

## 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 Podiatry Examiners

RULE CITATION: 21 NCAC 52 .0201, .0207

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:

For review of the Rules Review Commission, please see the following attachments:

- (1) Rules proposed for amendment as published in the December 15, 2016 31:12 Register;
- (2) Rules adopted for amendment by the Board on February 13, 2017 and as filed for review by the Rules Review Commission;
- (3) Application for Podiatry License, as referenced in Rule .0201; and
- (4) Renewal Application to Practice as a Podiatrist, as referenced in Rule .0207.

Under G.S. 150B-21.2(g), an agency should not adopt a substantially different rule after the close of the comment period, unless the text is republished for additional comments.

- (g) Adoption. - An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. Prior to adoption, an agency shall review any fiscal note that has been prepared for the proposed rule and consider any public comments received in connection with the proposed rule or the fiscal note. An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the

proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

- (1) Affects the interests of persons who, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.
- (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.
- (3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

When an agency adopts a rule, it shall not take subsequent action on the rule without following the procedures in this Part. An agency must submit an adopted rule to the Rules Review Commission within 30 days of the agency's adoption of the rule.

In looking at the text of 21 NCAC .0201, .0207, as published in the December 15, 2016 Register, the proposed text of these Rules indicated that the applicant shall report on the application for license or application for renewal whether the applicant has “been a patient for the treatment of a medical illness; been addicted to drugs or alcohol” See Rule .0201 on page 1249 of 31:12 and Rule .0207 on page 1250 of 31:12. After the close of the comment period, the Board of Podiatry Examiners adopted the following language for these Rules and submitted it for review to the Rules Review Commission:

been a patient for the treatment of mental illness; been addicted to drugs or alcohol; had any medical, chemical dependency or psychiatric conditions that might adversely affect the applicant's ability to practice medicine or surgery or to perform the essential functions of the position; is presently engaged in illegal drug use; has any physical, mental or substance abuse problems that could impede the applicant's ability to provide care according to standards of professional performance or pose a threat to the health or safety of patients; has any history of alcohol, drug or chemical abuse or dependency (unrelated to prescription drugs medically required to treat a chronic condition);

See lines 31 through page 2, line 1 of Rule .0201, and page 2, lines 6 through 12 of Rule .0207.

The text as proposed in the Register for “been a patient for the treatment of mental illness; been addicted to drugs or alcohol;” reflects verbatim content of the Application for Podiatry License. The Renewal Application to Practice as a Podiatrist does not contain a request for such information.

As adopted by the Board, the requirements placed upon the regulated public are substantially more specific than the text as published in the Register, or as it presently exists on the Application for Podiatry License. The adopted language was not available to the regulated public and has not been subjected to public comments.

Based upon this substantial change, it is staff's recommendation that 21 NCAC .0201, .0207, be republished in accordance with G.S. 150B-21.2(f), which states the following:

(f) Comments. - An agency must accept comments on the text of a proposed rule that is published in the North Carolina Register and any fiscal note that has been prepared in connection with the proposed rule for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must consider fully all written and oral comments received.

**Summary:**

The Board of Podiatry Examiners has submitted two permanent rules, 21 NCAC .0201, .0207, that differs substantially from the proposed text published in the December 15, 2016 31:12 Register. Therefore, it is staff's recommendation that the Rules Review Commission should object to 21 NCAC .0201, .0207 for failure to comply with the Administrative Procedure Act. These rules, with the additional language added after publication, should be republished in the Register for at least a 60-day comment period.

# ***NORTH CAROLINA REGISTER***

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**December 15, 2016**

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**Location:** North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

**Reason for Proposed Action:** The Board has proposed the amendment of its licensing examination rule in order to adopt the examination administrator's maximum recommended number of attempts to pass the examination. In addition, the Board has proposed clarification of the existing rule provisions.

