

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0103

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*There is no need to incorporate statutes by reference in accordance with 150B-21.6; therefore, (a) and (b) are unnecessary.*

*In (c), what is the "time, date, and place" that the election will take place? I note that 90-140 requires that you all "establish procedures for the nomination and election of chiropractic members. These procedures shall be adopted under Article 2A of Chapter 150B." So, it appears to me that the actual "time, date, and place" would fall under a definition of a Rule and would need to be included here.*

*In (c), since 90-140 requires "at least three names" for each vacancy, is it necessary to say that here online 14?*

*In (c)(1), what is meant by "the election shall be conducted by the Board"? How will the voting be done? I note that 90-140 requires that "every chiropractor with a current North Carolina license residing in this State shall be eligible to vote in such elections." I read (c)(1) to limit this to the Board. Do you mean that the Board will hold the election, but the voting will be done by your regulated public? If so, please make this more clear.*

*In (c)(1) add "or herself" after "himself"*

*How do (c)(1) and (2) go with (c)? Please either make these their own Paragraphs or otherwise provide some introductory language in (c).*

*In (d), what is meant by "when determined by a majority vote of the Board? When will these be held? How often? If these fall under*

Amber May  
Commission Counsel  
Date submitted to agency: December 3, 2019

*“nomination and election” under 90-140, these need to be adopted as rule in accordance with 150B and I think that additional information is necessary for purposes of clarity. Alternatively, if these do not fall under “nomination and election” under 90-140, this appears to be internal management and as such (d) may not be necessary in Rule at all.*

*In (d), change “will be held” to “shall hold” on line 22*

*150B-14 has been repealed. Please remove it from your History Note.*

*Add 90-142 to your History Note.*

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: December 3, 2019

21 NCAC 10 .0103 is amended with changes as published in 34:06 NCR 494-502 as follows:

### **21 NCAC 10 .0103            STRUCTURE OF BOARD**

(a) Creation and Membership of Board of Examiners. The creation and membership of the Board of Chiropractic Examiners are governed by G.S. 90-139, which statute is herewith incorporated by reference including subsequent amendments. A copy of the statute may be obtained ~~from the Board at no charge.~~ on the Board's website at <https://ncchiroboard.com>.

(b) Selection of Chiropractic Members of Board of Examiners. The selection of chiropractic members of the Board of Examiners is governed by G.S. 90-140, which statute is herewith incorporated by reference including subsequent amendments. A copy of the statute may be obtained ~~from the Board at no charge.~~ on the Board's website at <https://ncchiroboard.com>.

(c) Election of Candidates for Appointment to the Board. ~~Annually,~~ As necessary to meet the requirements of G.S. 90-140, the Board shall select a time, date and place for the election of chiropractic candidates for appointment to the Board. At least three candidates shall be elected for each vacancy. The candidate receiving the most votes in each election shall be given a special recommendation.

(1) The election shall be conducted by the Board of Chiropractic Examiners. Any member of the Board who is nominated to succeed himself shall be disqualified from conducting the vote in which he ~~or~~ she is a nominee.

(2) Nomination shall be made from the floor and shall require two seconds. Any prospective nominee may withdraw his ~~or her~~ name from consideration by an oral statement to that effect.

(d) Officers of the Board. ~~Annually, and as soon as practicable after appointments have been made, the members of the Board shall~~ When determined by a majority vote of the Board, officer elections will be held to elect a president, a vice-president, a secretary, and a treasurer. ~~treasurer or any officer position that comes open due to termination of an appointment or resignation.~~

*History Note: Authority G.S. 90-139; 90-140; 150B-14;*

*Eff. February 1, 1976;*

*Readopted Eff. January 27, 1978;*

*Amended Eff. January 1, 1983; May 8, 1979;*

*Legislative Objection Lodged Eff. January 31, 1983;*

*Curative Amended Eff. February 18, 1983;*

*Amended Eff. June 1, 1994; December 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019- 2019;*

*Amended Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0204

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*In (b), change "It shall be the responsibility of the licensee to inform the Board of any change in his or her contact information" to ~~"It shall be the responsibility of the~~ The licensee ~~to~~ shall inform the Board of any change in his or her contact information"*

*In (b), add "at" before your email address*

*In (b), add a comma after "regular mail."*

*Do you have an address rule setting forth your address for regular mail and your fax number? If not, please provide it here.*

*Add 90-142 to your History Note.*

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: December 3, 2019

21 NCAC 10 .0204 is amended as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0204 LICENSURE**

(a) Initial Licensure. The initial license awarded to an applicant who passed the examination shall be mailed to the address appearing on the application form.

(b) Change of ~~Address.~~ Contact Information. It shall be the responsibility of the licensee to inform the Board of any change in his or her ~~mailing address.~~ contact information. Updated ~~address~~ contact information shall be forwarded to the ~~secretary in writing~~ Board office email ncboce@ncchiroboard.com, by regular mail or fax within 30 days after any such change.

~~(c) Email and Facsimile. A licensee who maintains an office email address or office facsimile machine shall inform the Board of his or her current email address or facsimile machine telephone number. This contact information shall not be made available to the public and shall be used only for expediting the dissemination of official messages the Board deems high priority or urgent.~~

*History Note: Authority G.S. 90-145; 90-148;*

*Eff. February 1, 1976;*

*Readopted Eff. January 27, 1978;*

*Amended Eff. January 1, 1983;*

*Legislative Objection Lodged Eff. January 31, 1983;*

*Curative Amended Eff. February 28, 1983;*

*Amended Eff. July 1, 2014; December 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019-2019;*

*Amended Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0206

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*Is a "radiologic technologist" the same as a "diagnostic imaging technician" as used in 90-143.2? Assuming it is, please use terminology that is consistent with the statute.*

*In (b), what is meant by the new language on lines 19-20? What is the actual requirement? What are the practical requirements? Are these already set forth in Rule? If not, please provide them in Rule. If so, please cross-reference the Rule, as opposed to the website.*

*In (f), delete or define "easily"*

*In (h), what is meant by "shall comply with Paragraph (e) of this Rule? Is the intent here that a person whose seeking reinstatement just has to pay the fee? Paragraph (e) has a lot of information in it and I'm not sure that you are referencing all of it.*

