

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: All rules

DEADLINE FOR RECEIPT: Friday, July 10, 2015

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

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

On the Submission for Permanent Rule Form, you must include the name of the rules in Box 2. Please resubmit all forms with the citation and the name for each Rule.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0201

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

Please note, per Rule 26 NCAC 02C .0108(1)(c), the ink must be black. Please be sure to submit the rewritten rule in all black ink.

What is the Board's authority to charge the fees in Subparagraphs (b)(2), (d)(2)(E) and (e)(8)?

§ 88A-9. Expenses and fees.

(a) All salaries, compensation, and expenses incurred or allowed for the purpose of carrying out the purposes of this Chapter shall be paid by the Board exclusively out of the fees received by the Board as authorized by this Chapter, or funds received pursuant to G.S. 88A-7. No salary, expense, or other obligations of the Board may be charged against the General Fund of the State. Neither the Board nor any of its officers or employees may incur any expense, debt, or other financial obligation binding upon the State.

(b) All fees may be calculated by the Board in amounts sufficient to pay the costs of administration of this act, but in no event may they exceed the following:

(1)	Application for licensure as an electrologist	\$150.00
(1a)	Initial license	150.00
(1b)	Examination or reexamination	125.00
(2)	Licensure of electrology renewal	150.00
(3)	Application for licensure as an electrology instructor.....	150.00
(4)	Licensure of electrology instructor renewal	150.00
(5)	Application for certification as a Board-approved school of electrology	500.00
(5a)	Application for licensure as laser hair practitioner.....	150.00
(5b)	Licensure of laser hair practitioner renewal	150.00
(5c)	Application for licensure as laser hair practitioner instructor	150.00
(5d)	Licensure of laser hair practitioner instructor renewal	150.00
(5e)	Application for certification as a Board-approved school of laser, light source, or pulsed-light treatments.....	500.00
(5f)	Certificate of Board-approved school of laser, light source, or pulsed-light renewal	400.00
(6)	Certificate of Board-approved school of	

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	electrology renewal	250.00
(6a)	Certification of out-of-state schools	150.00
(6b)	Certification of out-of-state schools renewal	100.00
(6c)	Office inspection or reinspection	100.00
(6d)	License by reciprocity	150.00
(7)	Late renewal charge	125.00
(8)	Reinstatement of expired license or certification	250.00
(9)	Reactivation of license	200.00
(10)	Duplicate license or certification.....	25.00.

(1989 (Reg. Sess., 1990), c. 1033, s. 1; 2001-176, s. 1; 2007-489, s. 4.)

For Subparagraph (b)(2), are you relying upon G.S. 88A-9(b)(1a)? Do you read this statute to apply to laser hair practitioners, even though it is in the portion of the statute applying to electrologists?

For Subparagraph (d)(2)(E), are you relying upon 88A-9(b)(6a)?

For Subparagraph (e)(8), are you relying upon 88A-9(b)(9)? If so, shouldn't your rule read "reactivation of instructor licensure"?

In Paragraph (g) on Page 2, 14, replace "are" with "shall be"

Also in Paragraph (g), when you refer to "active military duty" are you referring to individuals who are exempt from renewal fees under G.S. 93B-15? If so, please add the citation to the History Note. If this is not who you mean, please define the term. However, are the renewal fees the only fees the individual will be exempt from paying?

§ 93B-15. Payment of license fees by members of the Armed Forces; board waiver rules.

(a) An individual who is serving in the Armed Forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of time to pay any license fee charged by an occupational licensing board as a condition of retaining a license granted by the board. The extension is for the same period that would apply if the license fee were a tax.

(b) Occupational licensing boards shall adopt rules to postpone or waive continuing education, payment of renewal and other fees, and any other requirements or conditions relating to the maintenance of licensure by an individual who is currently licensed by and in good standing with the board, is serving in the Armed Forces of the United States, and to whom G.S. 105-249.2 grants an extension of time to file a tax return. (1998-95, s. 8; 1999-337, s. 12; 2009-458, s. 1; 2011-183, s. 68.)

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0201 is amended as published in 29:19 NCR 2239 as follows:

SECTION .0200 – APPLICATION PROCEDURES

21 NCAC 19 .0201 FEES

(a) The following fees are payable to the Board for licensure as an electrologist:

(1)	Application for licensure	\$125.00
(2)	Initial licensure	\$125.00
(3)	Renewal of licensure	\$125.00

(b) The following fees are payable to the Board for licensure as a laser hair practitioner:

(1)	Application for licensure	\$125.00
(2)	Initial licensure	\$125.00
(3)	Renewal of licensure	\$125.00 <u>\$150.00</u>

(c) The following fees are payable to the Board for certification as an instructor:

(1)	Application for Electrology instructor	\$150.00
(2)	Renewal of Electrology instructor	\$125.00
(3)	Application for laser hair practitioner instructor	\$150.00
(4)	Renewal of laser hair practitioner instructor	\$125.00

(d) The following fees are payable to the Board for certification as a Board approved school:

(1) IN STATE SCHOOL

(A)	Application for certification as an Electrology school	\$250.00
(B)	Renewal of certification as an Electrology school	\$150.00
(C)	Application for certification as a laser, light source, or pulse light treatment school	\$250.00
(D)	Renewal of certification for a laser, light source, or pulse light treatment school	\$150.00

(2) OUT-OF-STATE SCHOOL

(A)	Application for certification as an Electrology school	\$350.00 <u>\$400.00</u>
(B)	Initial certification as an Electrology school	\$ 75.00 <u>\$100.00</u>
(C)	Renewal of certification for an Electrology school	\$100.00
(D)	Application for certification as a laser, light source, or pulse light treatment school	\$350.00
(E)	Initial certification as a laser, light source, or pulse light treatment school	\$ 75.00
(F)	<u>Renewal of certification for a laser, light source, or pulse light treatment school</u>	<u>\$100.00</u>

(e) The following other fees are payable to the Board:

(1)	<u>Electrologist</u> Examination or reexamination	\$125.00
(2)	Office inspection or re-inspection	\$100.00
(A)	<u>Electrologist – per licensee, for each office site</u>	<u>\$100.00</u>
(B)	<u>Laser Hair Practitioner – per licensee, for each office site</u>	<u>\$100.00</u>
(3)	License by reciprocity	\$125.00
(4)	Late renewal charge	\$ 50.00
(5)	Reinstatement of expired license	\$250.00
(6)	<u>Reinstatement of instructor certification</u>	<u>\$250.00</u>
(6)(7)	Reactivation of license	\$150.00
(8)	<u>Reactivation of instructor certification</u>	<u>\$150.00</u>
(7) (9)	Duplicate license	\$ 25.00

(f) All fees shall be paid by check or money order, made payable to "The North Carolina Board of Electrolysis Examiners."

(g) Renewal fees required for Subparagraphs (a)(3), (b)(3), (c)(2) and (c)(4) of this Rule are waived for licensees while assigned to active military duty.

History Note: Authority G.S. 88A-9;

Temporary Adoption Eff. December 1, 1991 for a period of 62 days to expire on February 1, 1992;

Eff. Jan 1, 1992;

Temporary Amendment Eff. September 17, 2001;

Amended Eff. August 1, 2015; October 9, 2010; December 4, 2002.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0202

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

In Paragraph (a), line 4, how is the form provided? What is contained in the form? While the form itself is not required to be in Rule, the contents of forms are required to be in law or rule. (See G.S. 150B-2(8a)d.)

On line 5, what is a "passport acceptable" picture?

On line 6, why not state "the required application fee as set forth in Rule .0201 of this Section, ..." (But that is simply a suggestion)

As I understand Paragraph (a), this will not apply to applicants seeking to use 88A-10(a1)(2)?