**Comments may be submitted to:** Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919) 246-1056, email jcampbell@ncbop.org

**Comment period ends:** 9:00 a.m., February 21, 2017

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

## SECTION .1500 - ADMISSION REQUIREMENTS: EXAMINATIONS

### 21 NCAC 46 .1505 EXAMINATION

- (a) The applicant shall pass the following examinations:
- (1) the North American Pharmacist Licensure Examination ("NAPLEX"); and a national examination;
  - (2) the North Carolina version of the Multistate Pharmacy Jurisprudence Examination ("MPJE"); a jurisprudence examination; and
  - (3) a practical examination which includes an error and omission section.
- (b) In order to pass either the NAPLEX or the MPJE, the applicant shall achieve the passing score set by the National Association of Boards of Pharmacy (or any organization designated by the National Association of Boards of Pharmacy to administer the NAPLEX or the MPJE). For the purpose of

~~grading or rating, the answers, which shall be legible, shall be valued by marks or points based on their importance, as determined by the judgment of the examiners.~~

(c) An applicant who achieves a passing score on one examination must achieve a passing score on the remaining examination within a two calendar year period starting from the date of the first passing score. Failure to achieve passing scores on both examinations in this two calendar year period shall result in the applicant's application for licensure being denied. The applicant may, subject to the testing attempt limitations of Paragraph (d) of this Rule, reapply for licensure and restart the examination process. In order to pass, a score of 75 or more is required on each examination. Candidates who obtain a score of 75 or more on each examination are deemed to have passed the respective examination provided that the candidate obtains a passing score on the remaining examinations within the next following two calendar years. If the examination is taken outside of North Carolina, the examination score shall be properly transferred to North Carolina. A candidate who fails to pass all three examinations in the two calendar year period must retake and pass all three examinations within a two calendar year period.

(d) The applicant shall be afforded a total of five attempts to achieve a passing score on each examination. Failure to achieve a passing score on each examination within five attempts shall result in the applicant being ineligible for licensure. At the time of the examination, the Board may designate certain questions which, if missed, shall require the candidate to obtain continuing education. The continuing education required will be specified by the Board and must be obtained by the candidate prior to issuance of a pharmacist license.

Authority G.S. 90-85.15; 90-85.16.

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## CHAPTER 52 – BOARD OF PODIATRY EXAMINERS

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Podiatry Examiners intends to adopt the rules cited as 21 NCAC 52 .0214, .0409 and amend the rules cited as 21 NCAC 52 .0201 and 0207.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.ncpbe.org/content/executive-board](http://www.ncpbe.org/content/executive-board)

**Proposed Effective Date:** April 1, 2017

**Public Hearing:**

**Date:** February 9, 2017

**Time:** 10:00 a.m.

**Location:** Conference Room, FirstPoint Management Resources, 1500 Sunday Drive, Suite 102, Raleigh, NC 27607

**Reason for Proposed Action:**

**21 NCAC 52 .0201 and .0207** – To obtain Drug Enforcement Administration (DEA) license numbers from new and existing licensee and make some updates to a few questions on the renewal application form.



**21 NCAC 52 .0214** – To implement a procedure whereby the Board may investigate unlicensed activity, provide notice of possible violations, and seek injunctive relief.

**21 NCAC 52 .0409** – To provide procedures for both hardcopy and online complaints and their resolution, including administrative hearings, if necessary.

**Comments may be submitted to:** Penny De Pas, Executive Secretary, NC Board of Podiatry Examiners, 1500 Sunday Dr., #102, Raleigh, NC 27607-5151

**Comment period ends:** February 13, 2017

#### Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

#### Fiscal impact (check all that apply).

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

### SECTION .0200 – EXAMINATION AND LICENSING

#### 21 NCAC 52 .0201 APPLICATION

(a) Any applicant for a license to practice podiatry shall submit a written application to the executive secretary of the board. Such Application for Examination or Application of Reciprocity shall be made on a form provided from the board's website (<http://www.ncbpe.org>) or from the board's office as set forth in Rule .0101 of this Chapter. The application shall require the following information:

