted~~ an active unencumbered
9 license to practice as a registered nurse in North Carolina.

10 (j) Nurse faculty members shall have the authority and responsibility for:

11 (1) student admission, progression, and graduation requirements; and

12 (2) the development, implementation, and evaluation of the curriculum.

13 (k) Nurse faculty members shall be academically qualified and sufficient in number to implement the curriculum as
14 required by the course objectives, the levels of the students, the nature of the learning environment, and to provide
15 for teaching, supervision, and evaluation.

16 (l) The faculty-student ratio for faculty-directed preceptor clinical experiences shall be no larger than 1:15. The
17 faculty-student ratio for all other clinical experiences shall be no larger than 1:10.

18
19 *History Note:* *Authority G.S. 90-171.23(b)(8); 90-171.38; 90-171.83;*
20 *Eff. February 1, 1976;*
21 *Amended Eff. December 1, 2016; January 1, 2015; August 1, 2011; November 1, 2008; July 1,*
22 *2006; July 1, 2000; January 1, 1996; June 1, 1992; January 1, 1989; January 1, ~~1984.~~ 1984.*
23 *Readopted Eff. ~~[November 1, 2018.]~~ December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0320

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 6 – add “the student’s” after “of”

Line 11 – delete “that would provide evidence”

Line 15 – add “a” after “policies in”

Lines 17 and 20 – replace “which” with “that”

Line 25 – add “a” after “policies in”

Line 26 – add a comma after “placement”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0320 is readopted, **with changes**, as published in 33:1 NCR 38 as follows:

2
3 **21 NCAC 36 .0320 STUDENTS**

4 (a) Students in nursing programs shall meet requirements established by the controlling institution.

5 (b) Admission requirements and practices shall be stated and published in the controlling institution's publications
6 and shall include assessment of:

7 (1) record of high school graduation, ~~high school~~ high school equivalent, or earned credits from a
8 post-secondary institution;

9 (2) achievement potential through the use of previous academic records and pre-entrance examination
10 cut-off scores that are consistent with curriculum demands and scholastic expectations; and

11 (3) physical and emotional health that would provide evidence that is indicative of the applicant's
12 ability to provide safe competent nursing care to the public.

13 (c) The number of students enrolled in nursing courses shall not exceed by more than 10 students the maximum
14 number approved by the Board, as established pursuant to 21 NCAC 36 .0302(f) and 21 NCAC 36 .0321(k).

15 (d) The nursing program shall publish policies in nursing student handbook and college catalog that provide for
16 identification and dismissal of students who:

17 (1) present physical or emotional problems which conflict with the safety essential to nursing practice
18 and do not respond to treatment or counseling within a timeframe that enables meeting program
19 objectives;

20 (2) demonstrate behavior which conflicts with the safety essential to nursing practice; or

21 (3) fail to demonstrate professional behavior, including honesty, integrity, and appropriate use of
22 social media, while in the nursing program of study.

23 (e) The nursing program shall maintain a three-year average at or above 95 percent of the national pass rate for
24 licensure level pass rate on first writing of the licensure examination for calendar years ending December 31.

25 (f) The controlling institution shall publish policies in nursing student handbook and college catalog for transfer of
26 credits or for admission to advanced placement and the nursing program shall determine the total number of nursing
27 courses or credits awarded for advanced placement.

28
29 *History Note:* Authority G.S. 90-171.23(b)(8); 90-171.38; 90-171.43;

30 *Eff. February 1, 1976;*

31 *Amended Eff. December 1, 2016; January 1, 2006; August 1, 1998; January 1, 1996; June 1,*
32 *1992; January 1, 1989; January 1, ~~1984. 1984.~~*

33 *Readopted Eff. [November 1, 2018.] December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0321

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 6 – add a comma after “objectives”

Line 11 – replace “the student” with “a student”

Lines 15 and 18 – delete the commas

Line 19 – replace “maintain a program that reflects” with “reflect”

Line 23 – add “the” before “risk”

Line 27 – add “the” before “best”

Line 34 – replace “includes the” with “shall include a”

Lines 34-35 – what does “leadership of the profession mean”?

Line 36 – replace the period with a semicolon

Page 2, line 2 – delete the comma

Page 2, line 4 – delete “processes of”

Page 2, line 25 – delete the comma

Page 2, line 27 – replace “curriculum” with “course” if that is what is meant.

Page 2, line 31 – add “shall” before “include”

Page 2, line 32 – delete the comma after “supplies”

Page 2, line 33 – replace “is” with “shall be”

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 34 – replace “are” with “shall be”

Page 2, line 34 – do not capitalize “full approval”

Page 3, line 1 – add a semicolon after “schedules”

Page 3, line 7 – delete the comma

Page 3, line 13 – replace “any” with “each” if that is what is meant

Page 3, line 12 – add a comma after “course”

Page 3, line 16 – replace “as a determinate of” with “to determine”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0321 is readopted, **with changes**, as published in 33:1 NCR 38-39 as follows:

2
3 21 NCAC 36 .0321 CURRICULUM

4 (a) The nursing program curriculum shall:

- 5 (1) be planned by nursing program faculty;
- 6 (2) reflect the stated program philosophy, purposes, and objectives pursuant to 21 NCAC 36
7 .0302(a)(2);
- 8 (3) be consistent with Article 9A of G.S. 90 and the Rules in this Chapter governing the practice of
9 nursing;
- 10 (4) define the level of performance required to pass each course in the curriculum;
- 11 (5) enable the student to develop the nursing knowledge, ~~skills~~ skills, and abilities necessary for
12 competent practice consistent with the level of licensure and scope as set forth in 21 NCAC 36
13 .0221, .0224, .0225, and .0231;
- 14 (6) include content in the biological, physical, social, and behavioral sciences to provide a foundation
15 for ~~safe~~ competent, and effective nursing practice;
- 16 (7) provide students the opportunity to acquire and demonstrate, through didactic content and clinical
17 experience under faculty supervision, the knowledge, skills, and abilities required for ~~safe~~,
18 effective, and competent nursing practice across the lifespan; and
- 19 (8) be revised as necessary to maintain a program that reflects changes and advances in health care
20 and its delivery.

21 (b) Didactic content and supervised clinical experience across the lifespan appropriate to program type shall
22 include:

- 23 (1) ~~Implementing~~ implementing safety principles and practices minimizing risk of harm to clients and
24 providers through both system effectiveness and individual performance;
- 25 (2) ~~Using~~ using informatics to communicate, manage knowledge, mitigate error, and support decision
26 making;
- 27 (3) ~~Employing~~ employing evidence-based practice to integrate best research with clinical expertise
28 and client values for optimal care, including skills to identify and apply best practices to nursing
29 care;
- 30 (4) ~~Providing~~ providing client-centered, culturally competent care by:
 - 31 (A) respecting client differences, values, preferences, and expressed needs;
 - 32 (B) involving clients in decision-making and care management;
 - 33 (C) coordinating and managing continuous client care consistent with the level of licensure.
34 This includes the demonstrated ability to supervise others and provide leadership of the
35 profession appropriate for program type; and
 - 36 (D) promoting healthy lifestyles for clients and populations.

- 1 (5) ~~Working~~ working in interdisciplinary teams to cooperate, collaborate, communicate, and integrate
2 client care and health promotion; and,
- 3 (6) ~~Participating~~ participating in quality improvement processes to measure client outcomes, identify
4 hazards and errors, and develop changes in processes of client care.
- 5 (c) Clinical experience shall be comprised of sufficient hours to accomplish the curriculum, shall be supervised by
6 qualified faculty pursuant to 21 NCAC 36 .0318, and shall ensure students' ability to practice at an entry level.
- 7 (d) All student clinical experiences, including those with preceptors, shall be directed by nursing faculty.
- 8 (e) A focused client care experience with a minimum of 120 hours shall be provided in the final year of curriculum
9 implementation for programs preparing registered nurses.
- 10 (f) A focused client care experience with a minimum of 90 hours shall be provided in the final semester of the
11 curriculum for programs preparing practical nurses.
- 12 (g) Learning experiences and methods of instruction, including distance education methods, shall be consistent with
13 the written curriculum plan and shall demonstrate logical curricular progression.
- 14 (h) Objectives for each course shall indicate the knowledge, skills, and abilities expected for competent student
15 performance. These objectives shall:
- 16 (1) indicate the relationship between the classroom learning and the application of this learning in the
17 clinical experience;
- 18 (2) serve as criteria for the selection of the types of and settings for learning experiences; and
- 19 (3) serve as the basis for evaluating student performance.
- 20 (i) Student course syllabi shall include a description and outline of:
- 21 (1) the course content;
- 22 (2) the learning environments and activities;
- 23 (3) when the course is taken in the curriculum;
- 24 (4) allocation of time for didactic content, clinical experience, laboratory experience, and simulation;
- 25 and,
- 26 (5) methods of evaluation of student performance, including all evaluation tools used in the
27 curriculum.
- 28 (j) Each course shall be implemented in accordance with and evaluated by reference to the student course syllabus.
- 29 (k) Requests for approval of changes in, or expansion of, the program, accompanied by all required documentation,
30 shall be submitted in the format provided by the Board at least 30 days prior to implementation for approval by the
31 Board. Criteria for approval include the availability of classrooms, laboratories, clinical placements, ~~equipment~~
32 equipment, and supplies, and faculty sufficient to implement the curriculum to an increased number of students.
33 Approval is required for any increase in enrollment that exceeds, by more than 10 students, the maximum number
34 approved by the Board. Requests for expansion are considered only for programs with Full Approval status that
35 demonstrate at least a three-year average licensure examination pass rate equal to or greater than the NC North
36 Carolina three-year average pass rate for program type.
- 37 (l) The nursing education program shall notify the Board at least 30 days prior to implementation of:

- 1 (1) alternative or additional program ~~schedules; and~~ schedules
- 2 (2) planned decrease in the Board-approved student enrollment number to accurately reflect program
- 3 ~~capacity; capacity; and~~
- 4 (3) changes that alter the currently approved curriculum.
- 5 (m) For all programs using simulation experiences substituted for clinical experience time, the nursing education
- 6 program shall:
- 7 (1) demonstrate that simulation faculty have been formally educated, and maintain the competencies
- 8 in simulation and debriefing; and
- 9 (2) provide a simulation environment with adequate faculty, space, equipment, and supplies that
- 10 simulate realistic clinical experiences to meet the curriculum and course objectives.
- 11 (n) Programs not holding national nursing accreditation shall limit simulation experiences to no more than 25
- 12 percent in any course including the focused client care experience.
- 13 (o) Programs holding national nursing accreditation shall limit simulation experiences to:
- 14 (1) no more than 25 percent in the focused client care ~~experience; experience;~~ experience; and
- 15 (2) no more than 50 percent of clinical experience time in any other course.
- 16 (p) External standardized examinations shall not be used as a determinant of a student's progression or graduation in
- 17 a nursing education program preparing students for initial nurse licensure.
- 18

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

20 Eff. February 1, 1976;

21 Amended Eff. June 1, 1992; January 1, 1989; January 1, 1984;

22 Temporary Amendment Eff. October 11, 2001;

23 Amended Eff. December 1, 2016; December 1, 2005; August 1, ~~2002; 2002;~~

24 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0322

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 7 – replace “must” with “shall”

Line 11 – delete the comma after “faculty”

Line 11 – add “shall” before “support”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0322 is readopted, **with changes**, as published in 33:1 NCR 39 as follows:

2

3 **21 NCAC 36 .0322 FACILITIES**

4 (a) Campus facilities shall be appropriate in type, number, and accessibility for the total needs of the program.

