

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Work Certification and Licensure Board

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: Friday, November 11, 2016

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.

Please include the Rule Name in Box 2 on the Submission for Permanent Rule Form

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Friday, October 28, 2016

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Work Certification and Licensure Board

RULE CITATION: 21 NCAC 63 .0102

DEADLINE FOR RECEIPT: Friday, November 11, 2016

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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.

Please put the definitions in alphabetical order.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Friday, October 28, 2016

1 21 NCAC 63 .0102 is readopted as published in 31:01 NCR 35:

2
3 **21 NCAC 63 .0102 DEFINITIONS**

4 Whenever used in this Chapter, the definitions set forth in G.S. 90B-3 are herein incorporated by reference. The
5 following definitions apply in this Chapter:

- 6 (1) NCSWCLB - this designation represents the North Carolina Social Work Certification and
7 Licensure Board.
- 8 (2) CSW - this designation represents the certified social worker level of certification.
- 9 (3) CMSW - this designation represents the certified master social worker level of certification.
- 10 (4) CSWM - this designation represents the certified social work manager level of certification.
- 11 (5) LCSW - this designation represents the licensed clinical social worker level of certification.
- 12 (6) LCSWA - this designation represents the licensed clinical social worker associate level of
13 certification.
- 14 (7) Reprimand. Reprimand is a public rebuke and sanction by the Board for practice misconduct. A
15 reprimand typically is given for less severe offenses and may require specific follow-up actions by
16 the social worker.
- 17 (8) Censure. Censure is an act involving severe condemnation and a sanction by the Board for practice
18 misconduct. Censuring is typically for severe offenses and may require specific follow-up actions
19 by the social worker.
- 20 (9) Probation. Probation ~~is a stay of revocation or suspension allowing limited practice within~~
21 ~~preconditions established by the Board. Violations of these conditions may result in revocation. is~~
22 a period of time in which a license or certification is subject to specific practice conditions
23 determined by the board. The individual is permitted to continue practice subject to compliance
24 with the conditions set forth in the order determining the probation status. A violation of the
25 conditions of probation can result in additional disciplinary action taken by the board.
- 26 (10) Suspension. Suspension is the withdrawal of privilege to practice for a specific period of time.
- 27 (11) Revocation. Revocation is the withdrawal of privilege to practice as a certified or licensed social
28 worker in the State of North Carolina.
- 29 (12) Clinical Social Work Experience. As it relates to the work experience required for LCSW
30 licensure, two years of clinical social work experience in direct practice means the professional
31 application of master or doctoral social work theory, knowledge, methods, ethics, and the
32 professional use of self to restore or enhance social, psychosocial, or biopsychosocial function.
33 Clinical social work experience requires the application of specialized clinical knowledge and
34 advanced clinical skills in the areas of assessment, diagnosis, and treatment, including the use of
35 psychotherapy, or to treat one or more of the following disorders or conditions: mental, emotional,
36 addictive, behavioral, or developmental disorders and conditions. In addition, the clinical social
37 work experience may also include clinical case management, information and referral, mediation,

1 client education, clinical supervision and clinical consultation that is directly related to the
2 treatment plan or personal care plan of a client or consumer.

3 (13) Diagnosis. In the context of licensed clinical social work practice diagnosis is the process of
4 distinguishing, beyond the general social work assessment, among one or more of the following:
5 mental, emotional, addictive, behavioral, or developmental disorders and conditions within a
6 psychosocial framework on the basis of their similar and unique characteristics consistent with
7 American Psychiatric Association or World Health Organization classification systems.

8 (14) Clinical Case Management. A comprehensive approach to care integrating a broad array of
9 interventions to include planning, implementation and management of care for clients with one or
10 more of the following: mental, emotional, addictive, behavioral, or developmental disorders and
11 conditions. Interventions by the clinical case manager shall involve face-to-face contact with the
12 client on a regular basis, shall be grounded in clinical social work theory, and shall be guided by
13 the client's treatment plan or personal care plan.

14 (15) Treatment. Clinical social work intervention, including individual, couples, family, or group
15 psychotherapy, that is empirically grounded and used to help resolve symptoms of one or more of
16 the following: mental, emotional, addictive, behavioral, or developmental disorders and
17 conditions.