- (1) Application type (Regular, Temporary Military, Clinical Residency);
- (2) Date of Application;
- (3) Social Security Number-Number;
- (4) Drug Enforcement License Number (DEA), if any;
- (5) National Provider Number (NPI), if any;
- (4)(6) Last name, first name, and middle name;
- (5)(7) Mailing address, including city, state, and zip code;

- (6)(8) Telephone number and type (home, mobile, business);
- (7)(9) Email address;
- (8)(10) Whether or not a U.S. citizen;
- (9)(11) Whether or not the applicant has or is serving in the military, awarded an MOS in podiatry and date, whether or not the applicant's spouse is currently serving in the military, and dates of service;
- (40)(12) Education (high school, college or university, graduate or professional, residencies, internships, fellowship training), including name and location of institution, dates attended, graduation completion, major and minor, and type of degree received;
- (44)(13) Whether or not the applicant intends to practice in North Carolina upon licensure;
- (42)(14) Whether or not the applicant has been licensed in another state or territory and, if so, state or territory, date of issue, expiration date, disciplinary actions (if any), and how license was obtained;
- (43)(15) Whether or not the licensee has ever had a license revoked, suspended, denied, or cancelled; denied the privilege of taking an exam; dropped, suspended, warned, placed on scholastic or disciplinary probation, expelled, or requested to resign from any school, college, or university, or advised by any such school of institution to discontinue studies therein; been a defendant in a legal action involving professional liability (malpractice), been named in a malpractice suit, had a professional liability claim paid on the applicant's behalf or paid such a claim; been a patient for the treatment of mental illness; been addicted to drugs or alcohol; or been convicted of a felony; and any explanation regarding such information that the applicant wishes to present to the board.
- (44)(16) Whether or not the applicant has previously taken the North Carolina exam and when;
- (45)(17) Whether or not the applicant requires special disability accommodations to take the board's examination;
- (46)(18) The reasons why the applicant is applying for licensure in North Carolina;
- (47)(19) A list of three references;
- (48)(20) Applicant's oath;
- (49)(21) A passport-quality photograph taken within 60 days prior to the date of the application; and
- (20)(22) Applicant's signature.

(b) Applicants shall furnish the board with proof that the applicant meets the educational and examination requirements set forth in G.S. 90-202.5(a)

(c) The application shall be accompanied by a non-refundable application fee of three hundred fifty dollars (\$350.00).

(d) Applications shall also be notarized by a Notary Public in good standing.

Authority G.S. 90-202.5; 90-202.6; 90-202.7.

## 21 NCAC 52 .0207 ANNUAL RENEWAL OF LICENSE

(a) The executive secretary of the board shall mail to the last known address of each license holder each year a form on which to apply for renewal of his or her license. The renewal application shall be pre-populated with information contained in the board's licensee database with a space for corrections or additions with regard to the following information about the licensee:

- (1) Social security number;
- (2) NPI number;
- (3) Drug Enforcement Administration License Number, if any;
- (3)(4) Marital status;
- (4)(5) Name;
- (5)(6) NC license number;
- (6)(7) Birthdate;
- (7)(8) Other states licensed in and license numbers;
- (8)(9) Home address and phone number;
- (9)(10) Business address and phone number;
- (10)(11) Preferred mailing address (business or home);
- (11)(12) Email address;
- (12)(13) Whether or not the licensee would like to receive email correspondence from the board;
- (13)(14) Medicare provider number;
- (14) ~~Specialty area of practice (e.g., general surgery, podogeriatrics, podopediatrics, foot orthopedics or biomechanics, other);~~
- (15) Present active status (e.g., ~~active full time, active part time, active~~, teaching, retired, residency, other);
- (16) Principal setting of practice (e.g., hospital, nursing home, free-standing clinic, group, practitioner's office, nonfederal health facility, military facility, Veteran's Administration medical facility, school, other);
- (17) Form of employment (e.g., self-employed as a solo practitioner or non-solo practitioner, or employee of individual practitioner, partnership or group, government, other);
- (18) National board certifications (American Board of Podiatry-Podiatric Surgery, American Board of Foot and Ankle Surgery, American Board of Lower Extremity Surgery, and American Board of Multiple Specialties in Podiatry); ~~College of Foot & Ankle Surgery~~;
- (19) Hospital staff privileges (hospital, location, date privileges began, type of privileges), any denial of such privileges, and the reason for such ~~denial~~; denial since last renewal application;
- (20) Whether or not the licensee performs Amputations, Ankle Surgery, and/or Clubfoot procedures;
- (21) Whether or not the licensee is granted specialty privileges by the board for Amputations, Ankle Surgery, and/or Clubfoot procedures;