§ 88A-10. Requirements for licensure as an electrologist.

(a) Any person who desires to be licensed as an "electrologist" pursuant to this Chapter shall:

- (1) Submit an application on a form approved by the Board.
- (2) Be a resident of North Carolina.
- (3) Be 21 years of age or older.
- (4) Meet the requirements of subsection (a1) of this section.
- (5) Pass an examination given by the Board.
- (6) Submit the application and examination fees required in G.S. 88A-9(b).
- (a1) An applicant for licensure under this section shall provide:

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Commission Counsel
Date submitted to agency: June 30, 2015

(1) Proof of graduation from a school certified by the Board pursuant to G.S. 88A-19; or

(2) Proof satisfactory to the Board that, for at least one year prior to the date of application or the date of initial residence in this State, whichever is earlier, the applicant was engaged in the practice of electrology in a state that does not license electrologists.

Subdivision (2) of this subsection applies only to applicants whose residence in this State began on or after January 31, 1994, who do not meet the qualifications of subdivision (1) of this subsection or G.S. 88A-12.

(b) At least twice each year, the Board shall give an examination to applicants for licensure to determine the applicants' knowledge of the basic and clinical sciences relating to the theory and practice of electrology. The Board shall give applicants notice of the date, time, and place of the examination at least 60 days in advance.

(c) When the Board determines that an applicant has met all the requirements for licensure, and has submitted the initial license fee required in G.S. 88A-9(b), the Board shall issue a license to the applicant.

(d) An applicant otherwise qualified for licensure who is not a resident of this State may nevertheless submit a statement of intent to begin practicing electrology in this State and receive a license. The applicant must provide to the Board within six months of receiving a license evidence satisfactory to the Board that the applicant has actually begun to practice electrology in this State. The Board may revoke the license of an applicant who fails to submit this proof or whose proof fails to satisfy the Board. (1989 (Reg. Sess., 1990), c. 1033, s. 1; 1993 (Reg. Sess., 1994), c. 755, s. 1; 2001-176, s. 2; 2007-489, s. 5.)

In Paragraph (b), line 9, replace "must" with "shall"

In (c), line 19, I am curious – why must the policy be held at least one year?

Also in (c), I see that a driver's license is not acceptable proof? I take it this is intentional?

I am not sure what you are saying in Paragraph (d). You are mixing two classes of individuals (one from 88-10 and one from 88-11). What are you requiring here? In addition, on line 23, you state that proof of practice is required by G.S. 88-11, but it is not.

§ 88A-11. Licensure without examination.

The Board may issue a license to practice electrology, without examination, to an applicant:

(2) Who is certified or licensed in good standing to practice electrolysis in another state, provided that the other state's educational hours of instruction are equal to or greater than the hours required in this State. (1989 (Reg. Sess., 1990), c. 1033, s. 1; 1991 (Reg. Sess., 1992), c. 1003, s. 1; 1993, c. 530, s. 4.)

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

What are you referring to in this reference? Did you mean to cite to a different statute?

Also in (d), I take it the Board requires 600 hours of certified education to issue a license, and this is the way of showing the educational hours are equal to North Carolina's requirements?

In Paragraph (e), line 25, replace "must" with "shall"

In Subparagraph (f)(1), line 28, do you need to retain "minimum"? Generally, the use of the term "minimum" is disfavored in rulemaking, as the rule sets minimum standards. If you need to retain it, you may, but I wanted to check.

Also in (f)(1), line 29, how is this course approved by the Board? Is that in another Rule or a law?

End (f)(1) on line 30 with a semicolon and "and"

What is the authority for Subparagraph (f)(2)? Are you relying upon 88A-11.1(c)?

§ 88A-11.1. Requirements for licensure as a laser hair practitioner; limitations on licensed laser hair practitioners.

(a) Any person seeking licensure by the Board as a laser hair practitioner shall have met the following requirements at the time the license is requested:

(1) Be an electrologist licensed under this Chapter.

(2) Completed a minimum 30-hour laser, light source, or pulsed-light treatment certification course approved by the Board and in accordance with rules adopted by the Board.

(3) Be currently using or anticipate using laser, light source, or pulsed-light devices that the person has been certified by a Board-approved school to operate.

(b) When the Board determines that an applicant has met all the requirements for licensure, and has submitted the initial license fee required in G.S. 88A-9(b), the Board shall issue a license to the applicant.

(c) Each laser hair practitioner shall practice laser, light source, or pulsed-light treatments under the supervision of a physician licensed under Article 1 of Chapter 90 of the General Statutes. The physician shall be readily available, but not required to be on site when the laser, light source, or pulsed-light treatments are being performed. However, the authority to regulate laser clinicians shall remain with the Board.

(d) A laser hair practitioner shall not dispense or administer medication or provide advice regarding the use of medication, whether prescription or over-the-counter, in connection with laser, light source, or pulsed-light treatments.

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(e) All laser hair practitioners shall use laser, light source, or pulsed-light devices approved by the federal Food and Drug Administration and comply with all applicable federal and State regulations, rules, and laws. Any licensed laser hair practitioner violating this subsection shall have his or her license revoked by the Board.

(f) Only a licensed physician may use laser, light source, or pulsed-light devices for ablative procedures. (2007-489, s. 6.)

Why is "Supervising Physician" capitalized and in quotation marks on lines 31, Page 1 and line 13, Page 2, when it is not either on Page 2, lines 3, 5, 7, and 9? Please be consistent, and unless you have a compelling reason to state "Supervising Physician" please just use the lowercase without quotation marks.

On line 33, replace "will" with "shall"

On lines 33-34, what is this guidance, where can it be found, and what is "current"?

In Subparagraph (f)(2)(D), Page 2, line 6, define "safely" and "effectively"

In Subparagraph (f)(2)(F), line 9, define "readily" and on line 10, define "quickly"

In Paragraph (g), what do you mean by "form" on line 12?

On line 13, inspection by whom?

In the History Note, there is no reason to cite 88-11(1) and (2). Either delete the citation to 11(1), or just state 88-11.

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

21 NCAC 19.0202 is amended with changes as published in 29:19 NCR 2239 as follows:

21 NCAC 19 .0202 APPLICATION FOR LICENSURE

(a) All applicants for licensure as an electrologist shall submit an application on the form provided by the Board, accompanied by proof of being 21 years of age, a passport acceptable photograph taken within the past two years, the required application fee, any information required by Paragraphs (b), (c) and (d) of this Rule, and certification of completion from each **electrology** ~~[Electrology]~~ and laser institution attended with verification of the number of hours completed in theory and clinical training.

(b) All applications for licensure under G.S. 88A-11(2) must be accompanied by:

- (1) the address of the licensing agency in the other state or jurisdiction;
- (2) any information such as a license number needed to identify the applicant in correspondence with that agency; and
- (3) a statement authorizing that agency to certify to the Board that the applicant is currently licensed or certified by the other state or jurisdiction and is in good standing, to inform the Board whether there are any pending complaints about the applicant, and to provide the Board with a copy of the licensing requirements in that state or jurisdiction.

(c) Proof of age shall be shown by certified copy of a birth certificate. If the applicant cannot obtain a certified copy of the birth certificate, the applicant shall attach an explanation as to why no birth certificate is obtainable and shall submit other proof of age. Other proof of age includes passports, current life insurance policies held for at least one year showing date of birth, entries in family bibles, medical or school records showing date of birth, and marriage licenses showing age.

(d) Applicants from states that do not license electrologists or applicants from states that require less than 600 hours of certified education shall submit proof of practice as required by G.S. 88A-11(2) supported by tax records or a copy of a privilege license that will document previous practice of electrolysis prior to date of application.