18 (16) Surrender. Surrender is the voluntary relinquishment of a certification or license by its holder. The
19 surrender of a certification or license shall be accepted only by Consent Order with the Board.

20 (17) Client. Client means the individual, couple, family, group, organization, or community that seeks
21 or receives social work services. Client status is not dependent on billing or payment of fees for
22 such services. A power of attorney, legal guardian or person who is responsible for making
23 decisions relative to the provision of social work services for a minor or adult is also deemed a
24 recipient of social work services as part of the client system.

25 (18) Client system. Client system means the client and those in the client's environment who are
26 potentially influential in contributing to a resolution of the client's issues.

27
28 *History Note: Authority G.S. 90B-3; 90B-6;*
29 *Eff. August 1, 1987;*
30 *Temporary Amendment Eff. October 1, 1999;*
31 *Amended Eff. October 1, 2012; July 1, 2011; January 1, 2009; July 1, 2000;*
32 *Readopted Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Work Certification and Licensure Board

RULE CITATION: 21 NCAC 63 .0204

DEADLINE FOR RECEIPT: Friday, November 11, 2016

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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.

In (a), please consider changing “Relatives of applicants, clients, or subordinates of applicants may not submit references for applicants” to “The Board shall not accept references by relatives Relatives of applicants, clients, or subordinates of applicants may not submit references for applicants.”

In (a), lines 7 and 8, please change he/she to “he or she” and “himself/herself” to “himself or herself”

In (a), line 9, please delete “particular.”

In (b), for all classifications other than LCSW and CSWM, 90B-7 only requires that they have educational experience and that they have passed an exam. What about those applicants who are new graduates and may not have established professional associations? Is there some sort of internship or externship requirement within the referenced programs?

In (d), please provide a cross reference for comity. It appears as though the comity rule was repealed in 2000 and I don't see this information contained within your statute. Please provide some additional information regarding certification and licensure by comity.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Friday, October 28, 2016

1 21 NCAC 63 .0204 is readopted as published in 31:01 NCR 36:

2

3 **21 NCAC 63 .0204 REFERENCES**

4 (a) Applicants for the LCSW and CSWM classifications shall have a minimum of three references related to the
5 applicant's experience, as required by G.S. 90B-7(d) and (e). Applicants for other classifications shall have a
6 minimum of three references. Relatives of applicants, clients, or subordinates of applicants may not submit
7 references for applicants. A current Board member shall not submit a reference for an applicant unless he/she is the
8 applicant's current or only social work supervisor. In such a case the Board member may submit a reference, but
9 he/she shall excuse himself/herself from review of that particular applicant.

10 (b) All references ~~must~~ shall come from individuals who have or had a professional association with the applicant
11 and have knowledge of the applicant's professional experience in the practice of social work.

12 (c) For applicants for LCSWA licensure, ~~One~~ at least one reference ~~must~~ shall be from one who has been or is
13 currently ~~a supervisor~~ supervising the applicant in a social work setting.

14 (d) For applicants seeking certification or licensure by comity, at least one reference shall be from a registered,
15 certified, or licensed social worker who has been or is currently practicing in a social work setting.

16

17 *History Note: Authority G.S. 90B-6; 90B-7;*

18 *Eff. August 1, 1987;*

19 *Temporary Amendment Eff. October 1, 1999;*

20 *Amended Eff. January 1, 2009; April 1, 2001;*

21 *Readopted Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Work Certification and Licensure Board

RULE CITATION: 21 NCAC 63 .0211

DEADLINE FOR RECEIPT: Friday, November 11, 2016

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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.

In (a), please add “(LCSW)” in between “Worker” and “credential”

For (a)(1) through (a)(3), please include a cross reference to the underlying requirements set forth in 90B-7(d)(2).

Given 21 NCAC 63 .0214 and the pertinent statute, why is it necessary to include information concerning 93B-15 here?

In (b), please add “(CSWM)” in between “Manager” and “credential”

Is the intent in (b) to also incorporate some of the requirements of (a)? Do these somehow work together or are they entirely separate from each other?

For (b)(1) and (b)(2) please include a cross-reference to the underlying requirements set forth in 90B-7(e)(2).