- (22) Continuing Medical Education (CME) credits earned in the previous license year, pursuant to G.S. 90-202.11 and S.L. 2015-241, s. 12F, 16(c);
- (23) Whether or not the licensee has ever had a license revoked, suspended, denied, or cancelled; been a defendant in a legal action involving professional liability (malpractice), been named in a malpractice suit, had a professional liability claim paid on the applicant's behalf or paid such a claim; been a patient for the treatment of mental illness; been addicted to drugs or alcohol or treated for same; or been convicted of a felony; and any explanation regarding such information that the applicant wishes to present to the board;
- (24) Original signature;
- (25) Date of renewal application; or
- (26) Desire not to renew license.

(b) The renewal form and accompanying documents shall be returned to the board's offices as set forth in Rule .0101 with the original signatures of the licensed podiatrist. The penalties for failure to comply with this Rule are specified in G.S. 90-202.10.

(c) If the licensee does not receive his or her renewal application from the board directly, the licensee may obtain a generic copy, without the pre-populated information, from the board's website at <http://www.ncbpe.org> or by contacting the board's office as set forth in Rule .0101 of this Chapter.

Authority G.S. 90-202.4(g); 90-202.10; 90-202.11; S.L. 2015-241, s. 12F, 16(c).

## 21 NCAC 52 .0214 NOTICE OF UNLICENSED ACTIVITY

The Board may exercise its authority to investigate unlicensed activity, provide notice of possible violations, and seek injunctive relief pursuant to G.S. 90-202.13.

Authority 90-202.13.

## SECTION .0400 – REVOCATION OR SUSPENSION OF LICENSE

### 21 NCAC 52 .0409 COMPLAINTS

(a) Any person may file a complaint, pursuant to G.S. 150B, Article 3A, against a licensed podiatrist with the board by completing the online complaint form on the board website, <http://www.ncbpe.org> or by providing a completed hardcopy complaint form to the Board, which may be obtained from the board's offices as listed in Rule .0101 of this Chapter.

(b) The complaint shall set forth the name and contact information of the podiatrist against whom the complaint is lodged, a summary of the facts of the complaint, the complainant's name, mailing address and phone number, and whether or not a copy of the complaint may be sent to the podiatrist about whom the complaint is lodged. Within 14 days of a hardcopy complaint received by the board, a receipt notification shall be sent to the complainant by mail. If an online complaint has been submitted to the board, an electronic receipt notification shall automatically

be generated and emailed to the board's Executive Secretary and the complainant. A copy of the complaint shall be sent to the respondent named in the complaint, if so authorized by the complainant; otherwise, the complaint shall be filed in the podiatrist's file for future reference. Should the complaint be sent to the podiatrist, said podiatrist shall respond to the complaint in writing to the board within 45 days of receipt of the complaint and provide the board with a copy of the complainant's medical records pursuant to any board request.

(c) At such time as a complaint is received at the board's office and authorization given by the complainant to share the complaint with the podiatrist against whom the complaint is lodged, the Executive Secretary shall notify the board's appointed Grievance Committee members with a copy of the complaint. A Grievance Committee member who does not have a conflict of interest as defined in G.S. 138A-36(a) shall be assigned to conduct an investigation to determine if probable cause exists that a violation of the Podiatry Practice Act (G.S. 90-202.8) may have occurred. After review, should it be deemed necessary by the Grievance Committee member assigned to the case that further investigation is required to determine if probable cause exists, an outside investigator may be retained with the board's permission.