(e) All new electrologist applicants must take and pass both a written and a practical examination except for applicants meeting the requirements of G.S. 88A-11(2).

(f) In addition to maintaining an active electrologist license from the Board, a laser hair practitioner shall submit:

- (1) ~~a certification of 30 hours of proof of completion of a minimum 30-hour~~ laser, light source, or pulsed light treatment certification course approved by the Board that encompasses the laser or light device being used by the laser hair practitioner.
- (2) a "Supervisory Agreement" between the laser hair practitioner and a "Supervising Physician" licensed with the North Carolina Medical Board as defined under G.S. Article 1 Chapter 90. The Agreement will include an acknowledgement by the parties that current guidance from the North Carolina Medical Board with respect to laser hair removal and laser surgery by non-physicians will be observed and monitored.

The elements of this agreement shall contain:

- (A) the supervising physician's name and address;

- 1 (B) an attestation that the supervisor is licensed to practice medicine in North Carolina and
2 plans to maintain licensure during the time frame of the agreement;
- 3 (C) an attestation that the supervising physician is knowledgeable in the use of the
4 specifically listed devices;
- 5 (D) an attestation that the supervising physician ensures the laser hair practitioner has training
6 to safely and effectively perform laser hair reduction with the listed devices;
- 7 (E) an attestation that the supervising physician will provide personal and responsible
8 direction to the laser hair practitioner; ~~and~~
- 9 (F) an attestation that the supervising physician will be readily available and able to respond
10 quickly to patient emergencies and questions by those performing the procedures; and
- 11 ~~(F)~~(G) a list of devices, makes, and models being used by the laser hair practitioner;

12 (g) A copy of the "Supervisory Agreement" form shall be filed with the Board and a copy shall be available in the
13 office of the "Supervising Physician" and the laser hair practitioner for inspection.

14 (h) The Board shall reject an incomplete or partial application.

15
16 *History Note: Authority G.S. 88A-6; 88A-9; 88A-10; 88A-11(1); 88A-11(2); 88A-11.1; 88A-21;*
17 *Temporary Adoption Eff. December 1, 1991 for a period of 62 days to expire on February 1,*
18 *1992;*
19 *Eff. February 1, 1992;*
20 *Temporary Amendment Eff. October 13, 1993 for a period of 180 days or until the permanent rule*
21 *becomes effective, whichever is sooner;*
22 *Amended Eff. August 1, 2015; September 1, 2010; February 1, 1994.*
23
24

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0203

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

Throughout this Rule, the cross-references to 19 .0701 are incorrect. For example, in (a), I believe the correct reference on line 7 is “.0701(1)”. Please check all cross-references and correct them.

Also, while the reference to “21 NCAC 19 .0701” is correct, it might be clearer to state “Rule .0701 of this Chapter.” However, this is entirely a stylistic preference.

I know the name of this Rule states that the rule governs electrolysis licenses, but the name of a rule can be changed at any time; it is not part of the rule. Therefore, please insert in (a), “Unless an applicant electrolysis’ license expired...”

In Paragraph (b), how has the Board approved this? Where are the contents in Rule or law? How does one access this form? Please note the same question for Paragraph (c), line 13, (e)(1), line 30, (e)(2), line 37, and (e)(3), Page 2, line 7.

In (d), do you mean “may” on line 15, or do you mean “shall” now that there is only one option?

Also, I think you should just have one paragraph for (d) by combining the text in (d) and (d)(1). There is no need for a list here.

In (d)(1), line 19, either keep “identifying” or change “which” to “that” before “identifies”

In (d)(1), line 20, under what circumstances will the Board make this request? You need to provide guidance in the Rule.

On line 21, replace “will” with “shall”

In (e), why do you need this statement on line 26? If you need it, please insert a colon or a period at the end of it.

In (e)(1), line 27, “instructor” is not capitalized; however, it is in (e)(2), line 34 and (e)(3) on line 3, Page 2. Please be consistent.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

In (e), bracket the deletion words that were published but are being deleted. For example, you would show the deletion of “fee” in (e)(1)(B) on line 31 like this: “paying the renewal ~~[fee,]~~ fee.”

In (e)(1)(D), you are not adopting .0701(b)(1). Therefore, you are not requiring any continuing education for these individuals who are either current or expired more than 90 days. Please remove this reference to be consistent with the action in Rule 19 .0701.

In the History Note, you need to add a new line:

*History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. March 1, 1995;
Amended Eff. August 1, 2015.*

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0203 is amended with changes as published in 29:19 NCR 2239 as follows:

**21 NCAC 19 .0203 APPLICATION FOR RENEWAL, REINSTATEMENT, OR REACTIVATION
OF ELECTROLYSIS LICENSE**

(a) Unless the applicant's license expired more than 90 days prior to the filing of an application for renewal, each applicant for license renewal pursuant to G.S. 88A-12 shall pay the required renewal fee, including the late renewal charge if applicable, and shall provide proof of compliance with 21 NCAC 19 .0701(a).

(b) An electrologist whose license has been expired for more than 90 days but less than five years ~~shall~~ may apply for reinstatement by ~~sending the Board a written request for reinstatement, submitting a Board-approved reinstatement application,~~ paying the reinstatement fee, and providing proof of competence pursuant to 21 NCAC 19 .0701(c).

(c) An electrologist who has been on the inactive list for less than five years ~~who and~~ desires to be returned to active status shall ~~send the Board a written request for return to the active list,~~ submit a Board-approved reactivation application, pay the ~~renewal~~ reactivation fee, and provide proof of competence pursuant to 21 NCAC 19 .0701(b).

(d) Proof of compliance with 21 NCAC 19 .0701 may be provided ~~either:~~

(1) ~~by affidavit of the applicant listing the programs or courses taken, the entity that offered the program or course, the CEUs obtained, and the date and location of the program or course; or~~

(2)(1) by copies with a copy of a certificate of course completion issued by the entity that offered the program or course, provider identifying which identifies the course and showing including the date, location, and number of hours taken by the applicant. The Board may request confirmation of the number of hours from the entity that offered the program or course and will not give credit for hours that the entity does not confirm as hours actually taken by the applicant.

~~(e) Applicants for renewal of a school certification shall pay the required renewal fee and update the information submitted when the school initially applied. This update shall include any information required of new applicants that was not required when the school was initially certified.~~

(e) Electrolysis Instructor Certification

(1) Renewal of Electrolysis Instructor Certification: Unless the applicant's instructor certification expired more than 90 days prior to the filing of an application for renewal, each applicant for instructor certification renewal pursuant to G.S. 88A-18 may apply for renewal by:

(A) submitting a Board-approved, renewal ~~form~~ form;

(B) paying the renewal ~~fee~~, fee;

(C) providing proof of current electrolysis ~~licensure~~, licensure; and

(D) providing proof of competence as described in 21 NCAC 19 .0701(b)(1).

(2) Reactivation of Electrolysis Instructor Certification: An Instructor whose certification has been expired for more than 90 days but less than 3 years may apply for reactivation of the expired certification by:

(A) submitting a ~~Board-approved Reactivation~~ Board-approved reactivation ~~form~~, form;

(B) paying the reactivation fee, fee; and

(C) providing proof of competence as described in 21 NCAC 19 .0701(b)(2).

(3) Reinstatement of Electrolysis Instructor Certification: An Instructor whose certification has been expired for three years or more may apply for reinstatement of the certification by:

(A) taking and passing the instructor's examination examination; before the certification can be reinstated;

(B) submitting a Board-approved Reinstatement Board-approved reinstatement form form;

(C) paying the reinstatement fee, fee; and

(D) providing proof of competence pursuant to 21 NCAC 19 .0701(b)(3).