*Add 90-142 to your History Note.*

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: December 3, 2019

21 NCAC 10 .0206 is amended as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0206 CERTIFICATION OF RADIOLOGIC TECHNOLOGISTS**

(a) Application Procedure. After successful completion of the Certification of Clinical Assistants described in 12 NCAC 10 .0213 and completing the education program described in Paragraph (b) of this Rule, a person desiring certification as a radiologic technologist shall pass a competency examination administered by or under the authority of the Board. The applicant shall complete an application form available on the Board's ~~website,~~ ~~www.ncchiroboard.com,~~ website at <https://ncchiroboard.com/x-ray-technician/>, and confirm and submit that the applicant is at least 18 years of age, a high school graduate or the equivalent, and possessed of good moral character. A photocopy of the applicant's birth certificate, driver's license, or government-issued identification card shall constitute prima facie evidence of the applicant's age. A photocopy of the applicant's high school diploma, transcript, or general equivalency diploma (G.E.D.) shall constitute prima facie evidence of the applicant's graduation from high school. An affidavit attesting to good moral character and signed by a chiropractic physician or other responsible party who knows the applicant and is not related to the applicant shall constitute prima facie evidence of the applicant's good moral character.

(b) Approved Education Programs. In order to be approved by the Board, a radiological technologist education program shall be at least 50 hours in length, of which at least six hours shall be in-person didactic training with an instructor or instructors who, based on education and experience, are competent to teach the portion of the curriculum they have been ~~assigned.~~ assigned, and completion of the practical requirement as outlined on the Board's website at <https://ncchiroboard.com/x-ray-technician/>. The education program shall provide sufficient instruction in the five subjects set forth in G.S. 90-143.2 to enable its graduates to satisfy all applicable standards of care governing the production of X-rays. To obtain approval of an education program, the program sponsor shall submit to the Board, at least 60 days prior to the proposed starting date, all instructional materials to be used in the program, including a syllabus of the didactic training and a curriculum vitae for each instructor.

(c) A.C.R.R.T. Exemption. Any person registered as "active" with the American Chiropractic Registry of Radiologic Technologists shall be deemed to have satisfied the educational requirements of Paragraph (b) of this Rule.

(d) Competency Examination. The competency examination shall be administered in person at least three times per year. The Board shall publish on its website, ~~www.ncchiroboard.com,~~ <https://ncchiroboard.com/master-exam-calendar/>, the date, time, and location of the examination at least 90 days in advance. The Board may authorize additional testing sessions based on the number of applications received. The minimum passing score is 70 percent.

(e) Certificate Expiration and Renewal. A certificate of competency issued pursuant to G.S. 90-143.2 shall expire at the end of the calendar year in which it was issued but may be renewed upon a showing that the certificate holder completed six hours of Board-approved continuing education in radiologic technology during the year. A radiologic technologist whose initial certificate expires less than 12 months after issuance shall not be required to obtain continuing education until the second calendar year of certification but shall be required to pay the renewal fee at the end of the initial year of certification. A radiologic technologist seeking to renew a certificate of competency shall submit evidence that the applicant has completed six hours of Board-approved continuing education. A certificate of

1 attendance or completion issued by the course sponsor and filed with the Board shall constitute prima facie evidence  
2 that the applicant has completed the number of hours recited in the certificate. The applicant shall pay a renewal fee  
3 in the amount of twenty-five dollars (\$25.00). The renewal fee shall not be paid in cash and may be paid by credit  
4 card through the Board's website, ~~www.ncchiroboard.com~~, <https://ncchiroboard.com>, or by a check made payable to  
5 the North Carolina Board of Chiropractic Examiners.

6 (f) Displaying Certificate. The holder of a certificate issued pursuant to this Rule shall display the certificate in the x-  
7 ray room of the chiropractic clinic in which the holder is employed in a location where the certificate may be easily  
8 viewed by patients.

9 (g) Compliance. Other than licensed doctors of chiropractic, only those persons maintaining current certifications of  
10 competency in conformity with this Rule may produce x-rays or other diagnostic images in chiropractic offices. A  
11 chiropractor who permits the production of x-rays or other diagnostic images by a non-certified employee or an  
12 employee whose certification has expired shall be deemed in violation of G.S. 90-154.3.

13 (h) Lapsed Certificates. If a certificate of competency has lapsed due to non-renewal and the lapse does not exceed  
14 60 days, the certificate holder may obtain reinstatement by demonstrating completion of six hours of Board-approved  
15 continuing education and paying the renewal fee set forth in Paragraph (e) of this Rule. If the lapse is greater than 60  
16 days, no make-up continuing education shall be required but the certificate holder shall re-take and pass the  
17 competency examination described in Paragraph (d) of this Rule. ~~and pay the initial certification fee set forth in~~  
18 ~~Paragraph (a) of this Rule.~~ Regardless of the length of lapse, any person seeking reinstatement of a lapsed certificate  
19 shall comply with Paragraph (e) of this Rule.

20  
21 *History Note: Authority G.S. 90-143.2; 90-154.3;*

22 *Eff. February 1, 1993;*

23 *Temporary Amendment Eff. January 1, 2003;*

24 *Temporary Amendment Expired October 31, 2003;*

25 *Amended Eff. April 1, 2018; July 1, 2010; January 1, 2004;*

26 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27,*  
27 *~~2019.~~ 2019.*

28 *Amended Eff. January 1, 2020.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0207

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*In (a), delete "in advance." I think you've got this covered by line 9.*

*In (a), what are the substantive requirements of the form? Are they set forth elsewhere in rule or statute?*

*In (c)(4), how is an instructor to "satisfy the Board that he or she is competent..." How will this be determined by the Board? What factors will be used?*

*In (d), what is meant by "A proposed seminar having been approved by the Board, its sponsor and co-sponsors shall:"? Here, do you mean something like "Sponsors and co-sponsors of any approved continuing education seminar shall:"? If so, say that. Also, is it still proposed if it's been approved?*

*In (d)(3), delete or define "timely"*

*In (d)(4)(A), what is meant by "a method approved by the Board"? What are the required methods? If it varies, how will this determination be made as to whether they will approve a particular method? What factors will be used?*

