



STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:  
6714 Mail Service Center  
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1711 New Hope Church Rd  
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May 13, 2015

**VIA EMAIL ONLY**

Mike Tadych  
Stevens Martin Vaughn & Tadych, PLLC  
The Historic Plot Mill  
1101 Haynes Street, Suite 100  
Raleigh, NC 27604  
[mike@smvt.com](mailto:mike@smvt.com)

Re: NC Acupuncture Licensing Board Rules - 21 NCAC 01 .0108, 21 NCAC 01 .0109, 21 NCAC 01 .0110, 21 NCAC 01 .0111, 21 NCAC 01 .0601, 21 NCAC 01 .0602, 21 NCAC 01 .0603, 21 NCAC 01 .0604, 21 NCAC 01 .0605, 21 NCAC 01 .0606, 21 NCAC 01 .0607, 21 NCAC 01 .0608, and 21 NCAC 01 .0609

Dear Mr. Tadych:

The above referenced Rules were filed on February 3, 2015 to be reviewed at the March 19, 2015 meeting of the Rules Review Commission. On March 19, 2015, the Rules Review Commission extended the period of review to allow the Board additional time to address technical change requests. On May 13, 2015, the Board provided notice that it would like to withdraw the above referenced Rules. As such, pursuant to 26 NCAC 05.0107, these Rules are considered withdrawn.

If you have any questions, please let me know.

Sincerely,

Amber Cronk May  
Commission Counsel

Cc: Pat Pritchard, [pat@smvt.com](mailto:pat@smvt.com)

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

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

Judges and  
Assistants  
919/431-3000  
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Clerk's Office  
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Rules Review  
Commission  
919/431-3000  
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Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103

## Burgos, Alexander N

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**From:** Mike Tadych <mike@smvt.com>  
**Sent:** Wednesday, May 13, 2015 1:49 PM  
**To:** May, Amber Cronk  
**Cc:** Pat Pritchard  
**Subject:** FW: NC Acupuncture Board

Good afternoon Amber:

After much consternation I must unfortunately report that I have been directed to withdraw the following proposed rules:

21 NCAC 01.0108  
21 NCAC 01.109  
21 NCAC 01.0110  
21 NCAC 01.0111  
21 NCAC 01.0601  
21 NCAC 01.0602  
21 NCAC 01.0603  
21 NCAC 01.0604  
21 NCAC 01.0605  
21 NCAC 01.0606  
21 NCAC 01.0607  
21 NCAC 01.0608  
21 NCA 01.0609

We will continue to work with Abby on the periodic review process. Please let me know if there's anything further we need to do to effect this withdrawal. We regret that your time and resources were required given this outcome.

Best regards,

Michael J. Tadych



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1101 Haynes Street, Suite 100  
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March 19, 2015

**Sent via email to [mike@smvt.com](mailto: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  
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fax: 919/431-3100

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An Equal Employment Opportunity Employer

1 21 NCAC 01 .0108 is adopted as published in 29:01 NCR 18-22 as follows:

2  
3 **21 NCAC 01 .0108           SUSPENSION OF AUTHORITY AND ESCROW OF FUNDS**

4 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  
5 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  
6 such time as the Board files the required reports, the Board shall deposit any fees or funds received during the period of  
7 suspension into an escrow account established by the Board solely for this purpose.

8  
9 History Note:    Authority G.S. 90-525; 93B-2;

10 Eff. July 1, 2015.

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.*

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.*

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:

2

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

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

5

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.*