5 (b) Classrooms, laboratory and simulation space, and conference rooms shall be sufficient in size, number, and
6 types for the number of students and purposes for which the rooms are to be used. Lighting, ventilation, location,
7 and equipment must be suitable for the number of students and purposes for which the rooms are to be used.

8 (c) Office and conference space for nursing program faculty members shall be appropriate and available for
9 uninterrupted work and privacy, including conferences with students.

10 (d) Learning resources, including clinical experiences, shall be comprehensive, current, developed with nursing
11 faculty input, accessible to students and faculty, and support the implementation of the curriculum.

12

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

14 *Eff. February 1, 1976;*

15 *Amended Eff. January 1, 1996; June 1, 1992; January 1, 1989; May 1, 1988;*

16 *Temporary Amendment Eff. October 11, 2001;*

17 *Amended Eff. December 1, 2016; April 1, 2006; August 1, ~~2002-2002~~;*

18 ***Readopted Eff. [~~November 1, 2018.~~] December 1, 2018.***

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0323

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 5 – who maintains this system? Replace “There shall be” with “The controlling institution shall maintain” or “The nursing program shall maintain”

Lines 19 and 20 – do not capitalize “annual report” or “program description report”

Line 22 – replace “registered nurse responsible for the nursing program” with “nursing program director” if that is what is meant.

Line 23 – replace “individual” with “director” if that is what is meant.

Line 24 – replace “of” with “before” if that is what is meant.

Line 29 – add “to the Board” after “submitted”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 **21 NCAC 36 .0323 is readopted, with changes, as published in 33:1 NCR 39-40 as follows:**

2
3 **21 NCAC 36 .0323 RECORDS AND REPORTS**

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

5 (b) There shall be a system for maintaining official records. Current and permanent student records shall be stored
6 in a secure manner that prevents physical damage and unauthorized access.

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

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

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

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

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

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

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

19 (1) an Annual Report to be filed with the Board by November 1 of each year;

20 (2) a Program Description Report for non-accredited programs filed with the Board at least 30 days
21 prior to a scheduled review by the Board; and

22 (3) notification by institution administration of any change of the registered nurse responsible for the
23 nursing program. This notification shall include a curriculum vitae for the new individual and
24 shall be submitted no later than 10 business days of the effective date of the change.

25 (g) All communications relevant to accreditation shall be submitted to the ~~North Carolina Board of Nursing~~ at the
26 same time that the communications are submitted to the accrediting body.

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

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

33
34 *History Note:* Authority G.S. 90-171.23(b)(8); 90-171.38;

35 *Eff. February 1, 1976;*

36 *Amended Eff. December 1, 2016; January 1, 2015; December 1, 2005; January 1, 2004; June 1,*
37 *1992; January 1, 1989; January 1, ~~1984, 1984.~~*

Readopted Eff. ~~November 1, 2018.~~ December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0401

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 5 – replace “which” with that”

Line 7 – replace “when” with “if”

Lines 9-10 – replace “be the determining authority to identify” with “determine”

Line 10 – replace “which” with “that”

Line 15 – replace “which” with “that”

Line 15 – replace “are” with shall be”

Line 20 – add a comma before “which”

Line 21 – replace “which thereby” with “and which”

Line 21 – replace “which” with “that”

Line 23 – add a comma before “which”

Line 23 – delete “but are not limited to”

Lines 24, 25, 26, 27, and 30 – add “in the facility in which the nurse practices” at the end of each of these lines if that is what is meant.

Line 28 – replace “which” with “that”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0401 is amended, **with changes**, as published in 33:1 NCR 40 as follows:

2
3 **21 NCAC 36 .0401 ROLES OF UNLICENSED PERSONNEL**

4 (a) Definitions. As used in Section .0400:

5 (1) "Nursing care activities" means activities performed by unlicensed personnel which are delegated
6 by licensed nurses in accordance with paragraphs (b) and (c) of this Rule.

7 (2) "Patient care activities" means activities performed by unlicensed personnel when health care
8 needs are incidental to the personal care required.

9 (b) The ~~Board of Nursing, Board~~, as authorized by G.S. 90-171.23(b)(1)(2)(3), shall be the determining authority to
10 identify those nursing care activities which may be delegated to unlicensed personnel. The ~~licensed nurse, registered~~
11 ~~and practical, registered and licensed practical nurse~~, in accordance with 21 NCAC 36 .0224 and .0225 and G.S. 90-
12 171.20(7)(8), may delegate nursing care activities to unlicensed personnel, regardless of title, that are appropriate to
13 the level of ~~knowledge and skill~~ knowledge, skill, and validated competence of the unlicensed ~~personnel and are~~
14 ~~within the legal scope of practice as defined by the Board of Nursing for unlicensed personnel.~~

15 (c) Those nursing care activities which may be delegated to unlicensed personnel are determined by the following
16 variables:

- 17 (1) knowledge and skills of the unlicensed personnel;
- 18 (2) verification of clinical competence of the unlicensed personnel by ~~the an employing agency;~~
19 ~~agency Registered Nurse; a registered nurse employed by the agency.~~
- 20 (3) stability of the client's condition which involves predictability, absence of risk of complication,
21 and rate of change, which thereby excludes delegation of nursing care activities which do not meet
22 the requirements defined in 21 NCAC 36 .0221(b);
- 23 (4) the variables in each service setting which include but are not limited to:
- 24 (A) the complexity and frequency of nursing care needed by a given client population;
- 25 (B) the proximity of clients to staff;
- 26 (C) the number and qualifications of staff;
- 27 (D) the accessible resources; and
- 28 (E) established policies, procedures, practices, and channels of communication which lend
29 support to the types of nursing activities being delegated, or not delegated, to unlicensed
30 personnel.

31
32 *History Note:* Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.; 90-171.43(4); 90-171.55; 42 U.S.C.S. 1395i-3 (1987);
33 Eff. March 1, 1989;
34 Amended Eff. [~~November 1, 2018;~~] **December 1, 2018;** December 1, 1995; October 1, 1991;
35 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
36 2018.

1 21 NCAC 36 .0402 is amended, **with changes**, as published in 33:1 NCR 40 as follows:

2

3 21 NCAC 36 .0402 **COORDINATION WITH DIVISION OF HEALTH SERVICE REGULATION**
4 **(DHSR)**

5 (a) The Board of Nursing shall accept Level I nurse aides **[Nurse Aide]** nurse aide Is listed on the Division of Health
6 Service Regulation (DHSR) maintained Nurse Aide Registry as meeting the requirements of 21 NCAC 36 .0403(a).

7 (b) The Board of Nursing shall acquire information from ~~the Division of Health Service Regulation (DHSR)~~ DHSR
8 regarding all qualified ~~Level I nurse aides.~~ nurse aide Is.

9

10 *History Note:* *Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.; 90-171.43(4); 90-171.55;*

11 *42 U.S.C.S. 1395i-3 (1987);*

12 *Eff. March 1, 1989;*

13 *Amended Eff. ~~[November 1, 2018;]~~ **December 1, 2018;** November 1, 2008; December 1, 1995.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0403

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Lines 4 and 6 – replace “The” with “A”

Line 8 – replace “to provide” with “providing”

Line 9 – replace “until” with “unless”

Line 16 – replace “which” with “that”

Line 16 – replace “shall” with “will”

Line 19 – replace “performs” with “that they perform”

Lines 20 and 22 – replace “The” with “A”

Page 2, line 4 – replace “the” with “a”

Page 2, line 5 – add a comma after “administration”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0403 is readopted, **with changes**, as published in 33:1 NCR 40-41 as follows:

2
3 21 NCAC 36 .0403 QUALIFICATIONS

4 (a) The nurse aide I shall perform basic nursing skills and personal care activities after successfully completing an
5 approved nurse aide I training and competency evaluation ~~or competency evaluation program.~~ or equivalent as approved
6 by the Division of Health Service Regulation (DHSR). The licensed nurse shall delegate these activities only after
7 considering the variables defined in Rule .0401(b) and (c) of this Section. Pursuant to G.S. 90-171.55, ~~as of April 1,~~
8 ~~1992~~ no individual may function as a nurse aide I, regardless of title, to provide nursing care activities, as identified in
9 Rule .0401(a) of this Section, to clients or residents until:

10 (1) the individual has successfully completed, in addition to an orientation program specific to the
11 employing facility, a ~~State-approved~~ State-approved nurse aide I training and competency evaluation
12 program or its equivalent; or a ~~State-approved~~ State-approved competency evaluation program and the
13 employing facility or agency has verified listing on the Division of Health Service Regulation Nurse
14 Aide Registry (~~DHSRNAR~~); (DHSR Nurse Aide Registry); or

15 (2) the employing agency or facility has assured that the individual is enrolled in a ~~State-approved~~ State-
16 approved nurse aide I training and competency evaluation program which the individual shall
17 successfully complete within four months of employment date. During the four month period, the
18 individual shall be assigned only tasks for which ~~he has~~ they have demonstrated competence and
19 performs under supervision.

20 (b) The nurse aide II shall perform more complex nursing skills with emphasis on sterile technique in elimination,
21 oxygenation, and nutrition after successful completion of ~~an approved~~ a Board-approved nurse aide II training and
22 competency evaluation program. The licensed nurse shall delegate these activities to the nurse aide II only after
23 consideration of the variables described in Rule .0401(b) and (c) of this Section. Pursuant to G.S. 90-171.55, ~~as of~~
24 ~~January 1, 1991~~ no individual may function as a nurse aide II unless:

25 (1) the individual has successfully completed, in addition to an orientation program specific to the
26 employing agency, a Board-approved nurse aide II ~~program~~ course approved by the Board of Nursing
27 according to these Rules or its equivalent as identified by the ~~Board of Nursing~~; Board;

28 (2) the individual is listed as a nurse aide I on the ~~DFS~~ **DHSR** Nurse Aide I Registry with no substantiated
29 findings of abuse, neglect, exploitation, mistreatment, diversion of drugs, fraud, or misappropriation of
30 client or employing facility property; property listed on the DHSR Nurse Aide Registry and/or on the
31 NC Health Care Personnel Registry; and

32 (3) the employing facility or agency has inquired of the ~~Board of Nursing~~ as to information in the Board
33 of Nursing Nurse Aide II Registry concerning the individual and confirms with the ~~Board of Nursing~~
34 that the individual is listed on the ~~Board of Nursing~~ Nurse Aide II Registry (~~BNAR~~) as a nurse aide
35 Level II.

1 (c) Listing on a Nurse Aide Registry is not required if the care is performed by clients themselves, their families or
2 significant others, or by caretakers who provide personal care to individuals whose health care needs are incidental to the
3 personal care required.