*In (d)(4)(B), what is meant by "provide for the safety and comfort of the attendees"? What is the actual requirement here?*

*In (d)(1)(D), delete "actually"*

*In (e), delete or define “willfully or negligently” on line 6, “materially” on line 7, and “accurately” on line 8.*

*In (e), delete “in its discretion” on line 9 since you’ve already said “may.” Please also provide what factors will be used in making the determination as to whether the Board will refuse to approve future seminar applications.*

*In (f), do you mean something like “All doctor of chiropractic courses that have been approved by... shall be deemed to have complied with this Rule”? If so, say that. I note that this language more closely tracks what you have elsewhere in your Rules.*

*Add 90-142 to your History Note.*

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: December 3, 2019

21 NCAC 10 .0207 is amended with changes as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0207 CONTINUING EDUCATION SEMINARS**

(a) Approval of Seminars. Only continuing education seminars approved in advance by the Board shall count towards satisfying the requirements for license renewal. The sponsor and co-sponsors of any proposed seminar shall be responsible for submitting ~~to the Board~~ all the information outlined on the Board deems necessary Board's Course Application to enable the Board to evaluate the seminar in accordance with this Rule. The Board's Course Application can be found on, and must be submitted via, the Board's website at <https://ncchiroboard.com>. An application for approval shall be in writing and The Board's Course Application shall be submitted at least 30 days prior to the date of the proposed seminar. Incomplete applications will not be processed.

(b) Duration of Approval. A seminar approval issued by the Board shall expire ~~one year after the date of issuance, at the end of the calendar year for which approved.~~ If the sponsor or co-sponsors of an approved seminar wish to repeat the seminar on a date beyond the approval period, a new application shall be submitted to the Board.

(c) Criteria for Approval. The Board's criteria for approving continuing education seminars is as follows:

- (1) No practice-building or motivational seminars shall be approved;
- (2) No seminar shall be approved that requires attendees, in order to be able to utilize the information presented at the seminar, to purchase equipment or clinical supplies available only through the seminar's instructors, sponsors or co-sponsors;
- (3) Each seminar subject shall fall within the extent and limitation of chiropractic licensure in this State; and
- (4) Each instructor shall submit a curriculum vitae and satisfy the Board that he or she is competent to teach the subject or subjects he or she is scheduled to teach.

(d) Duties of Seminar Sponsor. A proposed seminar having been approved by the Board, its sponsor and co-sponsors shall:

- (1) Disclose on all brochures and advertising materials the name and address of each sponsor and co-sponsor and whether each sponsor and co-sponsor is a for-profit or not-for-profit entity;
- (2) Be liable for all expenses incurred in holding the seminar;
- (3) Give timely notice to the Board of any material changes in the seminar, including date, location, subject matter or instructors; and
- (4) Provide an agent at the seminar site who shall:
  - (A) Monitor and report the attendance of each person attending the seminar, using a method approved by the Board;
  - (B) Provide for the safety and comfort of attendees;
  - (C) Supervise the agenda and ~~disallow~~ prohibit the presentation of any subject matter not approved by the Board; and

1 (D) Complete and submit to the Board a post-seminar review summarizing any problems  
2 experienced and any variance between the application for approval and the seminar as  
3 actually presented.

4 (e) Sanction for Non-Compliance. By applying for seminar approval, each sponsor and co-sponsor agrees to admit to  
5 the seminar at no charge a representative of the Board for the purpose of observing compliance with this Rule. If the  
6 Board determines that a sponsor or co-sponsor has willfully or negligently falsified the application for approval, or  
7 has failed to keep attendance accurately, or has allowed the seminar as actually presented to vary materially from the  
8 agenda as set forth in the application, or has willfully failed to adhere to any other provision of this Rule, the Board,  
9 in its discretion, may refuse to approve future seminar applications from the offending sponsor or co-sponsor or from  
10 any principal who is a partner or shareholder in the offending sponsor or co-sponsor.

11 (f) PACE Approved State. The Board accepts all doctor of chiropractic courses that have been approved by the  
12 Providers of Approved Continuing Education (PACE) program administered by the Federation of Chiropractic  
13 Licensing Boards (FCLB).

14  
15 *History Note: Authority G.S. 90-142; 90-155;*

16 *Eff. January 1, 2004;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27,*  
18 *~~2019-2019.~~*

19 *Amended Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0213

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*In (a), delete "Different certification requirements shall apply to each category." This appears to be addressed specifically in (b). Also, change the period to a colon at the end of "follows"*

*In (b), are the "general certification requirements" "the requirements set forth in this Paragraph"?*

*In (b)(2), delete "administered by or under the authority of the Board"*

*In (h), delete or define "easily"*

*Add 90-142 to your History Note.*

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

21 NCAC 10 .0213 is amended as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0213            CERTIFICATION OF CLINICAL ASSISTANTS**

(a) Classification of Applicants. Applicants for clinical assistant competency certification shall be classified as follows. Different certification requirements shall apply to each category.

(1) Reciprocity applicants. A "reciprocity applicant" means an applicant who is currently certified or registered as a clinical assistant in another state whose requirements for certification or registration are substantially similar to or more stringent than the requirements for certification in North Carolina.

(2) New applicants. A "new applicant" means any applicant who is not a reciprocity applicant.

(b) Requirements for Certification. Every applicant, regardless of classification, shall complete an application form available on the Board's website (~~www.ncchiroboard.com~~) at <https://ncchiroboard.com> and requiring the applicant to confirm and submit documentary evidence satisfactory to the Board that the applicant is at least 18 years of age, a high school graduate or the equivalent, and possessed of good moral character. A photocopy of the applicant's birth certificate, driver's license, or government-issued identification card shall constitute prima facie evidence of the applicant's age. A photocopy of the applicant's high school diploma, transcript, or general equivalency diploma (G.E.D.) shall constitute prima facie evidence of the applicant's graduation from high school. An affidavit attesting to good moral character and signed by a chiropractic physician or other responsible party who knows the applicant and is not related to the applicant shall constitute prima facie evidence of the applicant's good moral character. Every applicant, regardless of classification, shall pay to the Board an initial certification fee in the amount of twenty dollars (\$20.00). The initial certification fee shall not be paid in cash and may be paid by credit card through the Board's ~~website, www.ncchiroboard.com,~~ website at <https://ncchiroboard.com> or by a check made payable to the North Carolina Board of Chiropractic Examiners. In addition to the general certification requirements, an applicant shall satisfy the requirements for the appropriate category of certification, as follows:

(1) Reciprocity Applicants. A reciprocity applicant shall submit a copy of the applicant's current certification or registration as a clinical assistant in a state with which North Carolina reciprocates and shall also submit written confirmation from the state's certifying authority or registrar that the applicant is in good standing in that state.

