

## REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. Medical Board

RULE CITATION: 21 NCAC 32B

**DEADLINE FOR RECEIPT: December 14, 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*In general as to all of these rules, please note:*

Forms: *the APA requires the substantive contents of forms to be in either Rules or law. Wherever you refer to forms, you need to either state the contents of the form in the Rule or be able to show rules/law where the content is required. In addition, the rule should also state, with specificity, where the forms may be obtained.*

Acronyms and Capitalized Terms: *these Rules contain numerous undefined acronyms and capitalized words. Please assure that each such acronym and capitalized terms is defined in a statute or appropriate rule.*

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

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: November 30, 2015

## REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. Medical Board

RULE CITATION: 21 NCAC 32B .1370

**DEADLINE FOR RECEIPT: December 14, 2015**

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*This Rule refers to both a "reentry agreement" and a "reentry plan." The use of these two terms is sometimes confusing. Please consider using only the term "reentry agreement" if a single term will suffice. These technical corrections assume that this term alone is sufficient.*

*Page 1, line 5 – delete “, as determined by the Board,”*

*Page 1, lines 8-9 – delete “formulating a reentry plan that” and in line 9 replace “assess” with “assessing”*

*Page 1, line 13 – replace “plan” with “agreement”*

*Page 1, line 14 – the phrase “as the Board may decide” is ambiguous. Please add “based on the factors set forth in Paragraph (d) of this Rule” at the end of this line, if this is what you mean, or provide another description of the factors considered by the Board in determining the educational requirements for reentry..*

*Page 1, line 23 – replace “over” with “during”*

*Page 1, line 26 – replace “completion of” with “the applicant completed”*

*Page 1, line 27 – the phrase “AOA or equivalent specialty board” is ambiguous in two respects. (1) Do you mean an equivalent board to the AOA only, or also to the ABMS? If AOA only, the punctuation is correct; if both, insert a comma after “AOA.” (2) How does one know what specialty board is “equivalent to the AOA (and the ABMS if this is included)? What would the Board consider in deciding such equivalency? Please give the phrase “AOA or equivalent specialty board” meaning by defining it or describing the factors used by the board to determine equivalency.*

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: November 30, 2015

*Page 1, line 30 – add a comma after “Board”*

*Page 1, line 31 – replace “plan” with “agreement”*

*Page 1, line 34 – delete “and its reference reentry plan”*

*Page 3, line 18 – replace “plan” with “agreement”*

*Page 3, line 19 – delete “, as determined by the Board,” and delete the comma after “license”*

*Page 3, line 21 – replace “plan” with “agreement”*

*Page 3, line 22 – delete “and notify the licensee that the license is no longer restricted”*

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

21 NCAC 32B .1370 is amended as published in 30:06 NCR pages 639-643 as follows:

**21 NCAC 32B .1370 REENTRY TO ACTIVE PRACTICE**

(a) ~~A~~ An applicant for licensure physician or physician assistant applicant ("applicant" or "licensee") who has not actively practiced or who has not maintained continued competency, as determined by the Board, for the two-year period immediately preceding the filing of an application for a license ~~from the Board~~ shall complete a reentry agreement as a condition of licensure.

(b) ~~The applicant shall identify a mentoring physician.~~ The first component of a reentry agreement involves formulating a reentry plan that assesses the applicant's current strengths and weaknesses in the intended area(s) of practice. The process may include testing and evaluation by colleagues, educators or others.