4 (d) Pursuant to G.S. 131E-114.2 and G.S. 131E-270, the medication aide shall be limited to performing technical aspects
5 of medication administration consistent with Rule .0401(b) and (c) of this Section, Rule .0221 of this Chapter, and only
6 after:

- 7 (1) successful completion of a Board-approved medication aide training ~~program approved by the Board~~
8 ~~of Nursing; program;~~
- 9 (2) successful completion of a ~~state-approved~~ State-approved competency evaluation program; and
- 10 (3) listing on the Medication Aide Registry.

11
12 *History Note:* Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.; 90-171.43(4); 90-171.55; 90-171.56; 131E-114.2; 131E-
13 270; 42U.S.C.S. 1395i-3 (1987);
14 Eff. March 1, 1989;
15 Temporary Amendment Eff. October 11, 1989 For a Period of 180 Days to Expire on April 6, 1990;
16 Amended Eff. September 1, 2006; December 1, 1995; March 1, ~~1990. 1990.~~
17 ~~Readopted Eff. [November 1, 2018.] December 1, 2018.~~

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0404

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 12 – I assume you did not intend to delete the word “property”

Lines 12, 24, and page 3 line 5 – the absence of punctuation between “property” and listed confuses me. What is this Subparagraph (a)(3) and other similar subparagraphs intended to mean?

Line 12 – replace “and/or” with “or”

Lines 21, 22, and 26 – do not capitalize the first word on these lines.

Line 24 – replace “and/or” with “or”

Line 32 – add “a” before “registered”

Line 33 – add “as a nurse assistant II” after “list” if that is what is meant. If it is not, what does this mean?

Line 37 – replace “must” with “shall”

Line 37 – add “prior to being listed as a nurse assistant II” if that is what is meant.

Page 2, line 6 – replace “are” with “shall be”

Page 2, line 6 – replace “which” with “that”

Page 2, line 10 – replace “is” with “shall be”

Page 2, lines 15 and 16 – delete both commas

Page 2, line 20 – replace “must” with “shall”

Page 2, line 21 – replace “task(s)” with “tasks”

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 25 – replace “Once” with “After”

Page 3, line 2 – replace “must” with “shall”

Page 3, line 6 – replace “and/or” with “or”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 **21 NCAC 36 .0404 is readopted, with changes, as published in 33:1 NCR 41-42 as follows:**

2
3 **21 NCAC 36 .0404 LISTING AND RENEWAL**

4 (a) All nurse aide IIs, as defined in Rule .0403(b) of this ~~Section~~, Section regardless of working title, employed or
5 assigned in a service agency or facility for the purpose of providing nursing care activities shall be listed on the Board of
6 Nursing Nurse Aide II Registry and shall meet the following requirements:

- 7 (1) successful completion of a Board-approved nurse aide II program course or its ~~Board-approved~~ Board-
8 approved equivalent;
- 9 (2) ~~GED or high school diploma;~~ High School or High School Equivalency Diploma;
- 10 (3) listed as a ~~Level I~~ nurse aide I on the DHSR Nurse Aide Registry with no substantiated findings of
11 abuse, neglect, exploitation, mistreatment, diversion of drugs, fraud, or misappropriation of client or
12 employing facility property; listed on the DHSR Nurse Aide I Registry and/or on the NC Health Care
13 Personnel Registry; and
- 14 (4) submission and approval of an application to the Board of ~~Nursing~~ for placement on the Board of
15 Nursing Nurse Aide II Registry prior to working as a nurse aide II.

16 The application shall be submitted with the required fee within 30 business days of completion of the nurse aide II
17 ~~program. course.~~ Application for initial Initial listing received in by the Board office shall ~~show an expiration day of~~
18 expire on the last day of the applicant's birth month of the following year.

19 (b) Nursing students currently enrolled in ~~Board of Nursing approved~~ Board-approved nursing ~~programs~~ courses
20 desiring listing as a nurse aide II shall submit:

- 21 (1) An application and application fee; ~~and fee;~~
- 22 (2) Current listing as a nurse aide I on the DHSR Nurse Aide I Registry with no substantiated findings of
23 abuse, neglect, exploitation, mistreatment, diversion of drugs, fraud, or misappropriation of client or
24 employing facility property listed on the DHSR Nurse Aide I Registry and/or on the NC Health Care
25 Personnel Registry; and
- 26 (2)(3) ~~A listing form~~ Verification completed by the nursing program director indicating successful
27 completion of course work equivalent in ~~content and~~ content, ~~clinical hours~~ hours, and ~~skill~~
28 competency validation ~~to~~ for that required ~~for~~ of a nurse aide II.

29 (c) Registered nurses and licensed practical nurses who hold ~~current, unrestricted~~ active, unencumbered licenses to
30 practice in North ~~Carolina, and registered nurses and licensed practical nurses in the discipline process by the Board of~~
31 ~~Nursing who do not have any findings as cited in G.S. 131E-256(a)(1) Carolina~~ may make application as a nurse aide II.

32 (d) An individual previously enrolled in a Board-approved nursing program leading to licensure as ~~RN~~ registered nurse
33 or ~~LPN~~ licensed practical nurse may list with no additional testing provided the student withdrew from school in good
34 standing within the last 24 months and completed the equivalent ~~content content,~~ and clinical hours. hours, and skills
35 competency validation. Such individual shall submit ~~listing form~~ an application as described in Paragraph (b)(2) (b) of
36 this Rule. If the student was in good standing upon withdrawal from the school and withdrew from the school in excess
37 of 24 months, the student must successfully complete an entire nurse aide II ~~program. course.~~

1 (e) Individuals who have completed a training course equivalent in ~~content and~~ content, clinical ~~hours~~ hours, and ~~skills~~
2 competency validation to the nurse aide II ~~program, course~~ may submit documentation of the same to the Board of
3 ~~Nursing~~ for review. If training is equivalent, the individual may submit the application with required fee and be listed on
4 the Board of Nursing Nurse Aide Registry as a nurse aide II.

5 (f) An employing agency or facility may choose up to four nurse aide II tasks to be performed by nurse aide I personnel
6 without the nurse aide I completing the entire nurse aide II ~~program, course~~. These tasks are individual activities which
7 may be performed after the nurse aide I has received ~~the approved~~ Board-approved training and competency evaluation
8 using nurse aide II education modules as defined in Rule .0403(b) of this Section.

9 (1) The agency ~~may obtain the selected tasks curriculum model from the nearest Community College or~~
10 ~~the Board of Nursing, or facility is limited to selecting and implementing a maximum of four nurse~~
11 aide II tasks for use throughout each agency or facility.

12 (2) ~~The Board of Nursing must be notified of the nurse aide II task(s) that will be performed by nurse aide~~
13 ~~I personnel in the agency and for which all Board stipulations have been met. The notification of~~
14 ~~nurse aide II task(s) form which may be requested from the Board office shall be used. Each agency~~
15 ~~shall receive a verification letter once the Board has been appropriately notified. A nurse aide I, who is~~
16 trained and evaluated as competent to perform these limited nurse aide II tasks, shall perform these
17 tasks only in the specific agency or facility where the training and competency validation were
18 completed; performance of these tasks by the nurse aide I shall not transfer to another healthcare
19 setting.

20 (3) Documentation of the training and competency evaluation must be maintained for each nurse aide I
21 who is approved to perform these nurse aide II task(s) within the ~~agency, agency or facility.~~

22 (g) Each nurse aide II shall renew listing with the Board of ~~Nursing~~ biennially on ~~forms provided by the Board, or~~
23 before the listing period expiration date. The renewal ~~application~~ application, posted on the Board's website at
24 www.ncbon.com, shall be accompanied by the required fee.

25 (1) ~~Once the nurse aide II listing expires, it will not be renewed unless the nurse aide II successfully~~
26 ~~passes a Board-approved competency evaluation or successfully completes an entire Board-approved~~
27 nurse aide II course.

28 (+)(2) To be eligible for renewal, the nurse aide II ~~must~~ shall have worked at least eight hours for
29 compensation during the past 24 months performing nursing care activities under the supervision of a
30 ~~Registered Nurse, registered nurse.~~

31 (-)(3) Any nurse aide II who has had a continuous period of 24 months during which no nursing care
32 activities were performed for monetary compensation but who has performed patient care activities for
33 monetary compensation shall successfully complete the competency evaluation portion of the nurse
34 aide II ~~program course~~ and submit a renewal application and fee in order to be ~~placed~~ renewed on the
35 Board of Nursing Nurse Aide II Registry.

1 ~~(3)~~(4) A nurse aide II who has performed no nursing care or patient care activities for monetary
2 compensation within the past 24 months must successfully complete a Board-approved nurse aide II
3 ~~program~~ course prior to submitting the application for renewal.

4 ~~(4)~~(5) A nurse aide II who has substantiated findings of abuse, neglect, exploitation, mistreatment, diversion
5 of drugs, fraud, or misappropriation of client or employing facility funds property listed on the DHSR
6 Nurse Aide I Registry and/or the NC Health Care Personnel Registry shall not be eligible for renewal
7 as a nurse aide II.

8
9 *History Note:* Authority G.S. 90-171.19; 90-171.20(2)(4)(7)d,e,g; 90-171.37; 90-171.43(4); 90-171.55; 90-171.83;
10 42 U.S.C.S. 1395i-3 (1987);
11 Eff. March 1, 1989;
12 Amended Eff. July 1, 2010; November 1, 2008; August 1, 2005; August 1, 2002; July 1, 2000;
13 December 1, 1995; April 1, ~~1990.~~ 1990.
14 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0405

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – revise as follows:

The Board shall accept the nurse aide I courses that are approved by DHSR.

Line 9 – delete “at least”

Lines 11 and 13 – begin these lines with “the”

Line 13 – replace “clinical experience” with “clinical-experience”

Line 13 – replace “faculty/student” with faculty to student”

Line 21 – delete “and”

Line 26 – delete “a minimum of”

Line 27 – do you mean “a faculty of Board-approved registered nurses”?

Line 33 – replace “Nurse” with “A nurse”

Line 34 – add “of” after “hours”

Line 34 – replace “is” with “shall be”

Page 2, line 8 – add “with” after “Board”

Page 2, line 9 – replace “in order to” with “that”

Page 2, line 9 – add “the” before “operation”

Page 2, line 9 – replace “any individual” with “all individuals” if that is what is meant.

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

Page 2, line 12 – add “the” before “permanent”

Page 2, lines 13-14 – on what basis will the Board grant or deny approval?

Page 2, line 13 – replace “Any” with “A”

Page 2, line 13 – replace “wishing to” with “that will”

Page 2, line 14 – replace “Board approval.” with “prior approval from the Board, and:” if that is what is meant.

Page 2, lines 15 and 18 – do not capitalize “full approval”

Page 2, line 20 – do not capitalize “course director”

Page 2, line 21 – add “and” before “annual”

Page 2, line 23 – do you mean “may” or “shall”? If “may,” what standards, factors, or circumstances determine whether an on-site visit will be conducted?

Page 2, line 30 – replace “Board. EXCEPTION: In” with “Board; however, in”

Page 2, line 31 – replace “must” with “shall”

Page 2, line 32 – add a comma after “hearing”

Page 2, line 35 – delete “the Board determines from”

Page 2, line 35 – add “shows” after “hearing”

Page 2, line 36 – replace “state” with “State”

Page 2, line 36 – add a comma after “law”

Page 2, line 36 – what “Rules”? “the Rules in this Section”?

