



STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Street address:  
1711 New Hope Church Rd  
Raleigh, NC 27609-6285

March 19, 2015

**Sent via email to mike@smvt.com:**

Mike Tadych, Rulemaking Coordinator  
North Carolina Acupuncture Licensing Board

Re: Extension of the Period of Review for Acupuncture Rules filed February 3, 2014

Dear Mr. Tadych:

At its March 19, 2015 meeting, the Rules Review Commission extended the period of review on the above-identified rules in accordance with G.S. 150B-21.10 and G.S. 150B-21.13. The Commission extended the period of review to allow the Acupuncture Licensing Board additional time to revise the rules in response to the technical change requests submitted on March 3, 2015.

If you have any questions regarding the Commission's action, please do not hesitate to contact me directly at (919) 431-3074.

Sincerely,

Amber Cronk May  
Commission Counsel

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
fax: 919/431-3104

Judges and  
Assistants  
919/431-3000  
fax: 919/431-3100

Clerk's Office  
919/431-3000  
fax: 919/431-3100

Rules Review  
Commission  
919/431-3000  
fax: 919/431-3104

Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103

The Board shall file the annual reports set forth in G.S. 93B-2 no later than October 31 of each year. In the event the Board fails to file the reports as required by G.S. 93B-2 and the Board's authority to expend any funds is suspended until such time as the Board files the required reports, the Board shall deposit any fees or funds received during the period of suspension into an escrow account established by the Board solely for this purpose.

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21 NCAC 01 .0109 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0109            ARMED SERVICES EXTENSION FOR CREDENTIAL**

Upon receipt of a written request by or on behalf of a licensed acupuncturist who is currently in good standing with the Board, is serving in the armed forces of the United States, and to whom G.S. 105-249 authorizes an extension of time to file a tax return, the Board shall postpone renewal fees, renewal application deadlines, continuing education requirements and any other requirements or conditions related to the maintenance of the credential issued by the Board or to the renewal thereof for the same period of time as the extended period of time to file a tax return that is granted pursuant to G.S. 93B-15.

*History Note:    Authority G.S. 90-525; 90B-15;*

*Eff. July 1, 2015.*

**§ 93B-15.1. Licensure for individuals with military training and experience; licensure by endorsement for military spouses; temporary license.**

(a) Notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this State if, upon application to an occupational licensing board, the applicant satisfies the following conditions:

- (1) Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or registration of the occupational licensing board from which the applicant is seeking licensure, certification, or registration in this State: completed a military program of training, completed testing or equivalent training and experience, and performed in the occupational specialty.
- (2) Has engaged in the active practice of the occupation for which the person is seeking a license, certification, or permit from the occupational licensing board in this State for at least two of the five years preceding the date of the application under this section.
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.
- (4) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.

(a1) No later than 30 days following receipt of an application, an occupational licensing board shall notify an applicant when the applicant's military training or experience does not satisfy the requirements for licensure, certification, or registration and shall specify the criteria or requirements that the board determined that the applicant failed to meet and the basis for that determination.

(b) Notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in this State if, upon application to an occupational licensing board, the military spouse satisfies the following conditions:

- (1) Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure, certification, or registration of the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.
- (2) Can demonstrate competency in the occupation through methods as determined by the Board, such as having completed continuing education units or having had recent experience for at least two of the five years preceding the date of the application under this section.
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.
- (4) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit.

- (5) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.
- (c) All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (a) or (b) of this section.
- (c1) Each occupational licensing board shall publish a document that lists the specific criteria or requirements for licensure, registration, or certification by the board, with a description of the criteria or requirements that are satisfied by military training or experience as provided in this section, and any necessary documentation needed for obtaining the credit or satisfying the requirement. The information required by this subsection shall be published on the occupational licensing board's Web site and the Web site of the North Carolina Division of Veterans Affairs.
- (d) A nonresident licensed, certified, or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified, or registered by an occupational licensing board in this State.
- (e) Nothing in this section shall be construed to apply to the practice of law as regulated under Chapter 84 of the General Statutes.
- (f) An occupational licensing board may issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (a) or (b) of this section if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure, certification, or registration of an occupational licensing board in this State. The military-trained applicant or military spouse may practice under the temporary permit until a license, certification, or registration is granted or until a notice to deny a license, certification, or registration is issued in accordance with rules adopted by the occupational licensing board.
- (g) An occupational licensing board may adopt rules necessary to implement this section.
- (h) Nothing in this section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification, or registration requirements established by an occupational licensing board in this State.
- (i) For the purposes of this section, the State Board of Education shall be considered an occupational licensing board when issuing teacher licenses under G.S. 115C-296.
- (j) For the purposes of this section, the North Carolina Medical Board shall not be considered an occupational licensing board. (2012-196, s. 1; 2014-67, s. 1.)