*History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. August 1, 2015; March 1, 1995.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0204

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

Throughout this Rule, the cross-references to 19 .0701 are incorrect. For example, in (a), I believe the correct reference on line 7 is “.0701(1)”. Please check all cross-references and correct them.

Also, while the reference to “21 NCAC 19 .0701” is correct, it might be clearer to state “Rule .0701 of this Chapter.” However, this is entirely a stylistic preference.

I know the name of this Rule states that the rule governs laser hair practitioner licenses, but the name of a rule can be changed at any time; it is not part of the rule. Therefore, please insert in (a), “Unless an applicant laser hair practitioner’s license expired...”

In Paragraph (b), line 11, how has the Board approved this? Where are the contents in Rule or law? How does one access this form? Please note the same question for Paragraph (c), line 14, (e)(1)(A), line 30, (e)(2)(A), line 37, and (e)(3)(B), Page 2, line 6.

Also on line 11, insert a space between “by” and “submitting”

In (c), line 14, insert a space “shall” and “apply”

In (d), do you mean “may” on line 17, or do you mean “shall” now that there is only one option?

Also, I think you should just have one paragraph for (d) by combining the text in (d) and (d)(1). There is no need for a list here.

In (d)(1), line 21, either keep “identifying” or change “which” to “that” before “identifies”

In (d)(1), line 22, under what circumstances will the Board make this request? You need to provide guidance in the Rule.

On line 23, replace “will” with “shall”

In (e), why do you need this statement on line 25? If you need it, please insert a colon or a period at the end of it.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

In (e)(1), line 26, "instructor" is not capitalized; however, it is in (e)(2), line 34 and (e)(3) on line 2, Page 2. Please be consistent.

In (e), bracket the deletion words that were published but are being deleted. For example, you would show the deletion of "fee" in (e)(1)(B) on line 31 like this: "paying the renewal ~~[fee,]~~ fee."

In (e)(1)(D), you are not adopting .0701(b)(1). Therefore, you are not requiring any continuing education for these individuals who are either current or expired more than 90 days. Please remove this reference to be consistent with the action in Rule 19 .0701.

In the History Note, you need to add a new line:

*History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. September 1, 2010;
Amended Eff. August 1, 2015.*

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0204 is amended with changes as published in 29:19 NCR 2239 as follows:

21 NCAC 19 .0204 APPLICATION FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF LASER HAIR PRACTITIONER LICENSE

(a) Unless the applicant's laser hair practitioner license expired more than 90 days prior to the filing of an application for renewal, each applicant for license renewal pursuant to G.S. 88A-12 shall pay the required renewal fee, including the late renewal charge if applicable, and shall provide proof of compliance with 21 NCAC 19 .0701(a).

~~(e)(b)~~ A laser hair practitioner who has been on the inactive list for less than five years who desires to be returned to active status ~~shall send the Board a written request for return to the active list, shall apply for reactivation by submitting a Board-approved reactivation application application, pay the paying the renewal reactivation fee, and provide providing~~ proof of competence pursuant to 21 NCAC 19 .0701(b).

~~(b)(c)~~ A laser hair practitioner whose license has been expired for more than 90 days but less than five years shall apply for reinstatement by ~~sending the Board a written request for reinstatement~~ submitting a Board-approved reinstatement application, paying the reinstatement fee, and providing proof of competence pursuant to 21 NCAC 19 .0701(c).

(d) Proof of compliance with 21 NCAC 19 .0701 may be provided ~~either:~~

(1) ~~by affidavit of the applicant listing the programs or courses taken, the entity that offered the program or course, the CEUs obtained, and the date and location of the program or course; or~~

(2) by copies with a certificate of course completion issued by the entity that offered the program or course, identifying which identifies the course and showing includes the date, location, and number of hours taken by the applicant. The Board may request confirmation of the number of hours from the entity that offered the program or course and will not give credit for hours that the entity does not confirm as hours actually taken by the applicant.

(e) Laser Hair Removal Instructor Certification

(1) Renewal of Laser Hair Removal Instructor Certification: Unless the applicant's instructor certification expired more than 90 days prior to the filing of an application for renewal, each applicant for instructor certification renewal pursuant to G.S. 88A-18. Laser Hair Removal Instructors may apply for renewal by:

(A) submitting a Board-approved renewal form, form;

(B) paying the renewal fee, fee;

(C) providing proof of current laser hair removal licensure, licensure; and

(D) providing proof of competence described in 21 NCAC 19 .0701(b)(1).

(2) Reactivation of Laser Hair Removal Instructor Certification: An Instructor whose certification has been expired for less than 3 years but more than 90 days may apply for reactivation of the expired certification by:

(A) submitting a Board-approved reactivation form, form;

(B) paying the reactivation fee, fee; and

1 (C) providing proof of competence as described in 21 NCAC 19 .0701(b)(2).

2 (3) Reinstatement of Laser Hair Removal Instructor Certification: An Instructor whose certification
3 has been expired for three years or more may apply for reinstatement of the certification by:

4 (A) taking and passing ~~the~~an instructor's ~~examination before the certification can be~~
5 ~~reinstated,~~examination:

6 (B) submitting a Board-approved reinstatement ~~form,~~ form:

7 (C) paying the reinstatement ~~fee,~~ fee: and

8 (D) providing proof of competence pursuant to 21 NCAC 19 .0701(b)(3).

9
10 *History Note:* Authority G.S. 88A-6; 88A-12; 88A-13; 88A-14; 88A-18;

11 *Eff. August 1, 2015; September 1, 2010.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0407

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

Unlike the rest of the Rule, Paragraph (a) applies to electrolysisists and laser hair practitioners. You cite to G.S. 88A-16 in the History Note, and it only confers authority over electrolysisists.

§ 88A-16. Permanent establishment required.

(a) Electrolysis shall be practiced by a licensed person only in a permanent establishment, hereafter referred to as an office. The Board may adopt reasonable rules and regulations concerning the sanitation standards, equipment, and supplies to be used and observed in offices. Offices shall be subject to periodic inspection at any time during business hours by members of the Board or its agents or assistants.

Do you construe the statute to cover laser hair practitioners? Or would G.S. 88A-6(9) be more appropriate?

§ 88A-6. Powers and duties of the Board.

The Board shall have the following general powers and duties:

(9) To conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining persons licensed or certified under this Chapter exist; and,

In (a), line 5, I believe you intended to capitalize "Board"

In (a)(4), when will this occur? In response to a complaint?

In (b)(1), I take it your regulated public knows what are the "necessary" instruments are and the "manner whereby adherence to asptic technique is maintained" is?

In (c), I think you mean "Rule" instead of "Section," as you've defined "instruments" for the Section in Rule 21 NCAC 19 .0404?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

In (c)(1)(E), line 22, "State" should be capitalized. And I take it your regulated public knows the State and local rules you are referring to?

In (c)(2), line 24, please insert a comma after "rollers"

In (c)(2), are you really requiring (A) and (B) and (C), or is it (A) or (B) and (C)?

In (d)(5), Page 2, line 4, please insert a comma after "rollers"

Also on line 4, define "small multiples"

In (d)(8), line 10, I think you mean "clean and dry covered container, drawer, or closed..."

In (e), I assume you need to retain "minimum"?

End (e)(1)(B) with a period, not a semicolon and "and"

In (e)(3), line 20, in order to be consistent with the rest of the rule, make "temperature" lowercase.

Also on line 20, state "requirements in Subparagraphs (B) and (C)..."

In (e)(2), line 24, delete the period after "devices" and replace "which" with "that"

In (e)(4)(A), line 28, state "accommodate the size, shape, and number..."

In (e)(4)(D), line 32, replace "which" with "that"

On line 33-34, "but it does not guarantee sterility;" What does this mean in the context of the sentence it is in? It does not flow in the sentence or the Paragraph.