Page 2, lines 36-37 – do not capitalize “full approval”

Page 3, line 1 – delete “the Board determines from”

Page 3, line 1 – add “shows” after “hearing”

Page 3, line 2 – replace “state” with “State”

Page 3, line 2 – add a comma after “law”

Page 3, line 2 – what “Rules”? “the Rules in this Section”?

Page 3, line 4 – replace “constitutes” with “shall constitute”

Page 3, line 4 – replace “; and” with a period

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

Page 3, line 6 – replace “fully fund tuition” with “shall fully fund all tuition” if that is what is meant.

Page 3, line 8 – replace “; and” with a period

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0405 is readopted, **with changes**, as published in 33:1 NCR 42-44 as follows:

2
3 **21 NCAC 36 .0405 APPROVAL OF NURSE AIDE EDUCATION ~~PROGRAMS~~ COURSES**

4 (a) The Board of Nursing shall accept those ~~programs~~ courses approved by DHSR to prepare the nurse aide I.

5 (b) The ~~North Carolina~~ Board of Nursing shall approve nurse aide II ~~programs~~ courses. Nurse aide II ~~programs~~ courses
6 may be offered by ~~an~~ a State-licensed individual, agency, or educational institution after the ~~program~~ course is approved
7 by the Board.

8 (1) Each entity desiring to offer a nurse aide II ~~program~~ course shall submit a ~~program~~ course approval
9 application at least 60 days prior to offering the ~~program~~ course. It shall include documentation of the
10 following standards:

11 (A) students ~~will~~ shall be taught and supervised by qualified faculty as defined in Subparagraph

12 (b)(3) of this ~~Rule for clinical experience with faculty/student ratio not to exceed 1:10; Rule;~~

13 (B) clinical experience faculty/student ratio shall not exceed 1:10;

14 ~~(B)(C)~~ (C) the selection and utilization of clinical facilities ~~must~~ shall support the ~~program~~ course
15 curriculum as outlined in Subparagraph (b)(2) of this Rule;

16 ~~(C)(D)~~ (D) a written contract shall exist between the ~~program~~ course provider and clinical facility prior
17 to student clinical experience in the facility;

18 ~~(D)(E)~~ (E) admission requirements shall include:

19 (i) successful completion of nurse aide I training ~~program~~ course or ~~Board of Nursing~~
20 established **DHSR-established** ~~DHSR-established~~ equivalent and current nurse aide
21 I listing on DHSR Registry; and

22 (ii) ~~GED High School~~ or ~~high school~~ High School Equivalency diploma; and

23 (iii) other admission requirements as identified by the ~~program~~ course provider; and

24 ~~(E)(F)~~ (F) a procedure for timely processing and disposition of ~~program~~ course and student complaints
25 shall be established.

26 (2) ~~Level II nurse~~ Nurse aide II ~~programs~~ courses shall include a minimum of 80 hours of theory and 80
27 hours of ~~supervised~~ supervised clinical instruction supervised by a Board-approved registered nurse faculty
28 consistent with the ~~legal scope of practice~~ nurse aide II curriculum as defined by the Board of Nursing
29 in Rule .0403(b) of this Section. Changes made by the Board of Nursing in content hours or scope of
30 practice in the nurse aide II ~~program~~ course shall be published in the ~~Bulletin~~. ~~Requests by the~~
31 ~~programs to modify the nurse aide II course content shall be directed to the Board office.~~ Bulletin
32 and posted on the Board's website at www.ncbon.com.

33 (A) Nurse aide II education course shall not use simulation as a substitute for the required 80
34 hours clinical experience. Competency validation of up to three required nurse aide II skills
35 is permitted in the simulated laboratory environment if validation of such skills is not
36 available in the clinical experience site.

1 (3) Minimum competency and qualifications for faculty for the nurse aide ~~Level II programs~~ courses shall
2 include:

3 (A) ~~a current unrestricted~~ an active unencumbered license to practice as a registered nurse in
4 North Carolina;

5 (B) ~~have had~~ at least two years of direct patient care experiences as ~~an R.N.;~~ a registered nurse;
6 and

7 (C) ~~have~~ experience teaching adult learners.

8 (4) Each nurse aide II ~~program~~ course shall furnish the Board records, data, and reports requested by the
9 Board in order to provide information concerning operation of the ~~program~~ course and any individual
10 who ~~successfully completes the program.~~ attended the course within the past five years.

11 (5) When an approved nurse aide II ~~program~~ course closes, the Board shall be notified in writing by the
12 ~~program.~~ course. The Board shall be informed as to permanent storage of student records.

13 (6) Any Board-approved nurse aide II course wishing to provide nurse aide II competency evaluation shall
14 obtain Board approval.

15 (A) Board-approved nurse aide II course shall be in Full Approval status for at least one year
16 prior to submitting an application to provide nurse aide II ~~course;~~ competency evaluation;
17 and

18 (B) Full Approval course status shall be maintained to provide nurse aide II competency
19 evaluation.

20 (c) An annual ~~program~~ course report shall be submitted by the ~~Program Course~~ Director to the Board of Nursing ~~on in~~ a
21 ~~Board form~~ Board-approved format by March 15 ~~31~~ of each year. Failure to submit annual report shall result in
22 administrative action affecting approval status as described in Paragraphs ~~(d)~~ (e) and ~~(e)~~ (f) of this Rule.

23 (d) Complaints regarding nurse aide II ~~programs~~ courses may result in an ~~on-site~~ on-site survey by the ~~North Carolina~~
24 ~~Board of Nursing.~~ Board.

25 ~~(d)~~(e) Approval status shall be determined by the Board of Nursing using the annual ~~program~~ course report, survey ~~report~~
26 report, and other data submitted by the program, agencies, or students. The determination shall result in full approval or
27 approval with stipulations.

28 ~~(e)~~(f) If stipulations have not been met as specified by the ~~Board of Nursing,~~ Board, a hearing shall be held by the Board
29 of Nursing regarding ~~program~~ course approval status. A ~~program~~ course may continue to operate while awaiting the
30 hearing before the Board. EXCEPTION: In the case of summary suspension of approval as authorized by G.S. 150B-
31 3(c), the ~~program~~ course must immediately cease operation.

32 (1) When a hearing is scheduled, the Board shall cause notice to be served on the ~~program~~ course and
33 shall specify a date for the hearing to be held not less than 20 days from the date on which notice is
34 given.

35 (2) If the Board determines from evidence presented at hearing that the ~~program~~ course is complying with
36 all federal and state law including these Rules, the Board shall assign the ~~program~~ course Full
37 Approval status.

1 (3) If the ~~Board, following a hearing, finds~~ Board determines from evidence presented at hearing that the
2 ~~program course~~ is not complying with all federal and state law including these Rules, the Board shall
3 withdraw approval.

4 (A) This action constitutes discontinuance of the ~~program;~~ course; and

5 (B) The parent institution shall present a plan to the Board for transfer of students to approved
6 ~~programs~~ courses or fully refund tuition paid by the student. Closure shall take place after
7 the transfer of students to approved ~~programs~~ courses within a time frame established by the
8 Board; and

9 (C) The parent institution shall notify the Board of the arrangements for storage of permanent
10 records.

11
12 *History Note:* Authority G.S. 90-171.20(2)(4)(7)d., e., g.; 90-171.39; 90-171.40; 90-171.43(4); 90-171.55; 90-171.83;
13 42 U.S.C.S. 1395i-3 (1987);
14 Eff. March 1, 1989;
15 Amended Eff. November 1, 2008; April 1, 2003; August 1, 2002; July 1, 2000; December 1, 1995;
16 March 1, ~~1990; 1990;~~
17 Readopted Eff. [November 1, 2018.] December 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0406

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “are required to” with “shall”

Line 12 – replace “The” with “A”

Line 18 – replace “The” with “An”

Line 18 – replace “must” with “shall”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0406 is readopted, **with changes**, as published in 33:1 NCR 44 as follows:

2
3 **21 NCAC 36 .0406 MEDICATION AIDE TRAINING REQUIREMENTS**

4 (a) Faculty for the medication aide training program are required to:

- 5 (1) have ~~a current, unrestricted~~ an active, unencumbered license to practice as a registered nurse in North
6 Carolina;
- 7 (2) have had at least two years of practice experience as a registered nurse that includes medication
8 administration;
- 9 (3) have successfully completed an instructor training program approved by the Board according to these
10 Rules; and
- 11 (4) maintain Board ~~of Nursing~~ certification as a medication aide instructor.

12 (b) The medication aide instructor certification shall be renewed every two years provided the following requirements
13 are met:

- 14 (1) the individual has taught at least one medication aide training program within the preceding two years;
15 and
- 16 (2) the individual ~~successfully completes a review~~ has reviewed program changes approved by the Board
17 ~~according to these Rules, and posted on the Board's website at www.ncbon.com.~~

18 (c) The applicant for a medication aide training program approved by the Board must have a high school diploma or
19 ~~GED.~~ High School Equivalency.

20
21 *History Note:* Authority G.S. 90-171.56; 131E-114.2; 131E-270;

22 *Eff. September 1, 2006;*

23 *Amended Eff. April 1, 2008. 2008;*

24 *Readopted Eff. [November 1, 2018.] December 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0502

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “Chapter” with “G.S.”

Line 4 – add a comma after “Act”

Lines 4-5 – delete “of North Carolina”

Line 6 – replace “the professional” with “a professional”

Line 6 – replace “to provide” with “that provides”

Line 6 – delete the comma

Line 7 – what does “ethical customs of the nursing profession” mean? If this cannot be clearly defined, consider repealing this Rule.

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0502 is amended, **with changes**, as published in 33:1 NCR 44 as follows:

2

3 21 NCAC 36 .0502 NAME OF PROFESSIONAL CORPORATION

4 ~~The following requirement, in~~ In addition to the provisions of Chapter 55B, the Professional Corporation Act of
5 North Carolina, ~~must be met regarding the corporate name:~~ Carolina.

6 ~~The~~ the name of the professional corporation ~~referred to herein~~ to provide nursing care and related services, shall not
7 include any adjectives or words not in accordance with ethical customs of the nursing profession.

8

9 *History Note:* Authority G.S. 55B-5; 55B-12; 90-171.43;

10 Eff. March 1, 1991;

11 Amended Eff. ~~[November 1, 2018.]~~ **December 1, 2018.**

12 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,

13 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0503

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – add “a professional corporation that will practice nursing in this State” after “incorporate”

Line 9 – what statute authorizes the Board to set this fee in this way? G.S. 12-3.1 clearly contemplates that the Board will set the fee in such a way that the Joint Legislative Commission on Governmental Operations will be consulted with each change of fee. The approach taken in this Rule bypasses that process as well as the processes set out in the APA for rule amendment. Consider reverting to the original language.