21 NCAC 01 .0110 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0110 ACUPUNCTURE LICENSE BY RECIPROCITY BASED ON MILITARY SERVICE**

(a) An applicant for licensure by reciprocity based on military service shall submit to the Board:

- (1) a completed, signed and notarized application form provided by the Board as found on its website;
- (2) the application fee required by Rule 21 NCAC 01 .0103 of this Chapter;
- (3) written evidence demonstrating that the applicant has been awarded a military occupational specialty in acupuncture and that the applicant:
  - (A) has completed a military program of training substantially equivalent to or greater than that required for licensure as an acupuncturist in North Carolina;
  - (B) has completed testing or equivalent training and experience substantially equivalent to or greater than that required for licensure as an acupuncturist in North Carolina, as set forth in Article 30 of Chapter 90 of the General Statutes; and
  - (C) has engaged in the active practice of acupuncture as defined in G.S. 90-451 for at least 1,500 clinical hours per year during at least two of the five years preceding the date of application; and
- (4) a statement disclosing and explaining the commission of any prohibited act set out in G.S. 90-456, any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant.

(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card, obtained from the Board.

*History Note: Authority G.S. 90-451; 90-454; 90-455; 90-456; 93B-15.1;*

*Eff. July 1, 2015.*

**§ 93B-15.1. Licensure for individuals with military training and experience; licensure by endorsement for military spouses; temporary license.**

(a) Notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this State if, upon application to an occupational licensing board, the applicant satisfies the following conditions:

- (1) Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or registration of the occupational licensing board from which the applicant is seeking licensure, certification, or registration in this State: completed a military program of training, completed testing or equivalent training and experience, and performed in the occupational specialty.
- (2) Has engaged in the active practice of the occupation for which the person is seeking a license, certification, or permit from the occupational licensing board in this State for at least two of the five years preceding the date of the application under this section.
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.
- (4) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.

(a1) No later than 30 days following receipt of an application, an occupational licensing board shall notify an applicant when the applicant's military training or experience does not satisfy the requirements for licensure, certification, or registration and shall specify the criteria or requirements that the board determined that the applicant failed to meet and the basis for that determination.

(b) Notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in this State if, upon application to an occupational licensing board, the military spouse satisfies the following conditions:

- (1) Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure, certification, or registration of the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.
- (2) Can demonstrate competency in the occupation through methods as determined by the Board, such as having completed continuing education units or having had recent experience for at least two of the five years preceding the date of the application under this section.
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.
- (4) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit.

- (5) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.
- (c) All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (a) or (b) of this section.
- (c1) Each occupational licensing board shall publish a document that lists the specific criteria or requirements for licensure, registration, or certification by the board, with a description of the criteria or requirements that are satisfied by military training or experience as provided in this section, and any necessary documentation needed for obtaining the credit or satisfying the requirement. The information required by this subsection shall be published on the occupational licensing board's Web site and the Web site of the North Carolina Division of Veterans Affairs.
- (d) A nonresident licensed, certified, or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified, or registered by an occupational licensing board in this State.
- (e) Nothing in this section shall be construed to apply to the practice of law as regulated under Chapter 84 of the General Statutes.
- (f) An occupational licensing board may issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (a) or (b) of this section if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure, certification, or registration of an occupational licensing board in this State. The military-trained applicant or military spouse may practice under the temporary permit until a license, certification, or registration is granted or until a notice to deny a license, certification, or registration is issued in accordance with rules adopted by the occupational licensing board.
- (g) An occupational licensing board may adopt rules necessary to implement this section.
- (h) Nothing in this section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification, or registration requirements established by an occupational licensing board in this State.
- (i) For the purposes of this section, the State Board of Education shall be considered an occupational licensing board when issuing teacher licenses under G.S. 115C-296.
- (j) For the purposes of this section, the North Carolina Medical Board shall not be considered an occupational licensing board. (2012-196, s. 1; 2014-67, s. 1.)