(d) Should the Grievance Committee member determine that no probable cause exists that there was a violation of the Podiatry Practice Act, the Grievance Committee member shall submit a summary of his investigation and conclusion first to the remaining members of the Grievance Committee, and if the members concur, to the board for approval. If the decision is approved by the board at a regularly called meeting of the board, both the complainant and respondent shall be notified of the disposition of the case within 14 days of the board's decision.

(e) Should the Grievance Committee determine that probable cause of a violation of the Podiatry Practice Act does exist, the Committee shall notify the board and an administrative hearing in compliance with G.S. 150B shall be scheduled. The complainant and the respondent shall be given Notice of the Hearing and the disposition of the case.

Authority G.S. 90-202.8; 150B, Article 3A; [H1007 – G.S. 93B-22].

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## TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Office of Administrative Hearings intends to amend the rules cited as 26 NCAC 03 .0120 and .0502.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.ncoah.com](http://www.ncoah.com)

**Proposed Effective Date:** April 1, 2017

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): Send any request for a public hearing to Bill Culpepper, General Counsel, Office of Administrative Hearings at [bill.culpepper@oah.nc.gov](mailto:bill.culpepper@oah.nc.gov) on or before January 3, 2017.*

**Reason for Proposed Action:** *To provide a delay in contested case hearings when an unrepresented party is seeking pro bono or reduced fee legal assistance (26 NCAC 03 .0120); and to provide for the filing and service of contested case documents by e-OAH users when e-OAH is subject to technical failure (26 NCAC 03 .0502).*

**Comments may be submitted to:** Bill Culpepper, General Counsel, Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, NC 27609, phone (919) 431-3067, fax (919) 431-3100, [bill.culpepper@oah.nc.gov](mailto:bill.culpepper@oah.nc.gov).

**Comment period ends:** February 13, 2017

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

## CHAPTER 03 – HEARINGS DIVISION

### SECTION .0100 – HEARING PROCEDURES

#### 26 NCAC 03 .0120 RIGHTS AND RESPONSIBILITIES OF PARTIES

(a) A party shall have all evidence to be presented, both oral and written, available on the date for hearing. In cases when the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the administrative law judge or agreed upon at a prehearing conference.

(b) The administrative law judge shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the administrative law judge shall simultaneously send a copy to all other parties.



21 NCAC 52 .0201 is amended with changes as published in 31:12 NCAC 1248-1251 as follows:

**21 NCAC 52 .0201 APPLICATION**

(a) Any applicant for a license to practice podiatry shall submit a written application to the executive secretary of the board. Such Application for Examination or Application of Reciprocity shall be made on a form provided from the board's website (<http://www.ncbpe.org>) or from the board's office as set forth in Rule .0101 of this Chapter. The application shall require the following information:

- (1) Application type (Regular, Temporary Military, Clinical Residency);
- (2) Date of Application;
- (3) Social Security ~~Number~~ Number;
- (4) Drug Enforcement License Number (DEA), if any;
- (5) National Provider Number (NPI), if any;
- ~~(4)~~ (6) Last name, first name, and middle name;
- ~~(5)~~ (7) Mailing address, including city, state, and zip code;
- ~~(6)~~ (8) Telephone number and type (home, mobile, business);
- ~~(7)~~ (9) Email address;
- ~~(8)~~ (10) Whether or not a U.S. citizen;
- ~~(9)~~ (11) Whether or not the applicant has or is serving in the military, awarded an MOS in podiatry and date, whether or not the applicant's spouse is currently serving in the military, and dates of service;
- ~~(10)~~ (12) Education (high school, college or university, graduate or professional, residencies, internships, fellowship training), including name and location of institution, dates attended, graduation completion, major and minor, and type of degree received;
- ~~(11)~~ (13) Whether or not the applicant intends to practice in North Carolina upon licensure;
- ~~(12)~~ (14) Whether or not the applicant has been licensed in another state or territory and, if so, state or territory, date of issue, expiration date, disciplinary actions (if any), and how license was obtained;
- ~~(13)~~ (15) Whether or not the licensee has ever had a license revoked, suspended, denied, or cancelled; denied the privilege of taking an exam; dropped, suspended, warned, placed on scholastic or disciplinary probation, expelled, or requested to resign from any school, college, or university, or advised by any such school of institution to discontinue studies therein; been a defendant in a legal action involving professional liability (malpractice), been named in a malpractice suit, had a professional liability claim paid on the applicant's behalf or paid such a claim; been a patient for the treatment of mental illness; been addicted to drugs or alcohol; had any medical, chemical dependency or psychiatric conditions that might adversely affect the applicant's ability to practice medicine or surgery or to perform the essential functions of the position; is presently engaged in illegal drug use; has any physical, mental or substance abuse problems that could impede the applicant's ability to provide care according to standards of professional performance or pose a threat to the health or safety of patients; has any history of alcohol, drug or chemical abuse or dependency (unrelated to prescription