Line 11 – add a comma after “Board”

Line 14 – replace “all such individuals are” with “each shareholder of the corporation who will be practicing nursing for the corporation”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0503 is amended, **with changes**, as published in 33:1 NCR 44 as follows:

2
3 **21 NCAC 36 .0503 PREREQUISITES FOR INCORPORATION**

4 The following requirements must be met in order to incorporate:

- 5 (1) The incorporator, whether one or more, of a professional corporation shall be licensed to practice
6 nursing in North Carolina as a registered nurse.
- 7 (2) Before the filing of the articles of incorporation with the Secretary of State, the incorporators shall
8 file, with the Board, the original articles of incorporation, plus a copy, together with a registration
9 fee ~~of fifty dollars (\$50.00)~~ in the maximum allowable amount set forth in G.S. 55B-10.
- 10 (3) The original articles of incorporation and the copy shall be accompanied by an application to the
11 Board (~~Corp. Form 1~~) certified by all incorporators, setting forth the names, addresses, and
12 certificate numbers of each shareholder of the corporation who will be practicing nursing for the
13 corporation.
- 14 (4) Included with the above shall be a statement that all such ~~persons~~ individuals are licensed to
15 practice nursing in North Carolina as registered nurses, and stating that the corporation will be
16 conducted in compliance with the Professional Corporation Act and these Rules.
- 17 (5) If the articles are changed in any manner before being filed with the Secretary of State, they shall
18 be re-submitted to the Board and shall not be filed with the Secretary of State until approved by
19 the Board.

20
21 *History Note:* Authority G.S. 55B-4; 55B-10; 55B-12; 90-171.20(6);
22 Eff. March 1, 1991;
23 Amended Eff. ~~November 1, 2018.~~ **December 1, 2018;** April 1, 2009;
24 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
25 2018

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0504

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Throughout this rule, do not capitalize "certificate of registration"

Line 6 – replace "when" with "after"

Line 8 – delete "the Board finds that"

Line 11 – delete "it appears to the Board that"

Line 12 – what "laws and rules," specifically (see .0602)?

Line 13 – delete the commas

Line 13 – replace "will" with "shall"

Line 15 – replace "will" with "shall"

Line 16 – replace "cannot be" with "are not"

Line 23 – what statute authorizes the Board to set this fee in this way? G.S. 12-3.1 clearly contemplates that the Board will set the fee in such a way that the Joint Legislative Commission on Governmental Operations will be consulted with each change of fee. The approach taken in this Rule bypasses that process as well as the processes set out in the APA for rule amendment. Consider reverting to the original language.

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

Jason Thomas
Commission Counsel

Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0504 is amended, **with changes**, as published in 33:1 NCR 44-45 as follows:

2
3 21 NCAC 36 .0504 CERTIFICATE OF REGISTRATION

4 The Certificate of Registration shall be issued as follows:

- 5 (1) The Board shall issue a Certificate of Registration (~~Corp. Form 2~~) for the professional corporation
6 to become effective only when the professional corporation files the articles of incorporation with
7 the Secretary of State and if:
- 8 (a) the Board finds that no disciplinary action is pending before the Board against any of the
9 licensed incorporators or ~~persons~~ individuals who will be directors, officers, or
10 shareholders of such corporation; and
- 11 (b) it appears to the Board that such corporation will be conducted in compliance with the
12 law and rules.
- 13 (2) The proposed original articles of incorporation, and the Certification of Registration, will be
14 returned to the incorporators for filing with the Secretary of State. A copy of the articles of
15 incorporation and a copy of the Certificate of Registration will be retained in the Board office. If
16 the required findings cannot be made, the registration fee shall be refunded to the incorporators.
- 17 (3) The initial Certificate of Registration shall remain in effect until December ~~31~~, 31 of the year in
18 which it was ~~issued~~ issued, unless suspended or terminated as provided by law. The Certificate of
19 Registration shall be renewed annually thereafter.
- 20 (4) At least 20 days prior to the date of expiration of the ~~certificate~~, Certificate of Registration, the
21 professional corporation shall submit its written application for renewal on a form provided by the
22 Board (~~Corp. Form 3~~), Board, along with a ~~check in the amount of twenty five dollars (\$25.00) in~~
23 ~~payment of the renewal fee.~~ fee in the maximum allowable amount set forth in G.S. 55B-10.

24
25 *History Note:* Authority G.S. 55B-12; 90-171.20(6); 90-171.23;

26 *Eff. April 1, 1991;*

27 *Amended Eff. **[November 1, 2018;] December 1, 2018;** November 1, 2008;*

28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
29 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0505

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – add “that will practice nursing in this State” after “corporations”

Line 6 – delete “or” before “declines”

Line 6 – replace “when” with “after”

Line 15 – replace “when” with “if”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0505 is amended, **with changes**, as published in 33:1 NCR 45 as follows:

2
3 **21 NCAC 36 .0505 GENERAL AND ADMINISTRATIVE PROVISIONS**

4 The following general provisions shall apply to all incorporating professional corporations:

- 5 (1) If the Board declines to issue a Certificate of Registration required by 21 NCAC 36 ~~.0504~~ (a)(1),
6 .0504, or declines to renew the same when properly requested, or refuses to take any other
7 required action, the aggrieved party may request, in writing, a review of such action by the Board,
8 and the Board shall provide a formal hearing for such aggrieved party before a majority of the
9 Board.
- 10 (2) All amendments to charters of professional corporations, all merger and consolidation agreements
11 to which a professional corporation is a party, and all dissolution proceedings and similar changes
12 in the corporate structure of a professional corporation shall be filed with the Board for approval
13 before being filed with the Secretary of State. A true copy of the changes filed with the Secretary
14 of State shall be filed with the Board within ~~ten~~ 10 days after filing with the Secretary of State.
- 15 (3) The Board is authorized to issue the certificate (~~Corp. Form 4~~) required by G.S. 55B-6 when stock
16 is transferred in a professional corporation, and such certificate shall be permanently attached to
17 the stub of the transferee's certificate in the stock book of the professional corporation.

18
19 *History Note:* Authority G.S. 55B-6; 55B-12; 90-171.23;
20 Eff. April 1, 1991;
21 Amended Eff. ~~November 1, 2018;~~ **December 1, 2018;** November 1, 2008;
22 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
23 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0506

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 5 – replace “are” with “shall be”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0506 is amended, **with changes**, as published in 33:1 NCR 45 as follows:

2
3 21 NCAC 36 .0506 FORMS

4 The following forms ~~may be obtained from the office of the Board of Nursing~~ regarding professional corporations:
5 corporations are posted on the Board's website at www.ncbon.com:

6 (1) ~~Rules adopted by the North Carolina Board of Nursing relating to Professional Corporations~~
7 ~~whose purpose is providing nursing related services;~~

8 (2)(1) ~~Corp. Form 1~~ Certificate of Incorporator(s) and Application for a Certificate of Registration for a
9 Professional Corporation;

10 (3)(2) ~~Corp. Form 2~~ Certificate of Registration of a Professional Corporation for the Purpose of
11 Providing Nursing Related Services;

12 (4)(3) ~~Corp. Form 3~~ Application for Renewal of Certificate of Registration; and

13 (5)(4) ~~Corp. Form 4~~ Certificate Authorizing Transfer of Stock in Professional Corporation Organized to
14 Provide Nursing Related Services.

15
16 *History Note:* Authority G.S. 55B-12; 90-171.23;

17 Eff. March 1, 1991;

18 Amended Eff. ~~[November 1, 2018;]~~ **December 1, 2018;** November 1, 2008;

19 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
20 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0507

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

What statute authorizes the Board to set this fee in this way? G.S. 12-3.1 clearly contemplates that the Board will set the fee in such a way that the Joint Legislative Commission on Governmental Operations will be consulted with each change of fee. The approach taken in this Rule bypasses that process as well as the processes set out in the APA for rule amendment. Consider reverting to the original language.

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0507 is amended, **with changes**, as published in 33:1 NCR 45 as follows:

2

3 21 NCAC 36 .0507 FEES

4 ~~(a) Initial registration fee of fifty dollars (\$50.00) is required.~~

5 ~~(b) Fee for renewal of Certificate of Registration is twenty five dollars (\$25.00).~~

6 The registration and renewal fees for a professional corporation shall be the maximum allowable amount under G.S.
7 55B-10 and 55B-11.

8

9 *History Note: Authority G.S. 55B-10; 55B-11; 55B-12;*

10 *Eff. April 1, 1991;*

11 *Amended Eff. [November 1, 2018;] December 1, 2018;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*

13 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0601

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “Chapter” with “G.S.”

Line 5 – replace “to provide” with “that provides”

Line 5 – delete the comma

Line 6 – what does “ethical customs of the nursing profession” mean? If this cannot be clearly defined, consider repealing this Rule.

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0601 is amended, **with changes**, as published in 33:1 NCR 45 as follows:

2

3 21 NCAC 36 .0601 **NAME OF PROFESSIONAL LIMITED LIABILITY COMPANY**

4 In addition to the provisions of Chapter 57D, the North Carolina Limited Liability Compact Act, The the name of a
5 limited liability company ~~for the purpose of providing~~ to provide nursing and related ~~services~~ services, shall not
6 include any adjectives or other words not in accordance with ethical customs of the nursing profession.

7

8 *History Note:* *Authority G.S. 55B-10; ~~57C 2-30~~; 57D-2-02;*

9 *Eff. August 1, 1998;*

10 *Amended Eff. [~~November 1, 2018;~~] December 1, 2018;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
12 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0602

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 7 – add a comma after “certificate”

Line 7 – replace “nurse” with “nurses who are”

Line 10 – delete “and”

Line 12 – what “laws” specifically (see .0504)?

Lines 13-14 – what statute authorizes the Board to set this fee in this way? G.S. 12-3.1 clearly contemplates that the Board will set the fee in such a way that the Joint Legislative Commission on Governmental Operations will be consulted with each change of fee. The approach taken in this Rule bypasses that process as well as the processes set out in the APA for rule amendment. Consider reverting to the original language.

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0602 is amended, **with changes**, as published in 33:1 NCR 45-46 as follows:

2
3 21 NCAC 36 .0602 PREREQUISITES FOR ORGANIZATION

4 (a) ~~Before~~ The organizing members shall submit the following requirements to the Board prior to filing the articles
5 of organization for a limited liability company with the Secretary of State, the organizing members shall submit the
6 following to the Board: organization:

7 (1) a certificate certified by those registered nurse organizing members, setting forth the names,
8 addresses, and license numbers of each individual who will be employed by the professional
9 limited liability company to practice nursing and related services as specified in G.S. 55B14(c)(2),
10 (4) – (6), and stating that all such individuals are duly licensed to practice nursing in North
11 Carolina, and representing that the company will be conducted in compliance with law and these
12 Rules; and

13 ~~(1)(2)~~ a registration fee in the maximum allowable amount as set by Rule .0606 of this Section; and forth
14 in G.S. 55D.

15 ~~(2)~~ a certificate certified by those registered nurse organizing members, setting forth the names,
16 addresses, and license numbers of each person who will be employed by the limited liability
17 company to practice nursing and related services as specified in G.S. 55B14(c)(2), (4) – (6), and
18 stating that all such persons are duly licensed to practice nursing in North Carolina, and
19 representing that the company will be conducted in compliance with law and these Rules.

20 (b) A certification that each of those organizing members who may provide nursing and related services as specified
21 in G.S. 55B-14(c)(2), (4) - (6) is licensed to practice nursing in North Carolina shall be returned to the professional
22 limited liability company for filing with the Secretary of State.