(c) ~~The applicant shall propose a reentry plan containing the components outlined in Paragraphs (g) and (h) of this Rule to the Board. The Board shall review the proposed reenter plan and interview the applicant. The second component of the reentry plan is education. Education shall address the applicant's area(s) of needed improvement and consist of a reentry period of retraining and education upon terms as the Board may decide.~~

(d) Factors that may affect the length and scope of the reentry plan include:

- (1) The applicant's amount of time out of practice;
- (2) The applicant's prior intensity of practice;
- (3) The reason for the interruption in practice;
- (4) The applicant's activities during the interruption in practice, including the amount of practice-relevant continuing medical education;
- (5) The applicant's previous and intended area(s) of practice;
- (6) The skills required of the intended area(s) of practice;
- (7) The amount of change in the intended area(s) of practice over the time the applicant has been out of continuous practice;
- (8) The applicant's number of years of graduate medical education;
- (9) The number of years since completion of graduate medical education; and
- (10) As applicable, the date of the most recent ABMS, AOA or equivalent specialty board, or National Commission on Certification of Physician Assistant certification or recertification.

(e) If the Board approves an applicant's reentry plan, it shall be incorporated by reference into a reentry agreement and executed by the applicant, the Board and ~~the mentoring physician.~~ any applicable Board agents assisting with the reentry plan.

(f) After the reentry agreement has been executed, and the applicant has completed all other requirements for licensure, the applicant shall receive a ~~restricted~~ License. The licensee may not practice outside of the scope of the reentry agreement and its referenced reentry plan during the reentry period.

~~(g) The first component of a reentry plan is an assessment of the applicant's current strengths and weaknesses in his or her intended area of practice. The process used to perform the assessment shall be described by the applicant and confirmed by the mentoring physician. The process may include self-reflection, self-assessment, and testing and~~

1 ~~evaluation by colleagues, educators or others. The applicant and mentoring physician shall evaluate and describe~~  
2 ~~applicant's strengths and areas of needed improvement in regard to the core competencies. The assessment shall continue~~  
3 ~~throughout the reentry period as the licensee and the mentoring physician practice together.~~

4 ~~(h) The second component of the reentry plan is education. Education shall address the licensee's areas of needed~~  
5 ~~improvement. Education shall consist of:~~

6 ~~(1) a reentry period of retraining and education under the guidance of a mentoring physician, upon terms~~  
7 ~~as the Board may decide, or~~

8 ~~(2) a reentry period of retraining and education under the guidance of a mentoring physician consisting of~~  
9 ~~the following:~~

10 ~~(A) Phase I The observation phase. During the observation phase, the licensee will not~~  
11 ~~practice, but will observe the mentoring physician in practice.~~

12 ~~(B) Phase II Direct supervision phase. During the direct supervision phase, the licensee shall~~  
13 ~~practice under the direct supervision of the mentoring physician. Guided by the core~~  
14 ~~competencies, the mentoring physician shall reassess the licensee's progress in addressing~~  
15 ~~identified areas of needed improvement.~~

16 ~~(C) Phase III Indirect supervision phase. During the indirect supervision phase, the licensee~~  
17 ~~shall continue to practice with supervision of the mentoring physician. Guided by the core~~  
18 ~~competencies, and using review of patient charts and regular meetings, the mentoring~~  
19 ~~physician shall reassess the licensee's progress in addressing the areas of needed~~  
20 ~~improvement.~~

21 ~~(D) No later than 30 days after the end of phase I and II, the mentoring physician shall send a~~  
22 ~~report to the Board regarding the licensee's level of achievement in each of the core~~  
23 ~~competencies. At the completion of phase III the mentoring physician shall submit a~~  
24 ~~summary report to the Board regarding the licensee's level of achievement in each of the core~~  
25 ~~competencies and affirm the licensee's suitability to resume practice as a physician or to~~  
26 ~~resume practice as a physician assistant.~~

27 ~~(E) If the mentoring physician reassesses the licensee and concludes that the licensee requires an~~  
28 ~~extended reentry period or if additional areas of needed improvement are identified during~~  
29 ~~Phases II or III, the Board, the licensee and the mentoring physician shall amend the reentry~~  
30 ~~agreement.~~