In (e)(6), Page 3, line 2, do you mean "in order to ensure that proper..."

Also online 2, should "be" say "is"?

In (e)(7), line 4, state "biological monitors shall be filed..."

In (f)(1), line 7, what are "indifferent electrodes"?

Also on line 7, please insert a comma after "dried"

On line 9, who determines there are signs of "wear and tear"? The licensee?

In the History Note, you need to add a new line:

*History Note: Authority G.S. 88A-16;
Eff. December 1, 2010;
Amended Eff. August 1, 2015.*

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0407 is amended as published in 29:19 NCR 2239 as follows:

**21 NCAC 19 .0407 CLEANING, STERILIZATION, AND SAFETY PRECAUTIONS FOR
INSTRUMENTS AND OTHER TREATMENT-RELATED ITEMS**

(a) Each office of each electrologist and laser hair practitioner shall be inspected by the board or its agent:

- (1) prior to initial licensure;
- (2) each time an office is relocated;
- (3) annually after a license is issued; and
- (4) at any other time the Board deems necessary to ensure safety of the public.

~~(a)~~(b) Electrologists shall observe the following safety precautions for the cleaning and sterilization of instruments:

- (1) Coordinate necessary sterilized instruments and supplies needed for each treatment in a manner whereby adherence to aseptic technique is maintained;
- (2) Wear gloves when handling soiled instruments; and
- (3) Avoid puncture injury from instruments.

~~(b)~~(c) As used in this Section, instruments and other items include:

- (1) Needles that are:
 - (A) single-use, pre-sterilized, and disposable;
 - (B) stored in a manner that will maintain sterile conditions of contents;
 - (C) not recapped, bent, or otherwise manipulated by hand prior to disposal;
 - (D) placed in a puncture-resistant sharps container after use, when opened or found damaged, when contaminated before use, or when not used before pre-printed expiration date; and
 - (E) disposed of in accordance with state and local regulations when the sharps container is no more than three quarters full;
- (2) Forceps, phoresis rollers and epilator tips that are:
 - (A) disinfected before initial use and after use on the client;
 - (B) disinfected after a 24-hour period when packaging is opened and instruments are unused or when packaging is contaminated before use, for example, dropped or placed on a surface not protected by barriers;
 - (C) accumulated after use and before cleaning and sterilization in a covered holding container by submersion in a solution of a protein-dissolving enzyme detergent and water, following manufacturer's instruction for dilution, then rinsed and drained; and
 - (D) cleaned and sterilized in accordance with the standards in Paragraphs (c) and (d) of this Rule.

~~(c)~~(d) Electrologists shall observe the following standards for cleaning:

- ~~(A)~~(1) Place items and other instruments in the basket of a covered ultrasonic cleaning unit containing a fresh solution of a protein-dissolving enzyme detergent and water;
- ~~(B)~~(2) Follow manufacturer's instructions for dilution and ultrasonic running times;

- 1 ~~(C)~~(3) Remove basket from ultrasonic unit rinse under running water and drain;
- 2 ~~(D)~~(4) Drain and air dry items on a clean, disposable, absorbent, non-shedding cloth in an area protected
- 3 from exposure to contaminants with a hot-air dryer or by placement into a drying cabinet;
- 4 ~~(E)~~(5) Package forceps, rollers and heat-stable tips individually or in small multiples in woven or non-
- 5 woven wraps, paper or film pouches, or rigid container systems for the sterilization process;
- 6 ~~(F)~~(6) Place packaged instruments and items in an autoclave or dry-heat sterilizer with a chemical
- 7 indicator;
- 8 ~~(G)~~(7) If dry-heat sterilizers are used, subject the heat-sensitive tips to an intermediate-level disinfectant,
- 9 after which the tips are rinsed and dried; and
- 10 ~~(H)~~(8) Store instruments and items in a clean dry, covered container, drawer or closed cabinet after the
- 11 cleaning process.
- 12 ~~(d)~~(e) Electrologists shall observe the following standards for sterilization:
- 13 (1) The required minimum time and temperature relationship for sterilization methods shall be:
- 14 (A) for the dry heat method, the minimum time-temperature relationship required to be
- 15 attained is 340° F (170° C) for one hour or 320° F (160° C) for two hours; and
- 16 (B) for the autoclave (steam under pressure) method, the minimum time-temperature-pressure
- 17 relationship required to be attained is 15 to 20 minutes at 121°C (250°F) and 15 psi
- 18 (pounds per square inch) for unpackaged instruments and items and 30 minutes at 121° C
- 19 (250° F) and 15 psi (pounds per square inch) for packaged instruments and items; and
- 20 (C) Temperature and exposure requirements in (B) and (C) relate to the time of exposure
- 21 after attainment of the required temperature and do not include a penetration of heat-up
- 22 lag time, drying time, or cool-down time;
- 23 (2) Sterilizers shall have visible physical indicator gauges, for example, thermometers, timers, on the
- 24 devices. which shall be monitored during the sterilization cycle,
- 25 (3) The interior of the sterilization devices shall be cleaned according to the manufacturer's
- 26 instructions;
- 27 (4) Packaging for sterilization shall:
- 28 (A) accommodate size, shape and number of instruments to be sterilized;
- 29 (B) be able to withstand the physical conditions of the selected sterilization process;
- 30 (C) allow enough space between items in each package for the sterilization of all surfaces to
- 31 occur; and
- 32 (D) chemical indicators shall be visible on the outside of each package sterilized which
- 33 indicates the instruments and items have been exposed to a sterilization process, but it
- 34 does not guarantee sterility;
- 35 (5) Manufacturer's recommendations shall be followed for aseptic removal of contents in the sterilized
- 36 packages;

1 (6) Biological monitors shall be used no less than once a month for each sterilization device according
2 to manufacturer's instruction in order that proper mechanical function of the sterilizer be
3 maintained; and

4 (7) Recorded laboratory reports from the biological monitors filed in a permanent sterility assurance
5 file.

6 ~~(e)~~(f) Safety precautions shall be observed for other treatment related items as follows:

7 (1) Indifferent electrodes, epilator cords, and eye shields shall be cleaned, dried and subjected to
8 intermediate-level disinfection before initial use and after each treatment and replaced when
9 showing signs of wear and tear;

10 (2) Ultrasonic cleaning units and all other containers and their removable parts shall be used during
11 soaking and cleaning procedures, cleaned, dried daily, and used and maintained according to
12 manufacturer's instructions; and

13 (3) Environmental surfaces directly related to treatment shall be cleaned and subjected to low-level
14 disinfection daily and whenever visibly contaminated.

15
16 *History Note: Authority G.S. 88A-16;*
17 *Eff. August 1, 2015; December 1, 2010.*

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0409

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

The sole authority cited by the Board for this Rule is G.S. 88A-16. Staff does not believe this law confers authority for this Rule. The Rule governs requirements for client evaluations by electrologists and laser hair practitioners. The law cited governs the practice of electrolysis in permanent establishments, and gives the Board authority to create rules regarding the sanitation standards, equipment and supplies in those establishments. It also requires the Board to create rules for use of equipment and instruments outside of the office. Nowhere in that law is there authority for the Board to govern client evaluations and require records for them.

Staff notes it is possible that the Board is relying upon G.S. 88A-6, which enumerates powers of the Board. Specifically, the Board may have intended to cite G.S. 88A-6(5), which gives authority to the Board to "establish, publish, and enforce rules of professional conduct[.]" However, the Board has not cited to this in the Rule. As presented for review, staff does not believe the Board has statutory authority for this Rule.

§ 88A-16. Permanent establishment required.

