



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

North Carolina Board of Massage and Bodywork Therapy

2. Rule citation & name:

21 NCAC 30 .0704 Waiver of Requirements During Disaster or Emergency

3. Action:

☒ Adoption

☐ Amendment

☐ Repeal

4. Was this an Emergency Rule:

☒ Yes

☐ No

Effective date: June 30, 2020

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: June 19, 2020

b. Proposed Temporary Rule published on the OAH website: June 25, 2020

c. Public Hearing date: August 20, 2020

d. Comment Period: June 18, 2020 to July 31, 2020

e. Notice pursuant to G.S. 150B-21.1(a3)(2): June 24, 2020

f. Adoption by agency on: October 22, 2020

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
☐ A recent change in federal or state budgetary policy.
Effective date of change:
☐ A recent federal regulation.
Cite:
Effective date:
☐ A recent court order.
Cite order:
☐ State Medical Facilities Plan.
☐ Other:

Explain:

A serious and unforeseen threat to the public health, safety or welfare has arisen with the coronavirus outbreak in North Carolina. The Governor declared a state of emergency on March 10, 2020. Continuing education providers were required to cease from providing in-classroom continuing education courses. To allow massage and bodywork therapists to continue taking continuing education courses to renew their license, the Board proposes to waive the in-classroom requirement and allow all hours to be completed by distance learning.

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

Without this approach, some continuing education providers may go out of business because they cannot offer in-classroom courses. Also, a majority of massage and bodywork therapists would not be able to meet the continuing education requirements to renew their license. If massage and bodywork therapists do not renew their license, they cannot practice massage and bodywork therapy after their license expires. The proposed rule will allow continuing education providers to provide online courses and allow massage and bodywork therapists to complete the continuing education requirements to renew their license and continue to practice massage and bodywork therapy in North Carolina.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator:

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Agency contact, if any:

Elizabeth Kirk

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10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Kim Turk

Title:

Chair

E-Mail: kimturk1@me.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Board of Massage and Bodywork Therapy

RULE CITATION: 21 NCAC 30 .0704

DEADLINE FOR RECEIPT: Friday, November 13, 2020

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

What factors will the Board use in determining whether to waive or extend continuing education requirements? Please provide some additional information as to how this determination will be made.

On line 4, what is meant by "waive or extend"? Do you mean that y'all could waive the CE requirements in their entirety? G.S. 90-630.5 requires that 24 hours of CE be completed prior to renewal. So, if the intent is to waive the CE requirements entirely or to allow an extension past the renewal date, I don't think you have authority. Please review and revise to clarify that this waiver/extension falls within G.S. 90-630.5. Here, do you just mean something like "If the governor declares a state of emergency, the Board may allow all continuing education hours required by G.S. 90-630.5 and Rule .0701(b) of this Chapter to be obtained by distance learning. In making this determination, the Board shall consider the following: (whatever those factors are)"

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

Amber May
Commission Counsel
Date submitted to agency: November 10, 2020

1 21 NCAC 30 .0704 is adopted under temporary procedures as follows:

2
3 **21 NCAC 30 .0704 WAIVER OF REQUIREMENTS DURING DISASTER OR EMERGENCY**

4 (a) If the governor declares a state of emergency, the Board may waive or extend the continuing education requirement
5 set forth in 21 NCAC 30 .0701(b) to allow all hours of the required continuing education to be by distance learning.

6 (b) The exceptions in this Rule shall only apply during the effective period of the state of emergency.

7
8 *History Note: Authority G.S. 90-626(9); 150B-19(6)*