(2) New Applicants. A new applicant shall submit evidence that the applicant has completed an approved clinical assistant education program as described in Paragraph (c) of this Rule. A certificate of completion filed with the Board by the program sponsor shall constitute prima facie evidence that the applicant has obtained the required education. A new applicant shall also take and pass the standard proficiency examination administered by or under the authority of the Board, as described in Paragraph (d) of this Rule.

(c) Education Programs. In order to be approved by the Board, a clinical assistant education program for new applicants shall be at least 24 hours in length, of which at least six hours shall be in-person didactic training with an instructor or instructors who, based on education and experience, are competent to teach the portion of the curriculum

1 they have been assigned. Credit for online coursework shall not exceed 18 hours, and all online coursework shall  
2 precede didactic training. The education program shall provide sufficient instruction in the five subjects set forth in  
3 G.S. 90-143.4(c) to enable its graduates to satisfy all applicable standards of care. To obtain approval of an education  
4 program, the program sponsor shall submit to the Board, at least 60 days prior to the proposed starting date, all  
5 instructional materials to be used in the program, including a syllabus of the didactic training, and a curriculum vitae  
6 for each instructor.

7 (d) Examinations. The proficiency examination for new applicants shall assess both academic knowledge and  
8 practical skills acquired through education programs and shall be administered in person at least four times per year  
9 on dates and at locations to be announced by the Board at least 90 days in advance and published on the Board's  
10 ~~website, [www.ncchiroboard.com](http://www.ncchiroboard.com)~~, website at <https://ncchiroboard.com>. In its discretion, the Board may authorize  
11 additional testing sessions based on the number of applications received. The minimum passing score on the  
12 examination is 75 percent.

13 (e) Certificate Expiration and Renewal. Unless renewed, a certificate of competency shall expire on June 30<sup>th</sup> of the  
14 third year following the year in which it was issued. A certificate holder seeking to renew shall submit evidence that  
15 the applicant has completed six hours of Board-approved continuing education. A certificate of attendance or  
16 completion issued by the course sponsor and filed with the Board shall constitute prima facie evidence that the  
17 applicant has completed the number of hours recited in the certificate. The applicant shall pay to the Board a renewal  
18 fee in the amount of twenty-five dollars (\$25.00). The renewal fee shall not be paid in cash and may be paid by credit  
19 card through the Board's ~~website, [www.ncchiroboard.com](http://www.ncchiroboard.com)~~, website at <https://ncchiroboard.com> or by a check made  
20 payable to the North Carolina Board of Chiropractic Examiners.

21 (f) Lapsed Certificates. If a certificate of competency has lapsed due to non-renewal and the lapse does not exceed 60  
22 days, the certificate holder may obtain reinstatement by making up the accrued deficiency in continuing education. If  
23 the lapse is greater than 60 days, no make-up continuing education shall be required, but the certificate holder shall  
24 re-take and pass the proficiency examination for new applicants. Regardless of the length of lapse, a certificate holder  
25 seeking reinstatement shall pay the renewal fee set forth in Paragraph (e) of this Rule.

26 (g) Exemptions. Graduates of accredited chiropractic colleges and students enrolled in accredited chiropractic colleges  
27 who are serving college-sponsored preceptorships in North Carolina are deemed by the Board to have satisfied all  
28 requirements imposed by this Rule and shall be deemed competent to perform the duties of a clinical assistant. Any  
29 person who qualifies for exemption and who works as a clinical assistant in this state for more than 180 days shall  
30 submit the application form described in Paragraph (b) of this Rule and note the claim of exempt status. Exempt  
31 persons shall not be required to pay a certification fee.

32 (h) Displaying Certificate. The holder of a certificate issued pursuant to this Rule shall display the certificate in the  
33 chiropractic clinic in which the holder is employed in a location where the certificate may be easily viewed by patients.

34  
35 *History Note: Authority G.S. 90-142; 90-143.4;*

36 *Eff. July 1, 2014;*

37 *Amended Eff. April 1, 2018;*

1                    *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27,*  
2                    *2019-2019;*  
3                    *Amended Eff. January 1, 2020.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0215

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*In (a), what are the "petition forms"? Is there more than just the petition for predetermination as referenced in (b)?*

*In (a), delete "and instructions" since this Rule should provide the necessary instructions to request a predetermination.*

*In (b)(1), delete "full" in "full name"*

*In (b)(5), delete "complete" and "accurate"*

*On lines 35 and 36, change "will" to "shall"*

*Add 90-142 to your History Note.*

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: December 3, 2019

21 NCAC 10 .0215 is adopted as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0215 PETITION FOR PREDETERMINATION**

(a) General. Pursuant to G.S. 93B-8.1(b6), any person with a criminal history may petition the Board at any time for a predetermination of whether the individual's criminal history will likely disqualify the individual from obtaining a license, in accordance with this Rule. Petition forms and instructions may be found on the Board's website at <https://ncchiroboard.com>.