23 (c) If the articles are changed in any manner before being filed with the Secretary of State, they shall be re-
24 submitted to the Board and shall not be filed with the Secretary of State until approved by the Board.

25
26 *History Note:* Authority G.S. 55B-4; 55B-10; 55B-12; 55B-14; ~~57C-2-01; 57D-2-01; 57D-2-02; 90-171.23;~~
27 *Eff. August 1, 1998;*
28 *Amended Eff. [November 1, 2018;] December 1, 2018; November 1, 2008;*
29 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
30 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0603

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – do not capitalize “certificate of registration”

Lines 7-8 – what statute authorizes the Board to set this fee in this way? G.S. 12-3.1 clearly contemplates that the Board will set the fee in such a way that the Joint Legislative Commission on Governmental Operations will be consulted with each change of fee. The approach taken in this Rule bypasses that process as well as the processes set out in the APA for rule amendment. Consider reverting to the original language.

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 1 NCAC 36 .0603 is amended, **with changes**, as published in 33:1 NCR 46 as follows:

2

3 **21 NCAC 36 .0603 CERTIFICATE OF REGISTRATION**

4 (a) A Certificate of Registration for a Professional Limited Liability Company shall remain effective until
5 December 31 of the year in which it was issued unless suspended or terminated as provided by law.

6 (b) A Certificate of Registration shall be renewed annually on application forms supplied by the Board. The
7 application shall be accompanied by a ~~renewal~~ the maximum allowable renewal fee as set by ~~Rule .0605 of this~~
8 ~~Section~~ forth in G.S. 57D.

9

10 *History Note:* Authority G.S. 55B-10; 55B-11; ~~57C-2-01~~; 57D-2-01; 57D-2-02; 90-171.23;

11 *Eff. August 1, 1998;*

12 *Amended Eff. ~~November 1, 2018;~~ **December 1, 2018;** November 1, 2008;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
14 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0604

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

Line 4 – replace “when” with “if”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0604 is amended, **with changes**, as published in 33:1 NCR 46 as follows:

2

3 21 NCAC 36 .0604 **GENERAL AND ADMINISTRATIVE PROVISIONS**

4 The Board shall issue the certificate authorizing transfer of membership when membership is transferred in the
5 company. This transfer form shall be permanently retained by the company. The membership books of the company
6 shall be kept at the principal office of the company and shall be subject to inspection by authorized agents of the
7 Board.

8

9 *History Note:* *Authority G.S. ~~55B-6~~; 55B-12; ~~57C-2-01~~; 57D;*

10 *Eff. August 1, 1998;*

11 *Amended Eff. **[November 1, 2018;] December 1, 2018;***

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*

13 *2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Nursing

RULE CITATION: 21 NCAC 36 .0605

DEADLINE FOR RECEIPT: Friday, November 9, 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 that the following technical changes be made:

What statute authorizes the Board to set this fee in this way? G.S. 12-3.1 clearly contemplates that the Board will set the fee in such a way that the Joint Legislative Commission on Governmental Operations will be consulted with each change of fee. The approach taken in this Rule bypasses that process as well as the processes set out in the APA for rule amendment. Consider reverting to the original language.

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

Jason Thomas
Commission Counsel
Date submitted to agency: Wednesday, November 7, 2018

1 21 NCAC 36 .0605 is amended, **with changes**, as published in 33:1 NCR 46 as follows:

2

3 21 NCAC 36 .0605 FEES

4 (a) The fee for both an initial Certificate of Registration and renewal is ~~fifty dollars (\$50.00)~~. the maximum
5 allowable fee as set forth in G.S. 57D.

6 (b) ~~The fee for renewal of a Certificate of Registration is twenty five dollars (\$25.00).~~

7

8 *History Note: Authority G.S. 55B-10; 55B-11; ~~57C-2-01~~; 57D; 90-171.23;*

9 *Eff. August 1, 1998;*

10 *Amended Eff. ~~[November 1, 2018;]~~ **December 1, 2018;** November 1, 2008;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
12 *2018.*

1 **21 NCAC 36 .0801 is readopted, with changes, as published in 33:1 NCR 46 as follows:**

2
3 **21 NCAC 36 .0801 DEFINITIONS**

4 The following definitions apply to this Section:

- 5 (1) "Approval to Practice" means authorization by the Medical Board and the Board of Nursing for a
6 nurse practitioner to perform medical acts within her or his area of educational preparation and
7 certification under a collaborative practice agreement (CPA) with a licensed physician in accordance
8 with this Section.
- 9 (2) "Back-up Supervising Physician" means the licensed physician who, by signing an agreement with the
10 nurse practitioner and the primary supervising physician(s) shall provide supervision, collaboration,
11 consultation and evaluation of medical acts by the nurse practitioner in accordance with the
12 collaborative practice agreement when the Primary Supervising Physician is not available. Back-up
13 supervision shall be in compliance with the following:
- 14 (a) The signed and dated agreements for each back-up supervising physician(s) shall be
15 maintained at each practice site.
- 16 (b) A physician in a graduate medical education program, whether fully licensed or holding only
17 a resident's training license, shall not be named as a back-up supervising physician.
- 18 (c) A fully licensed physician in a graduate medical education program who is also practicing in
19 a non-training situation and has a signed collaborative practice agreement with the nurse
20 practitioner and the primary supervising physician may be a back-up supervising physician
21 for a nurse practitioner in the non-training situation.
- 22 (3) "Board of Nursing" means the North Carolina Board of Nursing.
- 23 (4) "Collaborative practice agreement" means the arrangement for nurse practitioner-physician continuous
24 availability to each other for ongoing supervision, consultation, collaboration, referral and evaluation
25 of care provided by the nurse practitioner.
- 26 (5) "Disaster" means a state of disaster as defined in G.S. 166A-4(1a) and proclaimed by the Governor, or
27 by the General Assembly pursuant to G.S. 166A-6.
- 28 (6) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and
29 members of the Medical Board to whom responsibility is given by G.S. 90-8.2 and G.S. 90-
30 171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in
31 North Carolina.
- 32 (7) "Medical Board" means the North Carolina Medical Board.
- 33 (8) "National Credentialing Body" means one of the following credentialing bodies that offers
34 certification and re-certification in the nurse practitioner's specialty area of practice:
- 35 (a) American Nurses Credentialing Center (ANCC);
- 36 (b) American Academy of Nurse Practitioners (AANP);
- 37 (c) American Association of Critical Care Nurses Certification Corporation (AACN);

- 1 (d) National Certification Corporation of the Obstetric Gynecologic and Neonatal Nursing
2 Specialties (NCC); and
3 (e) the Pediatric Nursing Certification Board (PNCB).
- 4 (9) "Nurse Practitioner" or "NP" means a currently licensed registered nurse approved to perform medical
5 acts consistent with the nurse's area of nurse practitioner academic educational preparation and
6 national certification under an agreement with a licensed physician for ongoing supervision,
7 consultation, collaboration and evaluation of the medical acts performed. Such medical acts are in
8 addition to those nursing acts performed by virtue of registered nurse (RN) licensure. The NP is held
9 accountable under the RN license for those nursing acts that he or she may perform.
- 10 (10) "Primary Supervising Physician" means the licensed physician who shall provide ongoing supervision,
11 collaboration, consultation and evaluation of the medical acts performed by the nurse practitioner as
12 defined in the collaborative practice agreement. Supervision shall be in compliance with the following:
- 13 (a) The primary supervising physician shall assure both Boards that the nurse practitioner is
14 qualified to perform those medical acts described in the collaborative practice agreement.
- 15 (b) A physician in a graduate medical education program, whether fully licensed or holding only
16 a resident's training license, shall not be named as a primary supervising physician.
- 17 (c) A fully licensed physician in a graduate medical education program who is also practicing in
18 a non-training situation may supervise a nurse practitioner in the non-training situation.
- 19 (11) "Registration" means authorization by the Medical Board and the Board of Nursing for a registered
20 nurse to use the title nurse practitioner in accordance with this Section.
- 21 (12) "Supervision" means the physician's function of overseeing medical acts performed by the nurse
22 practitioner.
- 23 (13) "Volunteer Approval" means approval to practice consistent with this rule except without expectation
24 of direct or indirect compensation or payment (monetary, in kind or otherwise) to the nurse
25 practitioner.

26
27 *History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.20(4); 90-171.20(7); 90-171.23(b); 90-*
28 *171.83;*
29 *Recodified from 21 NCAC 36 .0227(a) Eff. August 1, 2004;*
30 *Amended Eff. [November 1, 2018;] December 1, 2018; September 1, 2012; December 1, 2009;*
31 *December 1, 2006; August 1, 2004.*

1 **21 NCAC 36 .0802 is readopted, with changes, as published in 33:1 NCR 46 as follows:**

2

3 **21 NCAC 36 .0802 SCOPE OF PRACTICE**

4 A nurse practitioner shall be held accountable by both Boards for the continuous and comprehensive management of a
5 broad range of personal health services for which the nurse practitioner is educationally prepared and for which
6 competency has been maintained, with physician supervision and collaboration as described in Rule .0810 of this
7 Section. These services include but are not restricted to:

- 8 (1) promotion and maintenance of health;
- 9 (2) prevention of illness and disability;
- 10 (3) diagnosing, treating and managing acute and chronic illnesses;
- 11 (4) guidance and counseling for both individuals and families;
- 12 (5) prescribing, administering and dispensing therapeutic measures, tests, procedures and drugs;
- 13 (6) planning for situations beyond the nurse practitioner's expertise, and consulting with and referring to
14 other health care providers as appropriate; and
- 15 (7) evaluating health outcomes.

16

17 *History Note: Authority G.S. 90-18(14); 90-171.20(7); 90-171.23(b)(14);*
18 *Recodified from 21 NCAC 36 .0227(b) Eff. August 1, 2004;*
19 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; August 1, 2004.*

1 **21 NCAC 36 .0803 is readopted, with changes, as published in 33:1 NCR 46 as follows:**
2

3 **21 NCAC 36 .0803 NURSE PRACTITIONER REGISTRATION**

4 (a) The Board of Nursing shall register an applicant as a nurse practitioner who:

- 5 (1) has an unrestricted license to practice as a registered nurse in North Carolina and, when applicable, an
6 unrestricted approval, registration or license as a nurse practitioner in another state, territory, or
7 possession of the United States;
- 8 (2) has successfully completed a nurse practitioner education program as outlined in Rule .0805 of this
9 Section;
- 10 (3) is certified as a nurse practitioner by a national credentialing body consistent with 21 NCAC 36
11 .0801(8); and
- 12 (4) has supplied additional information necessary to evaluate the application as requested.

13 (b) Beginning January 1, 2005, new graduates of a nurse practitioner program, who are seeking first-time nurse
14 practitioner registration in North Carolina shall:

- 15 (1) hold a Master's or higher degree in Nursing or related field with primary focus on Nursing;
- 16 (2) have successfully completed a graduate level nurse practitioner education program accredited by a
17 national accrediting body; and
- 18 (3) provide documentation of certification by a national credentialing body.