31 ~~(i) Under the terms of either reentry periods Subparagraph (h)(1) or (h)(2) of this Rule, the mentoring physician may~~  
32 ~~terminate his role as the mentoring physician upon written notice to the Board. Such written notice shall state the reasons~~  
33 ~~for termination. The licensee's approval is not required for the mentoring physician to terminate his role as mentoring~~  
34 ~~physician. Upon receipt of the notice of termination, the Board shall place the licensee's license on inactive status.~~  
35 ~~Within six months from the effective date of the mentoring physician's termination, the licensee shall provide a substitute~~  
36 ~~mentoring physician, who must be approved by the Board in writing, and resume the reentry plan upon such terms as are~~  
37 ~~acceptable to the Board. In such event, an amended reentry agreement must be executed prior to resumption of the~~

1 reentry plan. If licensee does not resume the reentry plan as required herein within six months from the effective date of  
2 the mentoring physician's termination, then the Board shall not return the licensee to active status unless and until  
3 licensee applies and is approved for reactivation of the license with a new reentry agreement and reentry plan, which  
4 must be in place before licensee may resume practice as a physician or physician assistant.

5 (j) Under the terms of either reentry periods Subparagraph (h)(1) or (h)(2) of this Rule, the licensee may terminate the  
6 relationship with the mentoring physician upon written notice to the Board. Such written notice shall state the reasons  
7 for termination. The mentoring physician's approval is not required for the licensee to terminate this relationship. Upon  
8 receipt of the notice of termination, the Board shall place the licensee's license on inactive status. Within six months  
9 from the effective date of the mentoring physician's termination, the licensee shall provide a substitute mentoring  
10 physician, who must be approved by the Board in writing, and resume the reentry plan upon such terms as are acceptable  
11 to the Board. In such event, an amended reentry agreement must be executed prior to resumption of the reentry plan. If  
12 licensee does not resume the reentry plan as required herein within six months from the effective date of the mentoring  
13 physician's termination, then the Board shall not return the licensee to active status unless and until licensee applies and  
14 is approved for reactivation of the license with a new reentry agreement and reentry plan, which must be in place before  
15 licensee may resume practice as a physician or physician assistant.

16 (k) The licensee shall meet with members of the Board at such dates, times and places as directed by the Board to  
17 discuss the licensee's transition back into practice and any other practice related matters.

18 (h)(g) Unsatisfactory completion of the reentry plan or practicing outside the scope of the reentry agreement, as  
19 determined by the Board, shall result in the automatic inactivation of the licensee's license, unless the licensee requests a  
20 hearing within 30 days of receiving notice from the Board.

21 (m)(h) If the Board determines the licensee has successfully completed Upon successful completion of the reentry plan,  
22 the Board shall terminate the reentry agreement and notify the licensee that the license is no longer restricted.

23  
24 *History Note: Authority G.S. 90-8.1; 90-14(a)(11a);*  
25 *Eff. March 1, 2011.*  
26 *Amended Eff. January 1, 2016.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. Medical Board

RULE CITATION: 21 NCAC 32B .1402

**DEADLINE FOR RECEIPT: December 14, 2015**

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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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*This Rule requires the use of various forms (e.g. page 1, lines 5, 12, 24). Please see the general note regarding forms, above.*

*In addition, this Rule requires an applicant to submit various materials to the Board, but does not provide an address to which to send the forms. Please reference the address to which the submissions are to be sent.*

*Page 1, line 18 – insert “the applicant shall provide an” before “original” and delete “required”*

*Page 1, lines 19-20 – is this Subparagraph (B) still needed?*

*Page 1, line 26 – what is your authority for asserting that the fee is “non-refundable”?*

*Page 1, line 33 – under what circumstances does the Board need additional information to evaluate an applicant’s competence and character? When the Board might need such information is ambiguous. Please list the factors considered by the Board in determining whether additional information is needed.*

*Page 1, lines 35-36 – under what circumstances does the Board need additional information to evaluate an application? When the Board might need such information is ambiguous. Please list the factors considered by the Board in determining whether additional information is needed.*