(b) Petition Procedure. To petition the Board under this Rule, a person must submit to the Board's office a petition for predetermination that contains all of the following information:

- (1) The person's full name;
- (2) The last four digits of the person's social security number;
- (3) The person's current residential address;
- (4) The person's current mailing address;
- (5) A complete and accurate nationwide criminal history record report from the criminal records reporting service currently under contract with the Board;
- (6) For each crime identified in the criminal history record report, the following information:
  - (i) Whether the crime was a felony or misdemeanor;
  - (ii) The date that the crime occurred;
  - (iii) The date the person was convicted of, or plead guilty or nolo contendere to, the crime;
  - (iv) The age of the person at the time of the crime;
  - (v) The circumstances surrounding the commission of the crime;
  - (vi) The sentence imposed for the crime;
  - (vii) The period of time during which the person was incarcerated for the crime;
  - (viii) The period of time during which the person was on probation or parole for the crime;
  - (ix) Any documentation related to the person's rehabilitation or employment since the date of the crime;
  - (x) Whether the person has undergone any rehabilitative drug or alcohol treatment since the date of the crime;
  - (xi) Whether a Certificate of Relief has been granted regarding the crime, pursuant to G.S. 15A 173.2; and
  - (xii) Any affidavits or other written documents, including character references, for the person.
- (7) An affirmation under oath that the person has read the Instructions for Submitting a Petition for Predetermination and the statutes and rules governing the practice of chiropractic and that the information contained in the petition is true and accurate.

Incomplete petitions will not be considered by the Board. If incomplete petitions received by the Board are not made complete within 30 days of receipt, the incomplete petitions will be returned to the person from whom the request was made.

1 (c) Petition Fee. A non-refundable petition fee of forty-five dollars (\$45.00) shall accompany each petition. This fee  
2 may be paid by credit card through the Board's website at <https://ncchiroboard.com> or by check made payable to the  
3 North Carolina Board of Chiropractic Examiners. Cash shall not be accepted.

4 (d) Delegation of Authority for Predetermination. The Board delegates authority for rendering predeterminations  
5 under this Rule to the Chiropractic Review Committee.

6  
7 *History Note: Authority G.S. 90-143.3; 90-154; 93B-8.1;*

8 *Adopted Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0302

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*What is the intent of (a)? I have no idea. What is the actual requirement of your people?*

*Given 90-154.2(4), is (b) necessary? It appears to be covered by statute. I note that the statute is more clear than Paragraph (b).*

*In (c), please consider revising "The Board of Examiners deems the following to be false or misleading advertising in violation of 90-154(b)(1)" to something like The following shall constitute false or misleading advertising in violation of 90-154(b)(1):"*

*Change "which" to "that" in (c)(1) in "which purports" and in (c)(2) in "which promotes" and "which the Board" (although see my note below on the latter.) Also, in (c)(4) in "which implies"*

*In (c)(2), what is meant by "treatment, therapy, or service which the Board... has found to be unacceptable or outside the scope of practice"? I see that 90-154.3 requires that you all adopt rules that establish and define standards of acceptable care. Assuming these rules exist, could you cross-reference those? Maybe 90-143(a) too? I think that "found to be" is ambiguous as written*

*In (c)(2), add a comma after "therapy"*

*Please revise (c)(3) for purposes of clarity.*

*Add 90-142 to your History Note.*

Amber May  
Commission Counsel  
Date submitted to agency: December 3, 2019

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: December 3, 2019

21 NCAC 10 .0302 is amended with changes as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0302            ADVERTISING AND PUBLICITY**

(a) General. Doctors of Chiropractic shall exercise restraint in matters of advertising and publicity so as to maintain the dignity of chiropractic as a recognized profession.

(b) Identification. The terms by which a licentiate may identify himself professionally are listed in G.S. 90-154.2(4). Terms which do not indicate that the licentiate is a chiropractor, such as "drugless physician" or "naturopath", shall not be used. Methods of professional identification may include:

(1) Signs. Signs may be placed on exterior doors, windows or walls of the licentiate's office or at entrances to the building in which his office is located.

(2) Stationery. A licentiate may identify himself on his stationery and mailing literature using the terms permitted by this Rule.

(c) Prohibited Advertising. The Board of Examiners deems the following to be false or misleading advertising in violation of G.S. 90-154(b)(1):

(1) Advertising which purports to guarantee a beneficial result from chiropractic treatment.

(2) Advertising which promotes a treatment, therapy or service which the Board of Examiners has found to be unacceptable ~~care~~. care or outside the scope of practice.

(3) Advertising in which the licentiate is identified as a specialist, unless the licentiate has complied with the requirements of 21 NCAC 10 .0304 and any reference to the specialty is immediately preceded by the term "chiropractic." Illustrations: "pediatrics" standing alone is deemed false or misleading; "chiropractic pediatrics" conforms to this Rule. "Neurologist" standing alone is deemed false or misleading; "chiropractic neurologist" conforms to this Rule.

(4) Advertising which implies the licensee holds an additional license(s) in North Carolina not so held, including but not limited to a medical physician, physical therapist, massage therapist, or acupuncturist.

*History Note: Authority G.S. 90-142; 90-154;*

*Eff. February 1, 1976;*

*Readopted Eff. January 27, 1978;*

*Amended Eff. January 1, 1983; May 8, 1979;*

*Legislative Objection Lodged Eff. January 31, 1983;*

*Curative Amended Eff. February 28, 1983;*

*Curative Amended Eff. March 2, 1983;*

*Amended Eff. November 1, 2007; December 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; 2019;*

*Amended Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0401

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*In (a), 150B-16 was repealed. The correct citation is 150B-20. Please note that 150B-20 was recently updated. Please update any references within the Rule and also your History Note. That said, given 150B-20, (a) appears to be unnecessary.*

*In (b), delete "There are no minimum mandatory contents of a petition, but the Board considers the following information to be pertinent:" 150B-20(a) sets forth the mandatory requirements of the petition. As such, this Rule and statute conflict. Specifically, a person shall submit the proposed text of the Rule and a statement of the effect of the Rule if they are requesting you all to create or amend a rule.*

*To the extent that you want to request folks send additional information over what is required by 150B-20 (which I think would be (b)(2), (4), (5) and (6), you can make this a separate Paragraph and say "A petitioner may submit the following additional information."*

*Since 150B-20(b) and (c) controls the time requirements for both review of a petition for rulemaking and also responding to the petitioner, (c) appears to be unnecessary. To the extent that you all deem this Paragraph to be necessary, please consider simply providing a cross-reference to 150B-20..*

*Please let me know if you want an example of a petition for rulemaking rule that has recently been approved by RRC.*

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: December 3, 2019

21 NCAC 10 .0401 is amended as published in 34:06 NCR 494-502 as follows:

## SECTION .0400 - RULE-MAKING PROCEDURES

### 21 NCAC 10 .0401 PETITIONS FOR ADOPTION OF RULES

(a) General. The procedure for petitioning the Board of Examiners to adopt, amend or appeal a rule is governed by G.S. 150B-16.