(a) Electrolysis shall be practiced by a licensed person only in a permanent establishment, hereafter referred to as an office. The Board may adopt reasonable rules and regulations concerning the sanitation standards, equipment, and supplies to be used and observed in offices. Offices shall be subject to periodic inspection at any time during business hours by members of the Board or its agents or assistants.

(b) Every electrologist shall notify the Board in writing 30 business days prior to, but no later than 10 business days after, any change of address or opening of a new office.

(c) Every electrologist shall display his license in a conspicuous place in the office.

(d) Every electrologist may make calls outside the office. The Board shall adopt rules and regulations concerning the equipment and instruments to be used by an electrologist when treating patients outside the office. (1989 (Reg. Sess., 1990), c. 1033.)

§ 88A-6. Powers and duties of the Board.

The Board shall have the following general powers and duties:

- (1) To administer and interpret this Chapter;
- (2) To adopt rules in the manner prescribed by Chapter 150B of the General Statutes as may be necessary to carry out the provisions of this Chapter;
- (3) To determine the qualifications of persons who are licensed or certified pursuant to this Chapter;
- (4) To issue, renew, deny, restrict, suspend, or revoke licenses and to carry out any of the other actions authorized by this Chapter;
- (5) To establish, publish, and enforce rules of professional conduct, and to regulate advertising by licensees;
- (6) To maintain a record of all proceedings and make available to persons licensed under this Chapter, and to other concerned parties, an annual report of all Board action;
- (7) To collect fees for licensure, licensure renewal, and other services deemed necessary to carry out the purpose of this Chapter;
- (8) To employ and fix the compensation of personnel, including an executive director, that the Board determines are necessary to carry out the provisions of this Chapter and to incur other expenses necessary to effectuate this Chapter;
- (9) To conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining persons licensed or certified under this Chapter exist; and,
- (10) To adopt a seal containing the name of the Board for use on all certificates, licenses, and official reports issued by it. (1989 (Reg. Sess., 1990), c. 1033.)

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0409

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

In (1), line 5, replace "which" with "that"

Please begin (1)(a) through (h) with an article. I suggest "the" for (a), (b), (c) and (h) and "any" for the rest.

In (2), line 15, does your regulated public know what an "ongoing basis" is?

And I take it this determination, along with the ones in (3) and (4), are based upon the licensee's professional judgment?

In the History Note, you need to add a new line:

*History Note: Authority G.S. 88A-16;
Eff. December 1, 2010;
Amended Eff. August 1, 2015.*

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0409 is amended as published in 29:19 NCR 2239 as follows:

21 NCAC 19 .0409 CLIENT EVALUATION

As an evaluation for each client, the electrologist and laser hair practioner shall:

- (1) Prepare a Health History Assessment File which contains:
 - (a) date, name, address, contact information, date of birth, and names of family physician, gynecological physician, and dermatologist;
 - (b) areas of face and body to be treated;
 - (c) hirsute family history;
 - (d) current and previous methods of hair removal;
 - (e) current and previous medications;
 - (f) current and previous physical examination dates and results;
 - (g) skin irregularities; and
 - (h) date and signature of client.
- (2) Update and evaluate the client's health status on an ongoing basis to determine if the client should be referred to a physician.
- (3) Examine the client's skin for signs of infection or rashes prior to each treatment and delay treatment if actual or potential signs or symptoms of infection are present.
- (4) Refer the client to a physician when evaluation of health history or skin examination indicates.
- (5) Instruct the client on post-treatment care to promote healing of the treated skin site.

*History Note: Authority G.S. 88A-16;
Eff. August 1, 2015; December 1, 2010.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0501

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

On line 4, why do you need this? If you need to retain it as written, please either end it with a period or colon.

In (a)(1), (a)(2) and (a)(4), you removed the quotation marks around "Supervisory Agreement" but in the rule referenced, 19 .0202, you have it in quotation marks. I agree that the term doesn't need to be in quotation marks, but please be consistent with the term in this Rule and Rule .0202.

Again, this is simply a stylistic suggestion, as what you have is correct, but you could replace the reference to "21 NCAC 19 .0202" with "Rule .0202 of this Chapter."

In (a)(2), line 8, replace "must" with "shall"

In (a)(2), lines 8 and 9, the agreement itself must contain the physician's name and address. Why are you asking for it twice?

In (a)(3), please bracket the deletion of "hair" on line 12.

In (a)(3), line 15, it is "editions." Also, in order to incorporate the document by reference, the document must conform to G.S. 150B-21.6:

§ 150B-21.6. Incorporating material in a rule by reference.

An agency may incorporate the following material by reference in a rule without repeating the text of the referenced material:

- (1) Another rule or part of a rule adopted by the agency.
- (2) All or part of a code, standard, or regulation adopted by another agency, the federal government, or a generally recognized organization or association.
- (3) Repealed by Session Laws 1997-34, s. 5.

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both

Amanda J. Reeder

Commission Counsel

Date submitted to agency: June 30, 2015

where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

Is this part of a Rule by the Medical Board? If not, then how can this be incorporated into Rule?

In (b), line 20, please bracket the deletion of "reference" and extend the underline beneath "including"

On line 21, it is "editions"

Please note my earlier question regarding this position statement.

In the History Note, state "Amended Eff. August 1, 2015"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0501 is amended with changes as published in 29:19 NCR 2239 as follows:

21 NCAC 19 .0501 SUPERVISING PHYSICIAN

(a) Supervisory Agreement

~~(a)(1)~~ A laser hair practitioner shall not operate any laser equipment without a signed "~~Supervisory Agreement~~" Supervisory Agreement in accordance with 21 NCAC 19 .0202 in place and on file with the Board.

~~(b)(2)~~ Before commencing ~~practice~~ practice, a laser hair practitioner must submit to the Board the name of the supervising physician, business address, business phone number, North Carolina Medical Board medical license number and a copy of the signed "~~Supervisory Agreement~~" Supervisory Agreement.

(3) The elements of the Supervisory Agreement shall contain the provisions outlined in the North Carolina Medical Board Position Statement on Laser Surgery relating to Laser ~~hair~~ Hair and Tattoo Removal, which is hereby incorporated by reference including subsequent amendments and additions.

~~(e)(4)~~ A laser hair practitioner shall notify the Board within 30 days of the termination of the "~~Supervisory Agreement~~" Supervisory Agreement with the supervising physician.

(b) Supervision by Physician - The elements of physician supervision of laser hair removal practitioners shall contain the provisions outlined in the North Carolina Medical Board Position Statement on Physician Supervision of Other Licensed Health Care Practitioners, which is hereby incorporated by ~~reference~~ reference, including subsequent amendments and additions.

*History Note: Authority G.S. 88A-11.1;
Eff. September 1, 2010;
Amendment Eff. August 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0602

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

Just so I understand – this Rule governs only licensure for schools for electrology, since you only cite to G.S. 88A-19? It does not govern schools for laser, light source, or pulsed-light treatments under G.S. 88A-19.1?

In Paragraph (b), I take it when you refer to “information” submitted on line 10, that is the information required in Paragraph (a)?

On line 10-11, how will individuals know what has been updated? Does the Board notify individuals of this or are they expected to keep current on the rules and law?

In Paragraph (c), line 13, replace “and/or” with “or”

On lines 14-15, what is in the Board-approved form” and where can it be located?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0602 is amended as published in 29:19 NCR 2239 as follows:

21 NCAC 19 .0602 APPLICATION FOR AND RENEWAL OF SCHOOL CERTIFICATION

(a) Each person applying for a school certification shall submit to the Board the information required by G.S. 88A-19 and:

(1) A copy of the student contract required by Rule .0605 of this Section; and

(2) A copy of the form for student authorization to receive electrolysis treatment required by Rule .0605 of this Section.