21 NCAC 01 .0111 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0111 ACUPUNCTURE LICENSE BY RECIPROCITY BASED ON STATUS AS  
MILITARY SPOUSE**

(a) An applicant for an acupuncture license by reciprocity based on the applicant's status as a military spouse shall submit to the Board:

(1) a completed, signed and notarized application form provided by the Board as found on its website;

(2) the application fee required by Rule 21 NCAC 01 .0103 of this Chapter;

(3) written evidence demonstrating that the applicant is married to an active member of the U.S. military and that such applicant:

(A) holds a current acupuncture license from another jurisdiction whose standards for the license are substantially equivalent to or greater than those required for licensure as an acupuncturist in North Carolina as set forth in these Rules; and

(B) has engaged in the active practice as an acupuncturist as defined by G.S. 90-451 for at least 1,500 clinical hours per year during at least two of the five years preceding the date of application; and

(4) a statement disclosing and explaining the commission of an act set out in G.S. 90-456, any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant.

(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card, obtained from the Board.

History Note: Authority G.S. 90-451; 90-454; 90-455; 90-456; 93B-15.1;

Eff. July 1, 2015.

21 NCAC 01 .0601 is adopted as published in 29:01 NCR 18-22 as follows:

**SECTION .0600 – CODE OF ETHICS**

**21 NCAC 01 .0601 PURPOSE AND SCOPE**

(a) The primary goal of the Rules in this Section is to set forth standards to guide the conduct of the acupuncturist in the profession. The Board may find deviation from the Rules in this Section to be malpractice, gross negligence, incompetence or engaging in conduct that could result in harm or injury to the public.

(b) Prior to completion of the application process, each applicant shall review the ethical standards set forth in the Rules in this Section, consent to be governed by these standards, and return a signed and dated statement appearing in the application form to the Board as evidence of this consent.

*History Note: Authority G.S. 90-450; 90-454;90-455; 90-456;  
Eff. July 1, 2015.*

1 21 NCAC 01 .0602 is adopted as published in 29:01 NCR 18-22 as follows:

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3 **21 NCAC 01 .0602 NON-DISCRIMINATION**

4 The acupuncturist shall not discriminate on any basis prohibited by federal or state law.

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6 *History Note: Authority G.S. 90-450; 90-454; 90-455; 90-456;*

7 *Eff. July 1, 2015.*

8

21 NCAC 01 .0603 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0603           COMPETENCE**

(a) An acupuncturist shall employ the requisite knowledge, skill, and proficiencies of a competent professional providing services within his or her scope of practice as a licensed acupuncturist.

(b) An acupuncturist who has personal knowledge of unethical conduct or of unprofessional practice by an acupuncturist shall report the conduct or practice to the Board.

(c) An acupuncturist shall only offer services or use techniques within his or her professional competency and scope of practice.

(d) An acupuncturist who identifies a need for services outside his or her skill, training or experience shall refer the patient to an appropriate professional or shall seek supervision and training to provide the required services for the individual.

(e) An acupuncturist shall complete reports and record keeping in a manner that supports the patient's treatment and welfare.

(f) An acupuncturist shall recognize and acknowledge in writing to the Board the negative impact that impairment has on his or her professional performance. Once the impairment is identified the acupuncturist shall seek an assessment by a Board approved licensed provider of substance abuse services or a board approved licensed health professional and follow all of the professional's recommendations if the Board determines he or she has an impairment.

*History Note: Authority G.S. 90-450; 90-451; 90-454; 90-455; 90-456; 90-457;  
Eff. July 1, 2015.*

21 NCAC 01 .0604 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0604            SERVING SENTENCE**

No applicant shall be licensed as an acupuncturist who is serving any part of a court-ordered sentence for a felony or Class 1A misdemeanor. Service of a sentence includes community service, supervised or unsupervised probation, or the payment of restitution. If any person is serving or begins serving such sentence during the course of the application process, this person shall notify the Board as soon as is practicable.