drugs medically required to treat a chronic condition; or been convicted of a felony; and any explanation regarding such information that the applicant wishes to present to the board.

~~(14)~~ (16) Whether or not the applicant has previously taken the North Carolina exam and when;

~~(15)~~ (17) Whether or not the applicant requires special disability accommodations to take the board's examination;

~~(16)~~ (18) The reasons why the applicant is applying for licensure in North Carolina;

~~(17)~~ (19) A list of three references;

~~(18)~~ (20) Applicant's oath;

~~(19)~~ (21) A passport-quality photograph taken within 60 days prior to the date of the application; and

~~(20)~~ (22) Applicant's signature.

(b) Applicants shall furnish the board with proof that the applicant meets the educational and examination requirements set forth in G.S. 90-202.5(a)

(c) The application shall be accompanied by a non-refundable application fee of three hundred fifty dollars (\$350.00).

(d) Applications shall also be notarized by a Notary Public in good standing.

*History Note:* Authority G.S. 90-202.5; 90-202.6; 90-202.7;  
Eff. February 1, 1976;  
Amended Eff. April 1, 2017; June 1, 2011; April 1, 2005; January 1, 2005; December 1, 1988;  
Readopted Eff. September 1, 2016.

21 NCAC 52 .0207 is amended with changes as published in 31:12 NCAC 1248-1251 as follows:

**21 NCAC 52 .0207 ANNUAL RENEWAL OF LICENSE**

(a) The executive secretary of the board shall mail to the last known address of each license holder each year a form on which to apply for renewal of his or her license. The renewal application shall be pre-populated with information contained in the board's licensee database with a space for corrections or additions with regard to the following information about the licensee:

- (1) Social security number;
- (2) NPI number;
- (3) Drug Enforcement Administration License Number, if any;
- ~~(3)~~ (4) Marital status;
- ~~(4)~~ (5) Name;
- ~~(5)~~ (6) NC license number;
- ~~(6)~~ (7) Birthdate;
- ~~(7)~~ (8) Other states licensed in and license numbers;
- ~~(8)~~ (9) Home address and phone number;
- ~~(9)~~ (10) Business address and phone number;
- ~~(10)~~ (11) Preferred mailing address (business or home);
- ~~(11)~~ (12) Email address;
- ~~(12)~~ (13) Whether or not the licensee would like to receive email correspondence from the board;
- ~~(13)~~ (14) Medicare provider number;
- ~~(14) Specialty area of practice (e.g., general, surgery, podogeriatrics, podopediatrics, foot orthopedics or biomechanics, other);~~
- (15) Present active status (e.g., ~~active full-time, active part-time,~~ active, teaching, retired, residency, other);
- (16) Principal setting of practice (e.g., hospital, nursing home, free-standing clinic, group, practitioner's office, nonfederal health facility, military facility, Veteran's Administration medical facility, school, other);
- (17) Form of employment (e.g., self-employed as a solo practitioner or non-solo practitioner, or employee of individual practitioner, partnership or group, government, other);
- (18) National board certifications (American Board of ~~Podiatry~~ Podiatric Surgery, American Board of Foot and Ankle Surgery, American Board of Lower Extremity Surgery, and American Board of Multiple Specialties in Podiatry); ~~College of Foot & Ankle Surgery);~~
- (19) Hospital staff privileges (hospital, location, date privileges began, type of privileges), any denial of such privileges, and the reason for such ~~denial;~~ denial since last renewal application;
- (20) Whether or not the licensee performs Amputations, Ankle Surgery, and/or Clubfoot procedures;
- (21) Whether or not the licensee is granted specialty privileges by the board for Amputations, Ankle Surgery, and/or Clubfoot procedures;