In (b)(2), is “regular basis” the same as it is in (a)(3) in that it must be conducted at least once every two weeks?

In (b)(2), what do you mean by “on at least one level”?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Friday, October 28, 2016

1 21 NCAC 63 .0211 is readopted as published in 31:01 NCR 36:

2
3 **21 NCAC 63 .0211 WORK EXPERIENCE**

4 (a) For the Licensed Clinical Social Worker credential:

5 (1) Two years of post-MSW clinical social work experience shall mean 3,000 clock hours of work or
6 employment for a fee or salary while engaged in the practice of clinical social ~~work~~, work as
7 defined in this Chapter. The 3,000 hours shall be accumulated over a period of time not less than
8 two years nor more than six consecutive years. Practicum or internship experience gained as part
9 of any educational program shall not be included. Pursuant to N.C.G.S. 93B-15.1(a) military
10 applicants may receive credit for military occupational specialty experience obtained post MSW
11 degree and deemed substantially equivalent to clinical social work practice as defined in this
12 Chapter.

13 (2) Appropriate supervision shall mean supervision ~~in-person~~ by ~~an~~ a MSW who is also a Licensed
14 Clinical Social Worker and who is in good standing with the Board. A supervisor formally
15 disciplined by any professional credentialing body or professional organization, or who has
16 violated the provisions of an occupational licensing Board may not provide supervision to an
17 associate licensee without the written permission of the Board. The Licensed Clinical Social
18 Worker Associate's (LCSWA) clinical social work supervisor shall have an additional two years of
19 clinical social work experience post LCSW licensure.

20 (3) Appropriate supervision shall be that which is provided on a regular basis, conducted no less than
21 once every two (2) weeks, with at least one hour of supervision during every 30 hours of
22 experience. A minimum of 100 hours of supervision is required. Unless otherwise preapproved
23 by the Board, no more than 20 hours of supervision may be provided through the use of
24 technology. All supervision provided through the use of technology shall be synchronous, involve
25 visual and audio interaction throughout the entire session, and shall take place in such a manner as
26 to maintain the confidentiality of the communication. It is the professional responsibility of the
27 clinical supervisor to make the initial determination whether or not the applicant's work
28 experience meets the definition of clinical social work practice. The Board shall make the final
29 determination whether or not the applicant's work experience meets the definition of clinical
30 social work practice. Appropriate supervision may be individual or group supervision. Individual
31 supervision shall mean one on one, ~~in-person~~, face-to-face supervision by ~~an~~ a MSW who is also
32 ~~an~~ a LCSW where the supervisor reviews and discusses clinical social work cases, reviews
33 documentation, and provides evaluative comments and direction to the LCSWA. Group
34 supervision shall mean face-to-face supervision provided by ~~an~~ a MSW who is also ~~an~~ a LCSW in
35 a group setting, during which the supervisor reviews and discusses clinical social work cases,
36 reviews documentation, and provides feedback and direction to each LCSWA in the group. A

1 maximum of 25 hours of group supervision may be applied toward meeting the supervision
2 requirements for the LCSW.

3 (b) For the Certified Social Work Manager credential:

4 (1) Two years of post social work degree experience shall mean 3,000 clock hours of employment for
5 a salary while engaged in administrative social work duties including, policy and budgetary
6 development and implementation, supervision and management, program evaluation, planning,
7 and staff development. Such duties shall be carried out in an administrative setting where social
8 work or other mental health services are delivered. The 3,000 hours shall be accumulated over a
9 period of time not less than two years nor more than six consecutive years. Practicum or
10 internship experience gained as part of any educational program shall not be included.

11 (2) Appropriate supervision shall mean face-to-face supervision ~~in-person~~ by a social work
12 administrator certified by the Board on at least one level who has a minimum of ~~five~~ two (2) years
13 of administrative experience in a social work or mental health setting. Appropriate supervision
14 shall be that which is provided on a regular basis throughout the applicant's two years of
15 administrative social work experience. A minimum of 100 hours of supervision is required. A
16 maximum of 50 hours of group supervision may be applied toward meeting the supervision
17 requirements for the CSWM. No more than 20 hours of supervision may be provided through the
18 use of technology. All supervision provided through the use of technology shall be synchronous,
19 involve visual and audio interaction throughout the entire session, and shall take place in such a
20 manner as to maintain the confidentiality of the communication.