19
20 *History Note: Authority G.S. 90-18(c)(13); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.83;*

21 *Eff. August 1, 2004;*

22 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; September 1, 2012; November 1, 2008;*

23 *December 1, 2006.*

1 21 NCAC 36 .0804 is readopted, **with changes**, as published in 33:1 NCR 46 as follows:

2
3 **21 NCAC 36 .0804 PROCESS FOR APPROVAL TO PRACTICE**

4 (a) Prior to the performance of any medical acts, a nurse practitioner shall:

- 5 (1) meet registration requirements as specified in 21 NCAC 36 .0803;
- 6 (2) submit an application for approval to practice;
- 7 (3) submit any additional information necessary to evaluate the application as requested; and
- 8 (4) have a collaborative practice agreement with a primary supervising physician.

9 (b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than two
10 years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with
11 Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly
12 related to the nurse practitioner's area of education and certification. A nurse practitioner refresher course participant
13 shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

14 (c) The nurse practitioner shall not practice until notification of approval to practice is received from the Board of
15 Nursing after both Boards have approved the application.

16 (d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working
17 within the approved nurse practitioner collaborative practice agreement, or experiences an interruption in her or his
18 registered nurse licensure status, and the nurse practitioner shall so notify the Board of Nursing in writing. The
19 Boards shall extend the nurse practitioner's approval to practice in cases of emergency such as injury, sudden illness
20 or death of the primary supervising physician.

21 (e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then
22 approved by both Boards as follows:

- 23 (1) the Board of Nursing shall verify compliance with Rule .0803 and Paragraph (a) of this Rule; and
- 24 (2) the Medical Board shall verify that the designated primary supervising physician holds a valid
25 license to practice medicine in North Carolina and compliance with Paragraph (a) of this Rule.

26 (f) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to
27 practice in North Carolina shall be submitted by the applicant as follows:

- 28 (1) addition or change of primary supervising physician shall be submitted to the Board of Nursing
29 and processed pursuant to protocols developed by both Boards; and
- 30 (2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.

31 (g) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for
32 approval to practice shall:

- 33 (1) meet the nurse practitioner approval requirements as stipulated in Rule .0808(c) of this Section;
34 and
- 35 (2) complete the appropriate application.

1 (h) Volunteer Approval to Practice. The North Carolina Board of Nursing shall grant approval to practice in a
2 volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North
3 Carolina.

4 (i) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0813 of this Section.

5 (j) A Nurse Practitioner approved under this Section shall keep proof of current licensure, registration and approval
6 available for inspection at each practice site upon request by agents of either Board.

7

8 *History Note: Authority G.S. 90-18(13), (14); 90-18.2; 90-171.20(7); 90-171.23(b);*

9 *Recodified from 21 NCAC 36 .0227(c) Eff. August 1, 2004;*

10 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; November 1, 2013; January 1, 2013;*

11 *December 1, 2009; November 1, 2008; January 1, 2007; August 1, 2004.*

1 **21 NCAC 36 .0805 is readopted, with changes, as published in 33:1 NCR 46 as follows:**
2

3 **21 NCAC 36 .0805 EDUCATION AND CERTIFICATION REQUIREMENTS FOR REGISTRATION AS**
4 **A NURSE PRACTITIONER**

5 (a) A nurse practitioner with first-time approval to practice after January 1, 2000, shall provide evidence of certification
6 or recertification as a nurse practitioner by a national credentialing body.

7 (b) A nurse practitioner applicant who completed a nurse practitioner education program prior to December 31, 1999
8 shall provide evidence of successful completion of a course of education that contains a core curriculum including 400
9 contact hours of didactic education and 400 hours of preceptorship or supervised clinical experience. The core
10 curriculum shall contain the following components:

11 (1) health assessment and diagnostic reasoning including:

12 (A) historical data;

13 (B) physical examination data;

14 (C) organization of data base;

15 (2) pharmacology;

16 (3) pathophysiology;

17 (4) clinical management of common health problems and diseases such as the following shall be evident
18 in the nurse practitioner's academic program:

19 (A) respiratory system;

20 (B) cardiovascular system;

21 (C) gastrointestinal system;

22 (D) genitourinary system;

23 (E) integumentary system;

24 (F) hematologic and immune systems;

25 (G) endocrine system;

26 (H) musculoskeletal system;

27 (I) infectious diseases;

28 (J) nervous system;

29 (K) behavioral, mental health and substance abuse problems;

30 (5) clinical preventative services including health promotion and prevention of disease;

31 (6) client education related to Subparagraph (b)(4)–(5) of this Rule; and

32 (7) role development including legal, ethical, economical, health policy and interdisciplinary collaboration
33 issues.

34 (c) Nurse practitioner applicants exempt from components of the core curriculum requirements listed in Paragraph (b) of
35 this Rule are:

36 (1) Any nurse practitioner approved to practice in North Carolina prior to January 18, 1981, is
37 permanently exempt from the core curriculum requirement.

- 1 (2) A nurse practitioner certified by a national credentialing body prior to January 1, 1998, who also
2 provides evidence of satisfying Subparagraph (b)(1)–(3) of this Rule shall be exempt from core
3 curriculum requirements in Subparagraph (b)(4)–(7) of this Rule. Evidence of satisfying
4 Subparagraph (b)(1)–(3) of this Rule shall include:
5 (A) a narrative of course content; and
6 (B) contact hours.

7
8 *History Note:* Authority G.S. 90-18(14); 90-171.42;
9 Recodified from 21 NCAC 36.0227(d) Eff. August 1, 2004;
10 Amended Eff. ~~November 1, 2018;~~ December 1, 2018; December 1, 2009; December 1, 2006; August
11 1, 2004.

1 21 NCAC 36 .0806 is readopted, **with changes**, as published in 33:1 NCR 46 as follows:

2

3 21 NCAC 36 .0806 ANNUAL RENEWAL

4 (a) Each registered nurse who is approved to practice as a nurse practitioner in this State shall annually renew each
5 approval to practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:

6 (1) Maintaining current RN licensure;

7 (2) Maintaining certification as a nurse practitioner by a national credentialing body identified in Rule
8 .0801(8) of this Section;

9 (3) Submitting the fee required in Rule .0813 of this Section; and

10 (4) Completing the renewal application.

11 (b) If the nurse practitioner has not renewed by the last day of her or his birth month, the approval to practice as a
12 nurse practitioner shall lapse.

13

14 *History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(c)(14); 90-171.23(b)(14); 90-171.83;*

15 *Recodified from 21 NCAC 36.0227(e) Eff. August 1, 2004;*

16 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; March 1, 2017; December 1, 2009;*

17 *November 1, 2008; August 1, 2004.*

1 **21 NCAC 36 .0807 is readopted, with changes, as published in 33:1 NCR 46 as follows:**
2

3 **21 NCAC 36 .0807 CONTINUING EDUCATION (CE)**

4 In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of
5 continuing education each year beginning with the first renewal after initial approval to practice has been granted.

6 At least 20 hours of the required 50 hours must be those hours for which approval has been granted by the American
7 Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), other
8 national credentialing bodies, or practice relevant courses in an institution of higher learning. Every nurse
9 practitioner who prescribes controlled substances shall complete at least one hour of the total required continuing
10 education (CE) hours annually consisting of CE designed specifically to address controlled substance prescribing
11 practices, signs of the abuse or misuse of controlled substances, and controlled substance prescribing for chronic
12 pain management. Documentation shall be maintained by the nurse practitioner for the previous five calendar years
13 and made available upon request to either Board.
14

15 *History Note: Authority G.S. 90-5.1; 90-8.1; 90-8.2; 90-14(a)(15); 90-18(c)(14); 90-171.23(b)(14); 90-171.42;*
16 *S.L. 2015-241, s 12F;*

17 *Recodified from 21 NCAC 36 .0227(f) Eff. August 1, 2004;*

18 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; March 1, 2017; December 1, 2009; April*
19 *1, 2008; August 1, 2004.*

1 21 NCAC 36 .0808 is readopted, **with changes**, as published in 33:1 NCR 46 as follows:

2
3 **21 NCAC 36 .0808 INACTIVE STATUS**

4 (a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the
5 Board of Nursing in writing.

6 (b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.

7 (c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet
8 the qualifications for approval to practice in Rules .0803(a)(1), .0804(a) and (b), .0807, and .0810 of this Section and
9 receive notification from the Board of Nursing of approval prior to beginning practice after the application is
10 approved by both Boards.

11 (d) A nurse practitioner who has not practiced as a nurse practitioner in more than two years shall complete a nurse
12 practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21
13 NCAC 36 .0220 and consisting of common conditions and management of these conditions directly related to the
14 nurse practitioner's area of education and certification. A nurse practitioner refresher course participant shall be
15 granted an approval to practice that is limited to clinical activities required by the refresher course.

16
17 *History Note: Authority G.S. 90-18(13); 90-18.2; 90-171.36; 90-171.83;*
18 *Recodified from 21 NCAC 36 .0227(g) Eff. August 1, 2004;*
19 *Amended Eff. ~~November 1, 2018;~~ **December 1, 2018;** November 1, 2013; January 1, 2013;*
20 *December 1, 2009; December 1, 2006; August 1, 2004.*

1 **21 NCAC 36 .0809 is readopted, with changes, as published in 33:1 NCR 46 as follows:**

2
3 **21 NCAC 36 .0809 PRESCRIBING AUTHORITY**

4 (a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration
5 of medications.

6 (b) Prescribing and dispensing stipulations are as follows:

7 (1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be
8 included in the collaborative practice agreement as outlined in Rule .0810(2) of this Section.

9 (2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal
10 Controlled Substances Acts may be procured, prescribed, or ordered as established in the
11 collaborative practice agreement, providing all of the following requirements are met:

12 (A) the nurse practitioner has an assigned DEA number that is entered on each prescription
13 for a controlled substance;

14 (B) refills may be issued consistent with Controlled Substance laws and regulations; and

15 (C) the supervising physician(s) shall possess the same schedule(s) of controlled substances
16 as the nurse practitioner's DEA registration.

17 (3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice
18 agreement only as follows:

19 (A) upon a specific written or verbal order obtained from a primary or back-up supervising
20 physician before the prescription or order is issued by the nurse practitioner; and

21 (B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into
22 the patient record with a notation that it is issued on the specific order of a primary or
23 back-up supervising physician and signed by the nurse practitioner and the physician.

24 (4) Each prescription shall be noted on the patient's chart and include the following information:

25 (A) medication and dosage;

26 (B) amount prescribed;

27 (C) directions for use;

28 (D) number of refills; and

29 (E) signature of nurse practitioner.

30 (5) Prescription Format:

31 (A) all prescriptions issued by the nurse practitioner shall contain the supervising physician(s)
32 name, the name of the patient, and the nurse practitioner's name, telephone number, and
33 approval number;

34 (B) the nurse practitioner's assigned DEA number shall be written on the prescription form
35 when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.