*History Note:    Authority G.S. 90-450; 90-451; 90-454; 90-455; 90-456; 90-457;  
Eff. July 1, 2015.*

21 NCAC 01 .0605 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0605        EDUCATION AND TRAINING STANDARDS**

(a) The acupuncturist shall not knowingly make false, deceptive, or fraudulent statements concerning his or her:

(1) Training, experience, or competence;

(2) Academic degrees;

(3) Credentials;

(4) Institutional or association affiliations;

(5) Services;

(6) Products;

(7) Fees;

(8) Publications or research findings; or

(10) Results or degree of success of his or her services and the historical, scientific or clinical basis for these services.

(b) The acupuncturist shall, upon request by the Board, provide the Board an oral or written source for any materials or techniques used when making either public statements or providing education and training.

*History Note: Authority G.S. 90-450; 90-454; 90-455;  
Eff. July 1, 2015.*

21 NCAC 01 .0606 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0606       PATIENT WELFARE**

(a) An acupuncturist shall treat each patient with respect and protect the safety and welfare of the patient.

(b) In the presence of a personal or professional conflict of interest, an acupuncturist shall act primarily with the welfare of the patient in mind.

(c) An acupuncturist shall inform the patient, guardian, or patient designated entity of any responsibilities or inquiries to and from third parties involved with the care and welfare of the patient.

(d) When faced with a complaint pursuant to Rule 21 NCAC 01 .0702 of this Chapter, an acupuncturist shall discontinue the behavior in question, taking care to minimize any adverse effects.

(e) An acupuncturist who anticipates the cessation or interruption of service to a patient shall notify the patient and seek the cessation, transfer, referral, or continuation of service in relation to the patient's needs and preferences.

*History Note: Authority G.S. 90-450; 90-451; 90-454; 90-455; 90-456; 90-457; 90-457.1;*

*Eff. July 1, 2015.*

21 NCAC 01 .0607 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0607        CONFIDENTIALITY**

(a) An acupuncturist shall protect the privacy of a patient and shall not disclose confidential information without consent except as set out in Paragraph (d) of this Rule.

(b) When using personally identifying information such as an observation, recording or photograph of a patient, an acupuncturist shall inform the patient and obtain written permission that specifies the intended use of the information.

(c) An acupuncturist shall provide for the maintenance of confidentiality, storage and disposition of patient records. Records shall be retained for at least five (5) years before disposition.

(d) An acupuncturist shall only reveal information received in confidence as follows:

(1) When the patient is in imminent danger or experiencing a medical emergency, and then only to the professional providing emergency care or public safety authorities;

(2) When compelled by law to provide such information;

(3) With written consent, by the patient or guardian; or

(4) For internal clinical communications and communications that do not disclose patient-identifying information.

(e) An acupuncturist shall use material in classroom teaching and writing only when the identity of the person involved is protected adequately to prevent disclosure or with the written permission of the patient.

*History Note: Authority G.S. 90-450; 90-454; 90-455; 90-456; 90-457.1;*

*Eff. July 1, 2015.*



21 NCAC 01 .0608 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0608            CLIENT RELATIONSHIPS**

An acupuncturist shall avoid dual relationships that may impair professional judgment or increase the risk of exploitation of the patient. Unless a sexual relationship existed prior to the treatment of the patient, sexual activity or sexual contact of an acupuncturist with a patient shall be restricted as follows:

(1) An acupuncturist shall not engage in or solicit sexual activity or sexual contact with a current patient.

(2) An acupuncturist shall not engage in or solicit sexual activity or sexual contact with a former patient for a period of at least six months after termination of the professional relationship after which a copy of a patient termination statement shall be kept in the patient record.

*History Note: Authority G.S. 90-450; 90-451; 90-454; 90-455; 90-456; 90-457; 90-457.1;*

*Eff. July 1, 2015.*

21 NCAC 01 .0609 is adopted as published in 29:01 NCR 18-22 as follows:

**21 NCAC 01 .0609        BOARD INVESTIGATION**

An acupuncturist shall cooperate with any Board investigation and promptly supply requested information unless prohibited by law. A response is considered prompt if supplied within thirty (30) days from the date the request is received or sent to the last known address of the respondent.

*History Note:     Authority G.S. 90-450; 90-454; 90-455; 90-456;  
                             Eff. July 1, 2015.*