21
22 *History Note: Authority G. S. 90B-6; 90B-7;*
23 *Temporary Adoption Eff. October 1, 1999;*
24 *Eff. July 1, 2000;*
25 *Amended Eff. October 1, 2012; January 1, 2009; September 1, 2005;*
26 *Readopted Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Work Certification and Licensure Board

RULE CITATION: 21 NCAC 63 .0214

DEADLINE FOR RECEIPT: Friday, November 11, 2016

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Please correct the Rule citation on line 3 from “21 MCAC 63 .0214” to “21 NCAC 63 .0214”

Given (a), (b), and your other licensing rules, why is (c) necessary?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Friday, October 28, 2016

1 21 NCAC 63 .0214 is adopted as published in 31:01 NCR 37:

2
3 **21 MCAC 63 .0214 CERTIFICATION AND LICENSURE FOR MILITARY PERSONNEL AND**
4 **MILITARY SPOUSES**

5 (a) Upon receipt of a request for certification or licensure pursuant to G.S. 93B-15.1 from an applicant with military
6 training and experience, the Board shall issue a certificate or license upon the applicant's satisfying the following
7 conditions:

8 (1) Has completed and submits to the Board, application information as described in Rules .0202,
9 .0203, and .0204;

10 (2) Has provided to the Board written documentation to satisfy conditions set out in G.S. 93B-15.1(a)
11 and (c); and

12 (3) Has passed the qualifying examination for the level of certification or licensure for which the
13 applicant is applying.

14 (b) Upon receipt of a request for certification or licensure pursuant to G.S. 93B-15.1 from a military spouse, the
15 Board shall issue a certificate or license upon the applicant's satisfying the following conditions:

16 (1) Has completed and submits to the Board, application information as described in Rules .0202,
17 .0203, and .0204;

18 (2) Has provided written documentation to satisfy conditions set out in G.S. 93B-15.1(b) and (c); and

19 (3) Has passed the qualifying examination for the level of certification or licensure for which the
20 applicant is applying.

21 (c) Any military-trained applicant or military spouse applicant who meets the requirements of G.S. 93B-15.1 and is
22 currently licensed, certified, or registered in another jurisdiction may apply for certification or licensure under G.S.
23 90B-8.

24 (1) Applicants for certification and licensure by comity shall have passed an examination in the
25 country, state, or territory in which he or she is currently licensed, certified, or registered that is determined
26 by this Board to be equivalent to the qualifying examination required for the level of certification or license
27 for which the applicant is applying.

28 (2) Military trained applicants and military spouse applicants needing to expedite the licensing
29 process in order to secure employment may apply for a temporary license as described in Rule .0213. A
30 temporary license shall apply only to clinical licensure and requires the following:

31 (A) Submission of an application and official written verification of equivalent licensure,
32 certification, or registration in good standing from the jurisdiction under which the applicant is
33 currently licensed, certified, or registered;

34 (B) Payment of the applicable temporary license fee;

35 (C) Prior to the expiration of the temporary license, the applicant shall fulfill all requirements
36 for documentation of education, experience, training, and examination, and pay any additional
37 application fee as described in Rule .0202. Upon receipt of all required documentation and

1 applicable fees, the Board shall issue the appropriate clinical license for a period not to exceed two
2 years.

3

4 *History Note:* *Authority G.S. 90B-6(h); G.S. 93B-15.1*

5 *Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Work Certification and Licensure Board

RULE CITATION: 21 NCAC 63 .0401

DEADLINE FOR RECEIPT: Friday, November 11, 2016

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In accordance with 26 NCAC 02C .0108(1)(f), please begin the line numbers on page 2 with 1.

In (a), line 3, please change "is" to "shall be"

In (a), line 5, please change "requires" to "shall require"

In (a), line 6, under what circumstances will the credits be approved by the Board? Please see the note below concerning (c)(1) and the use of "may." By addressing the request in (c)(1), you will also address this concern.