(b) Applicants for renewal of a school certification shall pay the required renewal fee and update the information submitted when the school initially applied. This update shall include any information required of new applicants that was not required when the school was initially certified.

(c) Pursuant to G.S. 88A-20, school certifications that are not renewed within 90 days after the expiration date will be automatically forfeited. Reactivation and/or reinstatement of an expired school certificate are not allowed under the governing statute. Upon forfeiture, a school may reapply for certification by submitting a new Board approved application and paying the required application fee.

History Note: Authority G.S. 88A-6; 88A-19; 88A-20;
Eff. November 1, 1993;
Amended Eff. August 1, 2015; December 1, 2010.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0608

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

In (a), how will the school maintain the equipment? Per manufacturer instruction?

On line 4, do you need to retain "at least"?

In (a)(8), line 14, please insert a comma after "tissues"

In (a)(11), line 18, please insert a comma after "sterilizer"

In (a)(12), line 19, remove the comma after "materials"

In (b), so that I understand, epilators and laser equipment are public radio (RF) spectrum within which RF wireless technologies, such that the FCC is involved in the FDA approval? I ask because G.S. 88A-19(f) and 19.1(f) refer to the FDA only:

88A-19. Requirements for certification as a Board approved school of electrology.

(f) All epilators used in the school must be approved by the Food and Drug Administration of the United States Government.

§ 88A-19.1. Requirements for certification as a Board-approved school of laser, light source, or pulsed-light treatments.

(f) All laser, light source, or pulsed-light devices used in the school shall be approved by the federal Food and Drug Administration.

In (c), line 23, who determines whether something is "state-of-the-art"?

On line 24, monitored by whom? The school?

On lines 24 and 25, did you intend for this to apply only to schools for electrology and not schools of laser, light source, or pulsed light treatment? I ask because you only reference 88A-19(a)(3),

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Date submitted to agency: June 30, 2015

even though 88A-19.1(a)(3) requires the same list for schools of laser, light source, or pulsed light treatment.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0608 is amended as published in 29:19 NCR 2239 as follows:

21 NCAC 19 .0608 SCHOOL EQUIPMENT

(a) Every electrolysis school certified by the Board shall provide and maintain at least the following equipment:

- (1) one high frequency or thermolysis (short wave) machine;
- (2) one galvanic/thermolysis (blend) machine;
- (3) stainless steel, insulated, and disposable epilation probes (or needles) of sizes 002, 003, 004, and 005;
- (4) at least one circuline type lamp, halogen lamp, or other type of magnifying lamp per treatment table;
- (5) two treatment tables and chairs for clients and adjustable chairs or stools for students;
- (6) a cabinet for towels and utilities for each table;
- (7) a covered trash container for each table;
- (8) covered containers for all lotions, soaps, cotton balls, tissues and other supplies and sterilizing solutions;
- (9) six dozen epilation forceps (or tweezers);
- (10) one plastic puncture resistant container (for used sharps) for each table;
- (11) one autoclave sterilizer, dry heat sterilizer and ultrasonic cleaner; and
- (12) audio-visual teaching materials, and ~~equipment, and equipment.~~
- ~~(13) one multi-needle epilator.~~

(b) Only Federal Communication Commission (FCC) approved types of epilators and laser equipment registered by the federal Food and Drug Administration (FDA) shall be used by each school in training students.

(c) All epilators, laser equipment, autoclaves and dry heat sterilizers shall be state-of-the-art and shall be monitored monthly to ascertain effectiveness. Any changes from the list of equipment provided to the Board pursuant to G.S. 88A-19 (a)(3) shall be reported to the Board.

History Note: Authority G.S. 88A-6; 88A-19; 88A-19.1; 88A-20;

Eff. November 1, 1993;

Amended Eff. August 1, 2015; December 1, 2010.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0622

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

In Subparagraph (a)(1), how do the schools apply? Using an application? Where do they send it?

On line 6, I suggest inserting a comma after "of" and "with"

On line 5, you cite only to G.S. 88A-19(a)(1), which means you are only requiring the information required for electrology schools, not laser hair removal schools (governed by G.S. 88A-19.1). Was this intentional, or oversight?

In Subparagraph (a)(3), you require the electrology schools to have a curriculum of "at least 600 hours." However, pursuant to G.S. 88A-19, 600 is the maximum number of hours you can require.

§ 88A-19. Requirements for certification as a Board approved school of electrology.

- (a) Any school in this State or another state that desires to be certified as a Board approved school of electrology shall:
- (4) Submit a copy of the planned electrology curriculum consisting of the number of hours and subject matter determined by the Board, provided that the number of hours required shall not be less than 120 hours and not more than 600 hours;

While you may be encouraging schools to offer over 600 hours of curriculum, you cannot require it. It would be much clearer that the Board is adhering to the statutory directive in the Rule if "at least" were deleted on line 10.

In (a)(3) and (4), why are "Electrology" and "Laser Hair Removal" capitalized? They are not in statute.

*In Paragraph (b), what "proof" are you referring to? Also, you may wish to slightly amend your History Note to cite to G.S. 88A-21**(b)** since that is the authority for this Paragraph.*

In (c), line 15, replace "must" with "shall"

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Date submitted to agency: June 30, 2015

Also, since this Rule is being amended to certify Laser Hair Removal schools, insert G.S. 88A-19.1 into the History Note.

Why is 88A-9 in the History Note? That statute governs fees. I know that fees are required for the certification, but you are not mentioning anything about fees here.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0622 is amended as published in 29:19 NCR 2239 as follows:

21 NCAC 19 .0622 CERTIFICATION OF SCHOOLS IN OTHER STATES OR JURISDICTIONS

(a) The Board shall certify a school in another state or jurisdiction for purposes of G.S. 88A-10 provided that:

- (1) The school applies for certification, submits the information required by G.S. 88A-19(a)(1) through ~~(6), (7)~~, and meets the requirements of and remains in compliance with all other applicable provisions of this Section; 21 NCAC 19 .0602, .0606, .0607, .0608, and .0609;
- (2) If the school is in a state or jurisdiction that approves electrolysis schools, the school is approved by the proper agency for that state or jurisdiction; ~~and~~
- (3) The Electrology school has a curriculum of at least 600 ~~hours~~ hours; and
- (4) The Laser Hair Removal school has a laser, light source, or pulsed-light curriculum of at least 30 hours.

(b) The Board shall revoke the certification of a school in another state or jurisdiction upon a proof that the school in a jurisdiction that licenses electrologists has lost its approval in that state.

(c) The school must agree to teach North Carolina's sanitation standards to any student who states to the school an intention of taking North Carolina's licensing examination.

*History Note: Authority G.S. 88A-6; 88A-9; 88A-19; 88A-21;
Eff. February 1, 1994;
Temporary Amendment Eff. September 1, 2001;
Amended Eff. August 1, 2105; December 1, 2010; December 4, 2002.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0701

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

In Subparagraph (a)(1), line 8, insert a space between "electrologist" and "and laser..."

Further, on line 8, do you mean "laser hair practitioner"? It would seem so, give the other references in this Rule (see lines 14 and 19), as well as the statutes.

On lines 8 and 9, do you need to retain "at least"? I believe you intend to keep it, since you all additional credits to carry over, but I wanted to check.

I know that G.S. 88A-13 requires 10 hours of continuing education every year. However, you do not reference that one CEU is 10 hours in this Rule until (a)(5). Why not reference Rule 21 NCAC 19 .0103, which defines CEUs, on line 8? For example, "... shall complete at least one CEU, as defined in Rule .0103 of this Chapter, per renewal period..."

On line 9, please insert a space before and after "electrology"

On line 11, please replace "must" with "shall"

On line 12, what do you mean by "specific to the modality of the license being renewed"?