36 (6) A nurse practitioner shall not prescribe controlled substances, as defined by the State and Federal
37 Controlled Substances Acts, for the following:

- 1 (A) nurse practitioner's own use;
- 2 (B) nurse practitioner's supervising physician;
- 3 (C) member of the nurse practitioner's immediate family, which shall mean a:
 - 4 (i) spouse;
 - 5 (ii) parent;
 - 6 (iii) child;
 - 7 (iv) sibling;
 - 8 (v) parent-in-law;
 - 9 (vi) son or daughter-in-law;
 - 10 (vii) brother or sister-in-law;
 - 11 (viii) step-parent;
 - 12 (ix) step-child; or
 - 13 (x) step-siblings;
- 14 (D) any other person living in the same residence as the licensee; or
- 15 (E) anyone with whom the nurse practitioner is having a sexual relationship.

16 (c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the
17 collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with
18 21 NCAC 46 .1703 that is hereby incorporated by reference including subsequent amendments.

19
20 *History Note:* Authority G.S. 90-8.1; 90-8.2; 90-18.2; 90-18(c)(14); 90-171.23(b)(14);
21 Recodified from 21 NCAC 36 .0227(h) Eff. August 1, 2004;
22 Amended Eff. ~~November 1, 2018;~~ December 1, 2018; March 1, 2017; December 1, 2012; April
23 1, 2011; November 1, 2008; August 1, 2004.

1 **21 NCAC 36 .0810 is readopted, with changes, as published in 33:1 NCR 46 as follows:**
2

3 **21 NCAC 36 .0810 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE**
4 **AGREEMENT**

5 The following are the quality assurance standards for a collaborative practice agreement:

- 6 (1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be
7 continuously available to each other for consultation by direct communication or telecommunication.
- 8 (2) Collaborative Practice Agreement:
- 9 (a) shall be agreed upon and signed by both the primary supervising physician and the nurse
10 practitioner, and maintained in each practice site;
- 11 (b) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature
12 sheet, signed by both the primary supervising physician and the nurse practitioner, appended
13 to the collaborative practice agreement and available for inspection by members or agents of
14 either Board;
- 15 (c) shall include the drugs, devices, medical treatments, tests and procedures that may be
16 prescribed, ordered and performed by the nurse practitioner consistent with Rule .0809 of
17 this Section; and
- 18 (d) shall include a pre-determined plan for emergency services.
- 19 (3) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the
20 collaborative practice agreement upon request by members or agents of either Board.
- 21 (4) Quality Improvement Process.
- 22 (a) The primary supervising physician and the nurse practitioner shall develop a process for the
23 ongoing review of the care provided in each practice site including a written plan for
24 evaluating the quality of care provided for one or more frequently encountered clinical
25 problems.
- 26 (b) This plan shall include a description of the clinical problem(s), an evaluation of the current
27 treatment interventions, and if needed, a plan for improving outcomes within an identified
28 time-frame.
- 29 (c) The quality improvement process shall include scheduled meetings between the primary
30 supervising physician and the nurse practitioner at least every six months. Documentation
31 for each meeting shall:
- 32 (i) identify clinical problems discussed, including progress toward improving
33 outcomes as stated in Sub-item (4)(b) of this Rule, and recommendations, if any, for
34 changes in treatment plan(s);
- 35 (ii) be signed and dated by those who attended; and

1 (iii) be available for review by members or agents of either Board for the previous five
2 calendar years and be retained by both the nurse practitioner and primary
3 supervising physician.

4 (5) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum
5 standards for consultation between the nurse practitioner and primary supervising physician(s):

6 (a) During the first six months of a collaborative practice agreement between a nurse practitioner
7 and the primary supervising physician, there shall be monthly meetings for the first six
8 months to discuss practice relevant clinical issues and quality improvement measures.

9 (b) Documentation of the meetings shall:

10 (i) identify clinical issues discussed and actions taken;

11 (ii) be signed and dated by those who attended; and

12 (iii) be available for review by members or agents of either Board for the previous five
13 calendar years and be retained by both the nurse practitioner and primary
14 supervising physician.

15

16 *History Note: Authority G.S 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.23(b)(14);*

17 *Recodified from 21 NCAC 36 .0227(i) Eff. August 1, 2004;*

18 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; December 1, 2009; August 1, 2004.*

1 21 NCAC 36 .0811 is readopted, **with changes**, as published in 33:1 NCR 46 as follows:

2

3 **21 NCAC 36 .0811 METHOD OF IDENTIFICATION**

4 When providing care to the public, the nurse practitioner shall identify herself/himself as specified in G.S. 90-640 and 21
5 NCAC 36 .0231.

6

7 *History Note: Authority G.S. 90-18(14); 90-640;*

8 *Recodified from 21 NCAC 36 .0227(j) Eff. August 1, 2004;*

9 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; August 1, 2004.*

1 **21 NCAC 36 .0812 is readopted, with changes, as published in 33:1 NCR 46 as follows:**

2
3 **21 NCAC 36 .0812 DISCIPLINARY ACTION**

4 (a) After notice and hearing in accordance with provisions of G. S. 150B, Article 3A, disciplinary action may be taken
5 by the appropriate Board if one or more of the following is found:

- 6 (1) violation of G.S. 90-18 and G.S. 90-18.2 or the joint rules adopted by each Board;
- 7 (2) immoral or dishonorable conduct pursuant to and consistent with G.S. 90-14(a)(1);
- 8 (3) any submissions to either Board pursuant to and consistent with G.S. 90-14(a)(3);
- 9 (4) the nurse practitioner is adjudicated mentally incompetent or the nurse practitioner's mental or physical
10 condition renders the nurse practitioner unable to safely function as a nurse practitioner pursuant to
11 and consistent with G.S. 90-14(a)(5) and G.S. 90-171.37(3);
- 12 (5) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the
13 prevailing standards for nurse practitioners in accordance and consistent with G.S. 90-14(a)(6) and
14 G.S. 90-171.35(5);
- 15 (6) conviction in any court of a criminal offense in accordance and consistent with G.S. 90-14(a)(7) and
16 G.S. 90-171.37 (2) and G.S. 90-171.48;
- 17 (7) payments for the nurse practitioner practice pursuant to and consistent with G.S. 90-14(a)(8);
- 18 (8) lack of professional competence as a nurse practitioner pursuant to and consistent with G.S. 90-
19 14(a)(11);
- 20 (9) exploiting the client pursuant to and consistent with G.S. 90-14(a)(12) including the promotion of the
21 sale of services, appliances, or drugs for the financial gain of the practitioner or of a third party;
- 22 (10) failure to respond to inquires which may be part of a joint protocol between the Board of Nursing and
23 Medical Board for investigation and discipline pursuant to and consistent with G.S. 90-14(a)(14);
- 24 (11) the nurse practitioner has held himself or herself out or permitted another to represent the nurse
25 practitioner as a licensed physician; or
- 26 (12) the nurse practitioner has engaged or attempted to engage in the performance of medical acts other
27 than according to the collaborative practice agreement.

28 (b) The nurse practitioner is subject to G.S. 90-171.37; 90-171.48 and 21 NCAC 36 .0217 by virtue of the license to
29 practice as a registered nurse.

30 (c) After an investigation is completed, the joint subcommittee of both boards may recommend one of the following:

- 31 (1) dismiss the case;
- 32 (2) issue a private letter of concern;
- 33 (3) enter into negotiation for a Consent Order; or
- 34 (4) a disciplinary hearing in accordance with G.S. 150B, Article 3A. If a hearing is recommended, the
35 joint subcommittee shall also recommend whether the matter should be heard by the Board of Nursing
36 or the Medical Board.

1 (d) Upon a finding of violation, each Board may utilize the range of disciplinary options as enumerated in G.S. 90-14(a)
2 or G.S. 90-171.37.

3

4 *History Note:* Authority G.S. 90-18(c)(14); 90-171.37; 90-171.44; 90-171.47; 90-171.48;

5 Recodified from 21 NCAC 36 .0227(k) Eff. August 1, 2004;

6 Amended Eff. ~~November 1, 2018;~~ December 1, 2018; April 1, 2007; August 1, 2004.

1 **21 NCAC 36 .0813 is readopted, with changes, as published in 33:1 NCR 47 as follows:**

2

3 **21 NCAC 36 .0813 FEES**

4 (a) An application fee of one hundred dollars (\$100.00) shall be paid at the time of initial application for approval to
5 practice and each subsequent application for approval to practice. The application fee shall be twenty dollars (\$20.00)
6 for volunteer approval.

7 (b) The fee for annual renewal of approval shall be fifty dollars (\$50.00).

8 (c) The fee for annual renewal of volunteer approval shall be ten dollars (\$10.00).

9 (d) No portion of any fee in this Rule is refundable.

10

11 *History Note: Authority G.S. 90-6; 90-171.23(b)(14);*

12 *Recodified from 21 NCAC 36 .0227(l) Eff. August 1, 2004;*

13 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; November 1, 2008; August 1, 2004.*

1 **21 NCAC 36 .0814 is readopted, with changes, as published in 33:1 NCR 47 as follows:**
2

3 **21 NCAC 36 .0814 PRACTICING DURING A DISASTER**

4 (a) A nurse practitioner approved to practice in this State or another state may perform medical acts, as a nurse
5 practitioner under the supervision of a physician licensed to practice medicine in North Carolina during a disaster in a
6 county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has
7 been declared.

8 (b) The nurse practitioner shall notify the Board of Nursing in writing of the names, practice locations and telephone
9 numbers for the nurse practitioner and each primary supervising physician within 15 days of the first performance of
10 medical acts, as a nurse practitioner during the disaster, and the Board of Nursing shall notify the Medical Board.

11 (c) Teams of physician(s) and nurse practitioner(s) practicing pursuant to this Rule shall not be required to maintain on-
12 site documentation describing supervisory arrangements and plans for prescriptive authority as otherwise required
13 pursuant to Rules .0809 and .0810 of this Section.
14

15 *History Note:* Authority G.S. 90-18(c)(13), (14); 90-18.2; 90-171.23(b);
16 Recodified from 21 NCAC 36 .0227(m) Eff. August 1, 2004;
17 Amended Eff. ~~November 1, 2018;~~ **December 1, 2018;** December 1, 2009; August 1, 2004.

1 **21 NCAC 36 .0815 is readopted, with changes, as published in 33:1 NCR 47 as follows:**

2
3 **21 NCAC 36 .0815 REPORTING CRITERIA**

4 (a) The Department of Health and Human Services ("Department") may report to the North Carolina Board of
5 Nursing ("Board") information regarding the prescribing practices of those nurse practitioners ("prescribers") whose
6 prescribing:

7 (1) falls within the top two percent of those prescribing 100 morphine milligram equivalents
8 ("MME") per patient per day; or

9 (2) falls within the top two percent of those prescribing 100 MMEs per patient per day in combination
10 with any benzodiazepine and who are within the top one percent of all controlled substance
11 prescribers by volume.

12 (b) In addition, the Department may report to the Board information regarding prescribers who have had two or
13 more patient deaths in the preceding 12 months due to opioid poisoning where the prescribers authorized more than
14 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

15 (c) The Department may submit these reports to the Board upon request and may include the information described
16 in G.S. 90-113.73(b).

17 (d) The reports and communications between the Department and the Board shall remain confidential pursuant to
18 G.S. 90-113.74.

19
20 *History Note: Authority G.S. 90-113.74;*

21 *Eff. April 1, 2016;*

22 *Amended Eff. ~~November 1, 2018;~~ December 1, 2018; May 1, 2018.*