In (a), line 6, please delete "However,"

In (a), line 7, please change "are" to "shall be"

In (a), line 7, please change "is" to "shall be"

In (a), line 7, what do you mean by "one unit of credit"? Is this defined elsewhere in Rule? If not, please provide a definition.

In (a), line 8, please change "is" to "shall be"

In (a), line 9, please change "Credit for auditing an academic course shall be for actual clock hours attended during which instruction was given with one clock hour equal to one contact hour of credit." to "Credit for auditing an academic course shall be for

Amber Cronk May
Commission Counsel

Date submitted to agency: Friday, October 28, 2016

actual clock hours *of instruction* attended ~~during which instruction was given~~ with one clock hour equal to one contact hour of credit.” Also, what about for classes that are only 50 minutes long, would this actually be equivalent to 50 minutes or would this count as a credit hour?

Please consider making (a) into a list setting forth how much each hour of credit will be worth. For example, say something like:

“Continuing education credits shall be awarded as follows:

- (1) One unit of credit shall be equal to one contact hour.
- (2) One academic course hour shall be equal to 15 contact hours.
- (3) Credit for auditing an academic course shall be for *actual* clock hours *of instruction* attended ~~during which instruction was given~~ with one clock hour equal to one contact hour of credit

Please note that this language is merely a suggestion – you are in no required to use this language. Another suggestion would be to move the academic information to (c)(1). There is just a lot of information to digest in (a) and I think that breaking it up in one way or another may help for purposes of clarity.

In (c), under what circumstances will these activities be approved? By “may” do you mean “shall”? If you mean “may” please provide how the decision will be made to approve these.

In (c), please change the period after “education” to a colon.

Please change the periods at the end of (c)(1) through (c)(4) to semi-colons and include an “and” at the end of (c)(4).

In (c)(4), please change “which” to “that”

In (c)(4), how is your regulated public made aware of the pre-approved distance learning activities? Is this information available online? If so, please provide the website. If not, please say how to find these courses.

In (c)(4), line 26, please change “are not” to “shall not be”

In (c)(5), what do you mean by “study groups”?

It seems as though sub paragraphs (c)(6) and (c)(7) are not activities. Why are they being included as activities in this Paragraph? Please consider making these stand-alone paragraphs ((d) and (e)).

In (c)(6), please change “6” to “six”

In (c)(7), please change “5” to “five”

Amber Cronk May
Commission Counsel
Date submitted to agency: Friday, October 28, 2016

In (c)(7), please change this to say what credit will be given, rather than what credit will not be given. Suggested language is as follows:

(7) ~~[No more than 5]~~ Up to five contact hours of credit ~~[may be acquired]~~ shall be granted per ~~[during a single]~~ renewal cycle for presenting a ~~formal~~ training focused on social work practice provided that: ~~[the following information can be provided and verified:]~~

(A) the Board receives confirmation ~~[Confirmation]~~ from the organization for which the licensee presented that ~~[which]~~ identifies the licensee as the presenter, confirms the title and date of the presentation, the length of the presentation, and number of attendees; and

(B) ~~The~~ the dates of the presentation ~~[shall fall]~~ occur within the renewal cycle;

Please note that there are other issues in (c)(7) that need to be addressed regardless of whether you use the suggested language. As noted above, please delete or define “formal” on line 35. Please change “which” to “that” on line 37.

In (d)(2), please delete “but not limited to”

Please note that any suggestions in change of language are merely suggestions – you are in no way required to use the suggested language.

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

1 21 NCAC 63 .0401 is readopted as published in 31:01 NCR 37:

2
3 **21 NCAC 63 .0401 CONTINUING EDUCATION REQUIREMENTS**

4 (a) Continuing education for certification or licensure renewal is required to maintain professional knowledge and
5 technical competency. Renewal of certification or licensure requires 40 contact hours of continuing education
6 credits approved by the Board within each two year renewal cycle. However, if a certification or licensure is for less
7 than a full two-year period, then 30 contact hours of continuing education credits are required. One unit of credit is
8 equal to one contact hour. One academic course hour of credit is equal to 15 contact hours. Credit for auditing an
9 academic course shall be for actual clock hours attended during which instruction was given with one clock hour
10 equal to one contact hour of credit.