(22) Continuing Medical Education (CME) credits earned in the previous license year, pursuant to G.S. 90-202.11 and S.L. 2015-241, s. 12F, 16(c);

(23) Whether or not the licensee has ever had a license revoked, suspended, denied, or cancelled; been a defendant in a legal action involving professional liability (malpractice), been named in a malpractice suit, had a professional liability claim paid on the applicant's behalf or paid such a claim; ~~been a patient for the treatment of mental illness; been addicted to drugs or alcohol;~~ had any medical, chemical dependency or psychiatric conditions that might adversely affect the applicant's ability to practice medicine or surgery or to perform the essential functions of the position; is presently engaged in illegal drug use; has any physical, mental or substance abuse problems that could impede the applicant's ability to provide care according to standards of professional performance or pose a threat to the health or safety of patients; has any history of alcohol, drug or chemical abuse or dependency (unrelated to prescription drugs medically required to treat a chronic condition); or been convicted of a felony; and any explanation regarding such information that the applicant wishes to present to the board;

(24) Original signature;

(25) Date of renewal application; or

(26) Desire not to renew license.

(b) The renewal form and accompanying documents shall be returned to the board's offices as set forth in Rule .0101 with the original signatures of the licensed podiatrist. The penalties for failure to comply with this Rule are specified in G.S. 90-202.10.

(c) If the licensee does not receive his or her renewal application from the board directly, the licensee may obtain a generic copy, without the pre-populated information, from the board's website at <http://www.ncbpe.org> or by contacting the board's office as set forth in Rule .0101 of this Chapter.

*History Note:* Authority G.S. 90-202.4(g); 90-202.10; 90-202.11; S.L. 2015-241, s. 12F, 16(c);  
Eff. February 1, 1976;  
Amended Eff. April 1, 2017; April 1, 2013; January 1, 2005; December 1, 1988;  
Readopted Eff. September 1, 2016.



# NORTH CAROLINA

## Board of Podiatry Examiners

1500 Sunday Drive, Suite 102  
 Raleigh, NC 27607-5151  
 (919)861-5583 phone (919) 787-4916 fax  
[www.ncbpe.org](http://www.ncbpe.org)  
[info@ncbpe.org](mailto:info@ncbpe.org)

Existing Application for Licensure

A 2"x2" passport-quality, photo taken 60 days prior to the date of this application should be placed here, to be used as part of the identification process at examination time. Photo should not exceed the size of this box.