(b) Submission. Rule-making petitions shall be sent to the ~~secretary~~ president of the Board. No special form is required, but the petitioner shall state his name and address. There are no minimum mandatory contents of a petition, but the Board considers the following information to be pertinent:

- (1) a draft of the proposed rule;
- (2) the reason for its proposal;
- (3) the effect of the proposed rule on existing rules or decisions;
- (4) data supporting the proposed rule;
- (5) practices likely to be affected by the proposed rule;
- (6) persons likely to be affected by the proposed rule.

(c) Disposition. The ~~secretary~~ president shall review the petition and develop a recommendation as to whether the petitioner's proposed rule should be rejected or implemented. The ~~secretary~~ president shall present the petition and his recommendation to the Board at its next regular meeting following receipt of the petition, and the Board shall render its decision to either deny the petition or initiate rule-making. The Board shall notify the petitioner of its decision in writing within the 120-day period set by G.S. 150B-16.

*History Note: Authority G.S. 90-142; 150B-16;*

*Eff. February 1, 1976;*

*Readopted Eff. January 27, 1978;*

*Amended Eff. December 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; 2019;*

*Amended Eff. January 1, 2020.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0403

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*Please note that 150B-12 was repealed in 1991. Update your History Note to your general rulemaking authority.*

*Given 150B, everything except for (c)(1) appears to be unnecessary. Is the overall intent to provide time limitations for presentations? If so, delete the remainder of the Rule and make clear that this Rule is addressing "oral presentations at the public hearing conducted in accordance with 150B-21.1(a3)(4) and 150B-21.2(e)."*

*In (c)(1), what factors will the presiding officer use in making a determination as to whether he or she will allow additional time?*

*What is meant by (c)(2)? How is the presiding officer to "acknowledge" written presentations? (c)(2) appears to be unnecessary as you are required to accept written comments during the rulemaking process pursuant to 150B-21.1(a3)(3) and 150B-21.2(f).*

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: December 3, 2019

21 NCAC 10 .0403 is amended as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0403           PROCEDURE FOR ADOPTION OF RULES**

(a) General. The procedure for the adoption, amendment or repeal of a rule is governed by G.S. 150B-12.

(b) Notice of Rule-Making. In addition to the mandatory publication of notice in the North Carolina Register, the Board, in its discretion, may also publish notice through its newsletter to licentiates on the Board's website at <https://ncchiroboard.com>, or by separate mailing. Any person who wishes to receive individual notice shall file a written request with the ~~secretary and shall be responsible for the cost of mailing said notice.~~ Board office.

(c) Public Hearing. Any public rule-making hearing required by G.S. 150B-12 shall be conducted by the President of the Board or by any person he or she may delegate. The presiding officer shall have complete control of the hearing and shall conduct the hearing ~~so as~~ to provide a reasonable opportunity for any interested person to present views, data and comments.

(1) Oral presentations shall not exceed 15 minutes unless the presiding officer, in his or her discretion, prescribes a greater time limit.

(2) Written presentations shall be acknowledged by the presiding officer and shall be given the same consideration as oral presentations.

*History Note: Authority G.S. 150B-12;*

*Eff. February 1, 1976;*

*Readopted Eff. January 27, 1978;*

*Amended Eff. December 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, ~~2019.~~ 2019.*

*Amended Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0406

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*In (a), 150B-17 was recodified as 150B-4. So, please change the cross-reference. Please also update this in your History Note.*

*Also, by (a), do you mean something like "The Board shall respond to requests for declaratory rulings in accordance with 150B-4?" When possible, please write in active voice.*

*In (b)(3), delete "concise" in "concise statement"*

*Add "and" at the end of (b)(3).*

*In (c), delete "ordinarily"*

*In (c)(1), delete "substantially"*

*In (c)(2) delete "specifically"*

*Add an "and" or "or" at the end of (c)(2).*

*Please let me know if you want an example of a declaratory rulings Rule that has been recently approved by RRC.*

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: December 3, 2019

21 NCAC 10 .0406 is amended as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0406           DECLARATORY RULINGS**

(a) General. The issuance of declaratory rulings by the Board of Examiners is governed by G.S. 150B-17.

(b) Request for Declaratory Ruling: Contents. A request for a declaratory ruling shall be in writing and addressed to the ~~secretary~~, president. The request shall contain the following information:

- (1) The name and address of the person making the request;
- (2) The statute or rule to which the request relates;
- (3) A concise statement of the manner in which the person has been aggrieved by the statute or rule;
- (4) A statement as to whether a hearing is desired, and if desired, the reason therefor.

(c) Refusal to Issue Ruling. The Board shall ordinarily refuse to issue a declaratory ruling under the following circumstances:

- (1) When the Board has already made a controlling decision on substantially similar facts in a contested case;
- (2) When the facts underlying the request for a ruling were specifically considered at the time of the adoption of the rule in question;
- (3) When the subject matter of the request is involved in pending litigation in North Carolina.

*History Note: Authority G.S. 150B-17;*  
*Eff. February 1, 1976;*  
*Readopted Eff. January 27, 1978;*  
*Amended Eff. January 1, 1983;*  
*Legislative Objection Lodged Eff. January 31, 1983;*  
*Curative Amended Eff. February 28, 1983;*  
*Amended Eff. December 1, 1988;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27,*  
*~~2019~~ 2019;*  
*Amended Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0501

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*Is the Board's website and address set forth elsewhere in Rule? If so, I think this is fine here. If not, please provide the information.*

*In (a), rather than "Directions on filing a complaint and the complaint form can be found..." provide the directions and the substantive requirements of the form in the Rule. For example, I assume you mean something like "Anyone wishing to file a complaint shall file a form with the Board office. The complaint shall include the following information:*

- (1) Whatever it is;*
- (2) That you're; and*
- (3) Requiring*

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

21 NCAC 10 .0501 is amended as published in 34:06 NCR 494-502 as follows:

## SECTION .0500 - INVESTIGATION OF COMPLAINTS

### 21 NCAC 10 .0501 FILING COMPLAINTS

~~(a) General.~~ Any person who has reason to believe that a Doctor of Chiropractic has violated the laws governing chiropractic may file a complaint with the ~~Board of Examiners.~~ Board. Directions on filing a complaint and the complaint form can be found on the Board's website at <https://ncchiroboard.com/complaint-filing-process>. Complaints ~~should~~ shall be filed directly with the ~~secretary of the Board of Examiners.~~ office.