11 (b) During each renewal period all certified and licensed social workers shall engage in a minimum of four contact
12 hours of continuing education focused on ethics related to social work practice and ethical decision-making.

13 (c) The following activities may be approved for continuing ~~education:~~ education.

14 (1) ~~academic~~ Academic social work courses taken for credit or ~~audit;~~ audit.

15 (2) ~~agency-based~~ Agency-based staff development, seminars, institutes, workshops, mini courses or
16 conferences oriented to social work practice, values, skills and ~~knowledge;~~ knowledge.

17 (3) ~~cross-disciplinary~~ Cross-disciplinary offerings from medicine, law and the behavioral/social
18 sciences or other disciplines, if such offerings are related to social work practice, values, skills and
19 ~~knowledge;~~ knowledge.

20 (4) ~~distance~~ Distance learning activities including online courses and home study courses which have
21 been pre-approved by the Association of Social Work Boards (ASWB) or the North Carolina
22 Chapter of the National Association of Social Workers (NASW-NC). The maximum continuing
23 education credit granted for distance learning activities is one half of the required hours, up to a
24 maximum of 20 contact hours per renewal period. Live synchronous audio-video broadcasts
25 allowing for real time interaction between the instructor and participants attending through
26 electronic means are not considered distance learning activities.

27 (5) ~~study~~ Study groups focusing on social work practice if the following can be documented:

28 (A) study topic;

29 (B) study material;

30 (C) facilitator; and

31 (D) date and hours of attendance.

32 (6) Continuing education focusing on practitioner self-care and well-being shall not exceed 6 contact
33 hours of credit during a single renewal cycle.

34 (7) No more than 5 contact hours of credit may be acquired during a single renewal cycle for
35 presenting a formal training focused on social work practice provided the following information
36 can be provided and verified:

37 (A) Confirmation from the organization for which the licensee presented which identifies the
38 licensee as the presenter, confirms the title and date of the presentation, the length of the
39 presentation, and number of attendees; and

40 (B) The dates of the presentation shall fall within the renewal cycle;

41 (d) Credit shall not be granted for:

42 (1) identical programs completed within the same renewal period;

43 (2) ~~job orientation;~~ orientation or training directed at procedural mandates such as, but not limited to
44 health and safety practices, new hire training, and compliance training; or

45 ~~(3) on the job training; or~~

46 ~~(4)~~(3) supervision and case consultation.

47

48

49 *History Note: Authority G.S. 90B-6; 90B-9;*

50 *Eff. August 1, 1987;*

51 *Amended Eff. September 1, 1993;*

52 *Temporary Amendment Eff. October 1, 1999;*

53 *Amended Eff. January 1, 2009; September 1, 2005; April 1, 2001.*

54 *Readopted Eff. February 1, 2017.*

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: NC Social Work Certification and Licensure Board

RULE CITATION: **21 NCAC 63 .0505**

RECOMMENDED ACTION:

- X Approve, but note staff's comment
- X Object, based on:
 - X Lack of statutory authority
 - X Unclear or ambiguous
 - Unnecessary
 - Failure to adopt the rule in accordance with the APA
- Extend the period of review
- Return the rule to the agency for failure to comply with the Administrative Procedure Act

COMMENT:

Staff is recommending objection this Rule as being unclear and ambiguous. Staff is also recommending objection to the newly adopted language in Item (5) as being beyond the Board's statutory authority.

Line 5 of this Rule requires the social worker to "know the areas of competence of other professions" without providing additional information. It is unclear whether the social worker is expected to know about all other professions or just those professions that may be beneficial in regard to his or her work as a social worker.

Item (1) of this Rule requires the social worker to "treat with respect and represent accurately the views, qualifications, and findings of colleagues and when expressing judgement on these matters... do so fairly and through appropriate channels." No additional information is provided. As written, it is unclear how the social worker is to "fairly" express judgment and also what "appropriate channels" may be.

Item (2) of this Rule requires the social worker to refer clients to "professionals who are recognized by their respective profession as competent to carry out the services required." No additional information is provided. It is unclear how the social worker will know whether someone is "competent" and how they are to make that determination.