On line 13, what is "business management"? Does your regulated public know? And so that I understand - this means no more than five hours of it will be given credit?

In Subparagraph (a)(3), line 23, replace "must be" with "shall have been"

On line 5, why are you spelling out "10 hours (one CEU)"? The rest of the Rule simply says "one CEU" It is inconsistent here; do you have a specific reason for this?

On line 28, define "generally"

Since it is spelled out here that there is a certificate of completion for home study, does that mean there is not one for in-person classes?

I recommend combining (a)(5) and (6).

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Commission Counsel
Date submitted to agency: June 30, 2015

Please note that by deleting Subparagraph (b)(1), you are no longer requiring continuing education for instructors who stay active in licensure. Was this the intent of the Board?

In Subparagraphs (b)(1) and (2), Page 2, lines 2 and 5, what "evidence" is required?

On line 7, please replace "must be" with "shall have been"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0701 is amended with changes as published in 29:19 NCR 2239 as follows:

SECTION .0700 - CONTINUING EDUCATION

21 NCAC 19 .0701 CONTINUING EDUCATION REQUIREMENTS, LICENSE RENEWAL, REINSTATEMENT AND REACTIVATION

(a) Requirements for practitioners:

~~(a)(1)~~ Each electrologist and laser practitioner licensed in this State shall complete at least one CEU each per renewal period as a requirement for renewal of the electrologist's electrology license and at least one CEU per renewal period as a requirement for renewal of the laser hair practitioner license. Seventy-five ~~Sixty~~ percent of the continuing education hours acquired must be in topics specific to the modality of the license being renewed. Over any two renewal periods, the Board will give credit for no more than one-half CEU in the area of business management.

~~(b)(2)~~ An electrologist or laser hair practitioner who has been placed on the inactive list by the Board for less than five years and desires to return to active status, ~~may~~ shall present evidence of completion of one CEU within the 12 months preceding the reactivation application for return to active status in satisfaction of the competency requirement of G.S. ~~88A-14~~ 88A-14 before the Board will return the electrologist or laser hair practitioner to active status.

~~(c)(3)~~ An electrologist or laser hair practitioner whose license has been expired for 90 days or more but less than five years ~~may~~ shall present evidence of completion of one CEU for each renewal period or part of a renewal period that has elapsed since the electrologist's or laser hair practitioner's license was last current in satisfaction of the competency requirement of G.S. 88A-12. At least one of the CEUs offered in satisfaction of a competency requirement must be completed within the 12 months immediately preceding the application for reinstatement.

~~(d)(4)~~ Not more than one CEU may be carried over per renewal period.

(5) No more than 10 hours (one CEU) of home study may be credited for continuing education in each renewal period. "Home study" is defined as an educational activity undertaken by an individual, generally completed by correspondence with little to no supervision, and with a certification of completion awarded at the end of the course.

(6) Continuing education hours obtained through home study may not be carried over to a subsequent renewal period.

~~(e)(7)~~ In the initial year of licensure, new licensees tested after the sixth month of the calendar year shall not be required to obtain CEUs until the following renewal year.

(b) Requirements for instructors:

[(1) An instructor must complete one additional CEU annually in order to renew an electrolysis instructor certification. The course or program must comply with Rule .0702(a)(2) of this Section. Home study courses will not be considered sufficient to meet this requirement.]

1 (2)(1) An instructor whose certification has been placed on the inactive list for more than 90 days and
2 less than 3 years shall present evidence of completion of one CEU within the 12 months
3 immediately preceding the application for reactivation of certification.

4 (3)(2) An instructor whose certification has been expired for more than 90 days, but less than 3 years
5 shall present evidence of completion of one CEU for each renewal period or part of a renewal
6 period that has elapsed since the instructor's license was last current. At least one of the CEUs
7 offered in satisfaction of a competency requirement must be completed within the 12 months
8 immediately preceding the application for reinstatement of certification.

9
10 *History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;*
11 *Eff. March 1, 1995;*
12 *Amendment Eff. August 1, 2015; December 1, 2010.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Electrolysis Examiners

RULE CITATION: 21 NCAC 19 .0702

DEADLINE FOR RECEIPT: Friday, July 10, 2015

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

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

Please end (a)(1) with an "and" or "or"

So that I understand – the Board is simply requiring the information in Paragraph (c)? It will not make any decisions on approval depending upon what is contained in the information?

In Paragraph (d), line 25, what is in this Board provided application? Is it the information in Paragraph (c), or something else? If it is something else, the content of the form must be in rule or law. Also, how does one get this form?

In (e), line 32, what do you mean by "The presence of all criteria or the absence of individual criteria shall not be conclusive." Are you trying to say that the Board will reserve discretion? If so, I believe that can be more clearly stated.

On lines 33-34, please add any cost for the document. If it can be accessed free of charge, please state that.

Please delete the blank line space on line 35.

In Paragraph (f) – this only applies to electrologists seeking credit under Paragraph (d)? And the findings and decision will be the one made in Paragraph (e)?

In Paragraph (f), Page 2, line 1, I recommend deleting the second "provide" so it reads, "either provide to the electrologist or directly to the Board..."

If the electrologist gets the information, is he or she required by another rule to forward it to the Board, since the Board is required by 88A-13(c) to maintain a list of all continuing education taken by its licensees?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 30, 2015

21 NCAC 19.0702 is amended as published in 29:19 NCR 2239 as follows:

21 NCAC 19 .0702 BOARD APPROVAL OF COURSES

(a) The Board shall approve a program or course if it is:

- (1) In any subject required by 21 NCAC 19 .0601;
- (2) Offered by one of the following entities:
 - (A) a college or university authorized to grant degrees in this State;
 - (B) a ~~state or~~ national professional electrolysis or laser association;
 - (C) a school or Continuing Education (CE) provider certified by the Board;
 - (D) American Society of Laser Medicine (ASLM);
 - (E) American Academy of Dermatology (AAD); or
 - (F) an entity providing a program of Certified Medical Education (CME).

(b) The entity offering the program or course shall provide the Board with the information listed in Paragraph (c) of this Rule and shall certify to the Board the names of all electrologists licensed by the Board who attended the program or course and their actual hours of attendance.

(c) The Board shall not approve a program or course without the following information:

- (1) Title, location, and date of the course;
- (2) Sponsoring entity;
- (3) Course objective and content;
- (4) Hours of study; and
- (5) Name, education, and background of each instructor.

(d) An electrologist or laser hair practitioner seeking credit for a program or course offered by an entity not listed in Paragraph (a) of this Rule may request that the Board approve the course by submitting in writing, at least two months in advance of the course registration date, the information listed in Paragraph (c) of this Rule on an application form provided by the Board.

(e) The Board shall approve a program or course if requested pursuant to Paragraph (d) of this Rule on a finding that it offers an educational experience designed to enhance the practice of electrolysis or laser hair reduction as required by G.S. 88A-13. In determining whether or not to make this finding, the Board shall consider the program or course in light of the criteria set forth in The Continuing Education Unit Criteria and Guidelines, current edition, as adopted by the International Association for Continuing Education and Training (IACET) in conjunction with the American Standards National Institute (ANSI) and incorporated herein by reference including subsequent amendments or editions. The presence of all criteria or the absence of individual criteria shall not be conclusive. Copies of The Continuing Education Unit Criteria and Guidelines, current edition, may be obtained at <http://www.IACET.org>.

(f) The Board shall notify the electrologist by mail of the Board's findings and decision. A change in subject matter, length, or instructor of a course requires reapproval by the Board. The entity offering the program or course shall

either provide to the electrologist or provide directly to the Board certification of the electrologist's actual hours of attendance after the program or course is complete.

*History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. March 1, 1995;
Amended Eff. August 1, 2015; December 1, 2010.*