~~(b) Form of Complaint.~~ ~~Complaints may be formal or informal, but must be in writing:~~

~~(1) Informal Complaints.~~ Any written communication, construed most favorably to the complainant, which appears to allege a violation of the laws governing chiropractic shall be considered an informal complaint.

~~(2) Formal Complaint.~~ A formal complaint shall be executed in writing under oath upon a form provided by the secretary. It shall specify the statute or rule allegedly violated and shall contain a short statement of the acts or omissions constituting the alleged violation including the dates of said acts or omissions.

~~(c) Secretary's Response to Complaints.~~ The secretary shall review any complaint to determine whether a major or minor violation has been alleged. If the secretary determines that the alleged violation is minor, he shall attempt to resolve the complaint by informal communication with the complainant and the chiropractor complained of. If the secretary determines that the alleged violation is major, he shall assist the complainant in filing a formal complaint.

*History Note: Authority G.S. 90-142; 90-154;*

*Eff. February 1, 1976;*

*Readopted Eff. January 27, 1978;*

*Amended Eff. December 1, 1988; January 1, 1983; December 20, 1979;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; 2019;*

*Amended Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0503

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*Delete the "or" at the end of (b)(2)(A).*

*In (d), what is meant by "informal"? Do you need this? Please consider deleting this language.*

*In (e), by "may", do you mean "shall" on line 24?*

*Also, in (e)(1), by "may", do you mean "shall"? If you don't find probable cause, are there ever any circumstances that you wouldn't dismiss the charge?*

*In (e)(2), change "will" to "shall" in "will be considered" on line 28.*

*In (e)(2), change "at the discretion of the Board" to "in accordance with 150B-40."*

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: December 3, 2019

21 NCAC 10 .0503 is amended as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0503            DETERMINATION OF PROBABLE CAUSE**

(a) General. ~~Formal complaints~~ Complaints deemed likely to have occurred, based on the findings of the Investigative Report, shall be ~~investigated by~~ referred to the Chiropractic Review Committee. The committee shall hold a hearing to determine whether there is probable cause to believe a violation of the laws governing Chiropractic has occurred.

(b) Composition of Chiropractic Review Committee. The committee shall be composed of:

(1) the secretary of the Board of Examiners. If the secretary is unable to attend a ~~particular~~ specific probable cause hearing, he or she may designate another physician member of the Board to serve and assume his or her duties at said hearing;

~~(2) the attorney for the Board of Examiners; and~~

~~(3)~~(2) an alternate Board member. "Alternate Board member" means:

(A) a former Board member selected by the secretary; or

~~(B)~~ a current Board member selected by the secretary; or

~~(B)(C)~~ a licensee selected by the secretary from among those who, at any election held pursuant to Rule .0103(c) of this Chapter, have been elected nominees for Board membership but not appointed to the Board.

(c) Notice of hearing. The secretary shall provide notice of the probable cause hearing in accordance with G.S. 150B-38(b).

(d) Conduct of Probable Cause Hearing. The probable cause hearing shall be informal, and the ~~secretary~~ secretary, or designee per (b)(1) above, shall preside. The Chiropractic Review Committee may consider evidence at the probable cause hearing that would not be admissible if offered at the hearing in a contested case.

(e) Action by the Chiropractic Review Committee. After examining the evidence presented at the probable cause hearing, the Chiropractic Review Committee may dispose of each charge in ~~the formal~~ a complaint as follows:

(1) If no probable cause exists to believe that a violation of G.S. 90-154 has occurred, the charge may be dismissed;

~~(2)~~ If probable cause exists to believe that a violation of G.S. 90-154 has occurred, and if the Committee and licensee at issue fail to resolve the matter through settlement, the case will be considered a "contested case" and set for hearing before either the Board, or an Administrative Law Judge at the NC Office of Administrative Hearings, at the discretion of the Board.

~~(2)~~ If the respondent admits the charge, he may be directed to cease and desist from commission of those acts which violate the provisions of G.S. 90-154; or

~~(3)~~ If a charge is denied and probable cause is found, or if a charge, while admitted, is of such gravity as to make the imposition of punitive sanctions appropriate, the complaint shall be presented to the Board of Examiners for its decision on the merits.

*History Note: Authority G.S. 90-141; 90-143; 90-154;*



1                   *Eff. December 1, 1988;*  
2                   *Amended Eff. October 1, 2016;*  
3                   *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27,*  
4                   *~~2019- 2019;~~*  
5                   *Amended Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0706

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*In (a), delete "instead" on line 6 and end the sentence after "... Administrative Hearings."*

*In (b), line 9, change "will" to "shall"*

*In (b)(2), change "which" to "that" in "which give I*

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: December 3, 2019

21 NCAC 10 .0706 is readopted as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0706 CONDUCT OF BOARD HEARING**

(a) General. Hearings in contested cases shall be conducted by a majority of the Board, unless a majority of the Board votes to designate an administrative law judge to preside at the hearing in the Office of Administrative Hearings instead. The president shall serve as presiding officer at Board Hearings unless he or she is absent or disqualified, in which case the vice-president shall preside. Board Hearings shall be conducted as prescribed by G.S. 150B-40.

(b) Disqualification. An affidavit seeking disqualification of any Board member, if filed in good faith and in a timely manner, will be ruled on by the remaining members of the Board. An affidavit is considered timely if it is filed:

(1) Prior to the hearing; or

(2) As soon after the commencement of the hearing as the affiant becomes aware of facts which give rise to his belief that a Board member should be disqualified.

(c) Evidence. The admission of evidence in a Board Hearing on a contested case shall be as prescribed in G.S. 150B-41.