Amber Cronk May
Commission Counsel

Item (3) of this Rule is unclear and ambiguous as written as it does not indicate what is actually required of the social worker.

Item (4) of this Rule requires that social workers “fairly” evaluate the performance of supervisees. It is unclear how the social worker is to “fairly” evaluate. Further, this rule requires that “social workers shall not harass... supervisees, students, trainees, or other colleagues... [and] shall not abuse the power inherent in their position.” No additional information is provided. It is unclear what is meant by “harass” and also how one is to “not abuse the power.”

Further, it is staff’s opinion that the newly adopted provisions outlined in Item (4) go beyond the statutory authority of the Board. 90B-6(h) allows the Board to promulgate Rules “to carry out the purpose of this Chapter, including but not limited to the power to adopt ethical and disciplinary standards.” 90B-2 indicates that the purposes of this “Chapter is to protect the public...” Staff does not believe that the new requirements that social workers “not engage in sexual relationships with supervisees, students, trainees, or other colleagues over whom they exercise professional authority” is necessary to protect the public; therefore, it is staff’s opinion that this requirement goes beyond the Board’s statutory authority.

Item (5) of this Rule requires “equally appropriate steps to assist and defend colleagues unjustly charged with [unethical or incompetent] conduct.” No additional information is provided. As written it is unclear what constitutes an “unjust charge.” Further, it is unclear as to what exactly is expected of the social worker in these cases as “equally appropriate steps” is ambiguous.

§ 90B-2. Purpose.

Since the profession of social work significantly affects the lives of the people of this State, **it is the purpose of this Chapter to protect the public** by setting standards for qualification, training, and experience for those who seek to represent themselves to the public as certified social workers or licensed clinical social workers and by promoting high standards of professional performance for those engaged in the practice of social work. (1983, c. 495, s. 1; 1999-313, s. 1.)

§ 90B-6. Functions and duties of the Board.

- (a) The Board shall administer and enforce the provisions of this Chapter.
- (b) The Board shall elect from its membership, a chairperson, a vice-chairperson, and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Board meetings.
- (c) The Board shall examine and pass on the qualifications of all applicants for certificates and licenses under this Chapter, and shall issue a certificate or license to each successful applicant therefor.
- (d) The Board may adopt a seal which may be affixed to all certificates and licenses issued by the Board.
- (e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Chapter from the fees which it collects, but in no event shall expenditures exceed the revenues of the Board during any fiscal year. No State appropriations shall be subject to the administration of the Board.
- (f) Repealed by Session Laws 1999-313, s. 1, effective July 1, 1999.
- (g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for certification, licensure, and renewal of certification and licensure, including the power to adopt or use examination materials and accreditation standards of the Council on Social Work Education or other recognized accrediting agency and the power to establish reasonable standards for continuing social work education; provided that for certificate and license renewal no examination shall be required; provided further, that the Board shall not have the power to withhold approval of study or training courses offered by a college or university having a social work program approved by the Council on Social Work Education.
- (h) **Subject to the provisions of Chapter 150B of the General Statutes, the Board shall have the power to adopt rules to carry out the purposes of this Chapter, including but not limited to the power to adopt ethical and disciplinary standards.**
- (i) The Board may order that any records concerning the practice of social work and relevant to a complaint received by the Board or an inquiry or investigation conducted by or on behalf of the Board shall be produced by the custodian of the records to the Board or for inspection and copying by representatives of or counsel to the Board. A social worker licensed by the Board or an agency employing a social worker licensed by the Board shall maintain records for a minimum of three years from the date the social worker terminates services to the client and the client services record is closed. A social worker certified or licensed by the Board shall cooperate fully and in a timely manner with the Board and its designated representatives in an inquiry or investigation of the records conducted by or on behalf of the Board.
- (j) The Board shall have the power to employ or retain professional personnel, including legal counsel, subject to G.S. 114-2.3, or clerical or other special personnel deemed necessary to carry out the provisions of this Chapter. (1983, c. 495, s. 1; 1987, c. 827, s. 1; 1995, c. 344, s. 1; 1999-313, s. 1; 2005-129, s. 1; 2007-379, s. 2.)

§ 90B-11. Disciplinary procedures.