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

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: November 30, 2015

21 NCAC 32B .1402 is amended as published in 30:06 NCR pages 639-643 as follows:

**21 NCAC 32B .1402 APPLICATION FOR RESIDENT'S TRAINING LICENSE**

(a) In order to obtain a Resident's Training License, an applicant shall:

- (1) submit a completed application which can be found on the Board's website in the application section at <http://www.ncmedboard.org/licensing>, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) submit a photograph, two inches by two inches, affixed to the oath or affirmation which has been attested to by a notary public;
- (4) submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education.
- (5) furnish an original ECFMG certification status report of a currently valid ECFMG certification ~~of the ECFMG~~ if the applicant is a graduate of a medical school other than those approved by LCME, AOA, COCA, or CACMS. The ECFMG certification status report requirement shall be waived if:
  - (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
  - (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
- (6) submit an appointment letter from the program director of the GME program or his or her appointed agent verifying the applicant's appointment and commencement date;
- (7) submit two completed fingerprint record cards supplied by the Board;
- (8) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
- (9) pay a non-refundable fee pursuant to G.S. 90-13.1(b), plus the cost of a criminal background check;
- (10) provide proof that the applicant has taken and passed within three attempts:
  - (A) ~~the COMLEX Level 1, and~~ each component of COMLEX Level 2 (cognitive evaluation and performance evaluation) ~~and and~~, if taken, COMLEX Level 3; or
  - (B) ~~the USMLE Step 1 Step 1, and~~ each component of ~~the~~ USMLE Step 2 (Clinical Knowledge and Clinical ~~Skills~~); ~~and Skills~~ and, if taken USMLE Step 3; ~~and or~~
  - (C) MCCQE Part 1 and, if taken, MCCQE Pat 2;
- (11) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(b) An applicant shall be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character, if the Board needs more information to complete the application.

1 (c) If the applicant previously held a North Carolina residency training license, the licensure requirements established by  
2 rule at the time the applicant first received his or her North Carolina residency training license shall apply. Information  
3 about these Rules is available from the Board.  
4

5 *History Note: Authority G.S. 90-8.1; 90-12.01; 90-13.1;*

6 *Eff. August 1, 2010;*

7 *Amended Eff. January 1, 2016; September 1, 2014; November 1, 2013; August 1, 2012; November 1,*  
8 *2011.*  
9

## REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. Medical Board

RULE CITATION: 21 NCAC 32S .0202

**DEADLINE FOR RECEIPT: December 14, 2015**

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*This Rule requires the use of various forms (e.g. page 1, lines 6, 27, 36). Please see the general note regarding forms, above.*

*In addition, this Rule requires an applicant to submit various materials to the Board, but does not provide an address to which to send the forms. Please reference the address to which the submissions are to be sent.*

*Page 1, line 17 – what is your authority for asserting that the fee is “non-refundable”?*

*Page 1, line 22 – insert “report” after “Inquiry”*

*Page 1, line 32 – delete “or” before “probation” and insert a comma after “probation”*

*Page 2, line 3 – what is a “peer” – a physician assistant?*

*Page 2, line 4 – insert a comma after “member or”*

*Page 2, line 5 – is the “Educational Program” the “Physician Assistant Education Program” defined in 21 NCAC 32S .0201(6)? If so, use the defined term “Physician Assistant Educational Program.”*

*Page 2, line 11 – do you mean that such an applicant will be deemed compliant with the entire Rule .0202 or only with this Subparagraph (14)? Please clarify.*

*Page 2, lines 14-15 – under what circumstances does the Board need additional information to evaluate an application? When the Board might need such information is ambiguous. Please list the factors considered by the Board in determining whether additional information is needed. In any event, delete the phrase “in its discretion”.*