*History Note: Authority G.S. 150B-40; 150B-41;*

*Eff. February 1, 1976;*

*Readopted Eff. January 27, 1978;*

*Amended Eff. January 1, 1989;*

*Expired Eff. May 1, 2019 pursuant to G.S. ~~150B-21.3A~~. 150B-21.3A;*

*Readopted Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0708

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*In (a), you've said "secretary or the designated presiding officer" and then elsewhere through this Rule you've only said "designated presiding officer." Perhaps this is correct because the presiding officer will be the one making the call as to whether the request is to be granted, but I want to be sure. If so, no change is necessary.*

*For purposes of clarity, please consider combining (a) and (c) or at least consider switching (c) and (b). If you combined (a) and (c), it would look something like: "Consistent with G.S. 150B-40(b), all motions for continuance shall be addressed to the secretary or designated presiding officer of the contested case hearing. All motions for continuance shall in in writing and received in the office of the Board no less than seven calendar days before the hearing date."*

*In (b), what is considered to be a "compelling cause"? Please either provide some examples or say how this will be determined. Is this the same "good cause" in Paragraph (d)? If so, please use consistent terminology and consider combining these Paragraphs. A suggestion would be "(b) Motions for continuance shall be granted upon a showing of good cause. In determining whether good cause exists, the presiding officer shall consider the ability of the party requesting a continuance to proceed without a continuance." Please note that this combined (b) and (d) and incorporated several of my notes below.*

*In (b) and (d), line 10, by "may", do you mean "shall"?*

*In (d), delete "effectively"*

Amber May  
Commission Counsel  
Date submitted to agency: December 3, 2019

*In (e), delete “usually.” You don’t need it since you’ve included “unless...”*

*In (f), what are “compelling circumstances”? Is this the same as “compelling cause” or “good cause”? What factors will be used in making this determination? I note that “especially if a continuance has been previously requested” looks like a factor. If so, it would look something like:*

*Motions for continuance filed on the date of the hearing shall be granted to a party only under compelling circumstances upon consideration of the following:*

- 1) The circumstances that necessitate the continuance;*
- 2) Whether the circumstances could have been ascertained prior to the*
- 3) Whether the party has previously requested a continuance;*
- 4) Whatever else y’all will consider.*

*Just so I understand, why is it necessary to separate out continuances made on the day of the hearing versus those made less than 7 days prior to the hearing? Based upon the Rule, it looks like the determination will be the same. If so, In (f), rather than “motions for continuance filed on the date of the hearing” could be “... filed less than seven days prior to the hearing...” Of this is correct, I think you could combine (e) and (f).*

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

21 NCAC 10 .0708 is adopted as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0708 CONTINUANCES FOR BOARD HEARINGS**

(a) Consistent with G.S. 150B-40(b), all motions for continuance shall be addressed to the secretary, or the designated presiding officer of the contested case hearing.

(b) Motions for a continuance of a hearing may be granted upon a showing of compelling cause. Under no circumstances is the Board required to grant continuances.

(c) Motions for a continuance shall be in writing and shall be received in the office of the Board no less than seven calendar days before the hearing date.

(d) In determining whether good cause exists, the presiding officer may consider the ability of the party requesting a continuance to proceed effectively without a continuance.

(e) Usually, a motion for a continuance filed less than seven calendar days from the date of the hearing shall be denied unless the reason for the motion could not have been ascertained earlier.

(f) Motions for continuance filed on the date of the hearing shall be granted to a party only under compelling circumstances, especially if a continuance has been previously requested.

*History Note: Authority G.S. 90-156; 150B-38(h);*

*Adopted Eff. January 1, 2020.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Board of Chiropractic Examiners

RULE CITATION: 21 NCAC 10 .0709

**DEADLINE FOR RECEIPT: Friday, December 13, 2019**

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

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

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

*In (g), delete or define "promptly."*

*In (g), who are the "members with voting authority"? 150B-40 just requires a "majority of the agency" and I don't see any limiting language regarding voting in your*

*In (g), change "will" to "shall" on lines 1 and 2.*

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

21 NCAC 10 .0709 is adopted with changes as published in 34:06 NCR 494-502 as follows:

**21 NCAC 10 .0709 SUBPOENAS**

(a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a Board Hearing or for the purposes of discovery, shall:

- (1) be made in writing to the Board;
- (2) identify any document sought;
- (3) include the full name and home or business address of all persons to be subpoenaed; and
- (4) if known, the date, time, and place for responding to the subpoena.

The Board shall issue the requested subpoenas within three days of receipt of the request.

(b) Subpoenas shall contain the following:

- (1) the caption of the case;
- (2) the name and address of the person subpoenaed;
- (3) the date, hour, and location of the hearing in which the witness is commanded to appear;
- (4) a particularized description of the books, papers, records, or objects the witness is directed to bring with him to the hearing, if any;
- (5) the identity of the party on whose application the subpoena was issued;
- (6) the date of issue;
- (7) the signature of the presiding officer or his designee; and
- (8) a "return of service." The "return of service" form as filled out, shall show:
  - (A) the name and capacity of the person serving the subpoena;
  - (B) the date on which the subpoena was delivered to the person directed to make service;
  - (C) the date on which service was made;
  - (D) the person on whom service was made;
  - (E) the manner in which service was made; and
  - (F) the signature of the person making service.

(c) Subpoenas shall be served in a manner set forth in Rule 45 of the N.C. Rules of Civil Procedure.

(d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office. Written objections shall comply with Rule 45 of the N.C. Rules of Civil Procedure.

(e) The party who requested the subpoena may file a written response to the objection. The written response shall be served by the requesting party on the objecting witness with the filing of the response with the Board.

(f) After receipt of the objection and response thereto, if any, the Board shall issue a notice of a Hearing on the motion to the party who requested the subpoena and the party challenging the subpoena to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.



1 (g) Promptly after the close of such Board Hearing, a majority of the Board members with voting authority will rule  
2 on the challenge and issue a written decision. A copy of the decision will be issued to all parties and made a part of  
3 the record.

4 *History Note: Authority G.S. 150B-38; 150B-39; 150B-40;*  
5 *Adopted Eff. January 1, 2020.*