(a) The Board may, in accordance with the provisions of Chapter 150B of the General Statutes, deny, suspend, or revoke an application, certificate, or license on any of the following grounds:

- (1) Conviction of a misdemeanor or the entering of a plea of guilty or nolo contendere to a misdemeanor under this Chapter.
- (2) Conviction of a felony or the entering of a plea of guilty or nolo contendere to a felony under the laws of the United States or of any state of the United States.
- (3) Gross unprofessional conduct, dishonest practice or incompetence in the practice of social work.
- (4) Procuring or attempting to procure a certificate or license by fraud, deceit, or misrepresentation.
- (5) Any fraudulent or dishonest conduct in social work.
- (6) Inability of the person to perform the functions for which he or she is certified or licensed, or substantial impairment of abilities by reason of physical or mental disability.
- (7) Violations of any of the provisions of this Chapter or of rules of the Board.

1 21 NCAC 63 .0505 is readopted as published in 31:01 NCR 38:

2
3 **21 NCAC 63 .0505 RELATIONSHIPS WITH COLLEAGUES**

4 Social workers shall act with integrity in their relationships with colleagues and other professionals. They shall
5 know the areas of competence of other professionals and shall cooperate with them in serving clients.

6 (1) The social worker shall treat with respect and represent accurately the views, qualifications and
7 findings of colleagues, and when expressing judgment on these matters shall do so fairly and
8 through appropriate channels.

9 (2) In referring clients, social workers shall refer to professionals who are recognized ~~members of~~
10 ~~their own disciplines and are~~ by their respective profession as competent to carry out the services
11 required.

12 (3) If a social worker's services are sought by an individual who is already receiving similar services
13 from another professional, consideration for the client's welfare shall be paramount. It requires the
14 social worker to proceed with great caution, carefully considering both the existing professional
15 relationship and the therapeutic issues involved.

16 (4) Social workers shall accept their responsibility to provide competent professional guidance to
17 colleagues, employees, supervisees, and students. They shall foster working conditions that
18 provide fairness, privacy and protection from physical or mental harm. They shall evaluate fairly
19 the performance of those under their supervision, and share evaluations with supervisees. Social
20 Workers shall not harass and shall not engage in sexual relationships with supervisees, students,
21 trainees, or other colleagues over whom they exercise professional authority. They shall not abuse
22 the power inherent in their position.

23 (5) Social workers shall take appropriate measures to discourage, prevent, expose and correct
24 unethical or incompetent behavior by colleagues, including reporting incompetent and unethical
25 behavior to the appropriate licensing authority, but shall take equally appropriate steps to assist
26 and defend colleagues unjustly charged with such conduct.

27
28 *History Note: Authority G.S. 90B-6; 90B-11;*
29 *Eff. March 1, 1994.*
30 *Readopted Eff. February 1, 2017*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Work Certification and Licensure Board

RULE CITATION: 21 NCAC 63 .0610

DEADLINE FOR RECEIPT: Friday, November 11, 2016

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 (a), how does your regulated public know who the “designated presiding officer” is?

In (b), by the “Rules of Civil Procedure”, I assume you mean “North Carolina Rules of Civil Procedure as set forth in G.S. 1A-1”? If so, please include this information in the Rule.

Please consider switching (c) and (d).

In (d), by “may” do you mean “shall”? It seems as though this would be something that the hearing officer would always consider. Also, please delete or define “effectively.”

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

Amber Cronk May
Commission Counsel
Date submitted to agency: Friday, October 28, 2016

1 21 NCAC 63 .0610 is adopted as published in 31:01 NCR 39:

2

3 **21 NCAC 63 .0610 CONTINUANCES**

4 (a) All motions for continuance shall be addressed to the Chair or the designated presiding officer of the contested
5 case hearing.

6 (b) Motions for a continuance of a hearing may be granted in accordance with the Rules of Civil Procedure. The
7 Board is not required to grant a motion to continue.

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

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

12 (e) A motion for a continuance filed less than seven calendar days from the date of the hearing shall be denied if a
13 continuance has been previously granted unless the reason for the motion could not have been ascertained earlier.

14

15 *History Note:* G.S. 90B-6(h); G.S. 150B-38(h).

16 Eff. February 1, 2017.