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: November 30, 2015

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

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: November 30, 2015

1 **21 NCAC 32S .0202 is amended, with changes, as published in 30:06 NCR pages 639-643 as follows:**

2  
3 **21 NCAC 32S .0202 QUALIFICATIONS AND REQUIREMENTS FOR LICENSE**

4 (a) Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Board before  
5 practicing as a physician assistant. An applicant for a physician assistant license shall:

- 6 (1) submit a completed application, available at [www.ncmedboard.org](http://www.ncmedboard.org), to the Board;
- 7 (2) meet the requirements set forth in G.S. 90-9.3 and has not committed any of the acts listed in G.S.  
8 90-14;
- 9 (3) supply a certified copy of applicant's birth certificate if the applicant was born in the United States  
10 or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof  
11 of U.S. citizenship, the applicant shall provide information about the applicant's immigration and  
12 work status that the Board shall use to verify applicant's ability to work lawfully in the United  
13 States;
- 14 (4) submit to the Board proof that the applicant completed a Physician Assistant Educational  
15 Program. He or she shall also show successful completion of the Physician Assistant National  
16 Certifying Examination;
- 17 (5) pay to the Board a non-refundable fee of two hundred dollars (\$200.00) plus the cost of a criminal  
18 background check. There is no fee to apply for a physician assistant limited volunteer license;
- 19 (6) submit National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data  
20 Bank (HIPDB) reports. These reports shall be requested by the applicant and submitted to the  
21 Board within 60 days of the request;
- 22 (7) submit a Board Action Data Bank Inquiry from the Federation of State Medical Boards (FSMB).  
23 This report shall be requested by the applicant and submitted to the Board within 60 days of the  
24 request;
- 25 (8) submit to the Board two complete original fingerprint record cards, on fingerprint record cards  
26 supplied by the Board upon request;
- 27 (9) submit to the Board a signed consent form allowing a search of local, state, and national files to  
28 disclose any criminal record;
- 29 (10) disclose whether he or she has ever been suspended from, placed on academic probation, expelled,  
30 or required to resign from any school, including a PA educational program;
- 31 (11) attest that he or she has no license, certificate, or registration as a physician assistant currently  
32 under discipline, revocation, suspension, or probation or any other adverse action resulting from a  
33 health care licensing board;
- 34 (12) certify that he or she is mentally and physically able to safely practice as a physician assistant and  
35 is of good moral character;
- 36 (13) provide the Board with ~~three~~ two original recommendation forms dated within six months of the  
37 application. These recommendations shall come from persons under whom the applicant has

- 1 worked or trained who are familiar with the applicant's academic competence, clinical skills, and  
2 character. At least one reference form shall be from a physician and ~~two the other~~ reference ~~forms~~  
3 ~~form~~ must be from ~~peers~~ a peer under whom the applicant has worked or trained. References shall  
4 not be from any family member or in the case of applicants who have not been licensed anywhere,  
5 references shall not be from fellow students of the applicant's Educational Program;
- 6 (14) if two years or more have passed since graduation from a Physician Assistant Educational  
7 Program, document that he or she has completed at least 100 hours of continuing medical  
8 education (CME) during the preceding two years, at least 50 hours of which must be recognized  
9 by the National Commission on Certification of Physician Assistants as Category I ~~CME~~; and  
10 CME. An applicant who is currently certified with the NCCPA will be deemed in compliance  
11 with this Rule; and
- 12 (15) supply any other information the Board deems necessary to evaluate the applicant's qualifications,  
13 including explanation or documentation of the information required in this Rule.
- 14 (b) An applicant may be required to appear in person for an interview with the Board, if the Board determines in its  
15 discretion that more information is needed to evaluate the application.

16  
17 *History Note: Authority G.S. 90-9.3; 90-11; 90-18(c)(13); 90-18.1;*  
18 *Eff. September 1, 2009;*  
19 *Amended Eff. January 1, 2016; May 1, 2015; March 1, 2011.*  
20