<b>Application for Podiatry License</b> <input type="checkbox"/> Regular <input type="checkbox"/> Temporary Military <input type="checkbox"/> Clinical Residency in NC		<b>For Office Use Only</b>		<b>Date of Application</b>	
<b>Please Type or Print</b>		Date Received		Approved Denied	
		Check/Money Order Number		Group 1 <input type="checkbox"/> 2 <input type="checkbox"/>	
				Number:	
Social Security Number		Last Name		First Name	
				Middle Name	
Mailing Address				City	State
					Zip Code
Telephone Number: <input type="checkbox"/> Home <input type="checkbox"/> Mobile <input type="checkbox"/> Business				Email	
Are you a U.S. Citizen? <input type="checkbox"/> YES <input type="checkbox"/> NO				Date of Birth	
<b>Military Service:</b> Are you now or have you ever been a member of the Armed Forces of the U.S.? <input type="checkbox"/> YES <input type="checkbox"/> NO If Yes, have you been Awarded an MOS in podiatry? <input type="checkbox"/> YES Date: _____ <input type="checkbox"/> NO Is your Spouse currently serving in the military? <input type="checkbox"/> YES <input type="checkbox"/> NO Give dates of qualifying active military service: Entered: _____ Separated: _____ Branch: _____ Rank: _____					
<b>Education</b>					
Schools	Name and Location	Dates Attended (mo/yr) From: To:	Graduate/ Complete	Major/Minor Course	Type of Degree Received
High School			YES <input type="checkbox"/> NO <input type="checkbox"/>		
College(s) University (s)			YES <input type="checkbox"/> NO <input type="checkbox"/>		
Graduate or Professional			YES <input type="checkbox"/> NO <input type="checkbox"/>		
Other: Residencies, internships, fellowship training, etc.			YES <input type="checkbox"/> NO <input type="checkbox"/>		

If you pass all the requirements and are approved for licensure in the state of North Carolina, do you intend to practice here immediately? <input type="checkbox"/> Yes <input type="checkbox"/> No (Explain Answer)



Have you ever been licensed to practice podiatry in another state or territory? Yes <input type="checkbox"/> No <input type="checkbox"/>				
If yes (please obtain a license verification directly from the following state(s) or territory(ies) and have it submitted directly to the NC Board of Podiatry Examiners):				
<u>State</u>	<u>Date of Issue</u>	<u>Expiration Date</u>	<u>Disciplinary Actions</u>	<u>How License was Obtained</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Examination <input type="checkbox"/> Temporary <input type="checkbox"/> Reciprocity
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Examination <input type="checkbox"/> Temporary <input type="checkbox"/> Reciprocity
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Examination <input type="checkbox"/> Temporary <input type="checkbox"/> Reciprocity

Please Check the Appropriate Column for Each Question.	Yes	No
Have you ever had a license revoked, suspended, or cancelled?		
Have you ever been denied a license?		
Have you ever been denied the privilege of taking an examination?		
Have you ever been dropped, suspended, warned, placed on scholastic or disciplinary probation, expelled or requested to resign from any school, college, or university or advised by any such school or institution to discontinue your studies therein?		
Have you ever been a defendant in a legal action involving professional liability (malpractice), been named in a malpractice suit, had a professional liability claim paid on your behalf or paid such a claim yourself?		
Have you ever been a patient for the treatment of mental illness?		
Have you ever been addicted to alcohol or drugs?		
Have you ever been convicted of a felony?		
If you answered YES to any of the previous questions, PLEASE GIVE DETAILS: (Use a separate sheet, if necessary)		
Have you taken this examination previously? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, when? (month/year)		
Do you wish any special accommodations for the exam because of disability? <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, please attach a description of your needs.		
Briefly state your reasons for applying to North Carolina for a license to practice podiatric medicine. Please reply in your own handwriting.		

## IMPORTANT INFORMATION TO ALL CANDIDATES

1. Candidates who fail the annual examination are not eligible for licensure through reciprocity.
2. Candidates who fail the annual examination may request a review of individual test scores but may not see the examination questions for security reasons. The Board of Examiners will consider a request for review of individual test scores only when it is in writing and received within thirty (30) days after the test results have been released.
3. Candidates who fail the examination and are granted a review will absorb all costs of this review unless the review takes place at a regular meeting of the Board of Podiatry Examiners.
4. Candidates who pass the licensure examination must pay the initial license fee of \$100.00 prior to June 30 of the year of licensure or be subject to the same restrictions placed on all Podiatrists who do not renew their licenses by that date.
5. This application, with a check or money order made payable to the **NC Board of Podiatry Examiners** for the non-refundable application and examination fee of \$350.00, must be sent to the **NC Board of Podiatry Examiners, 1500 Sunday Drive, Suite 102, Raleigh, NC 27607-5151**, before it can be processed, but no later than eight (8) weeks prior to the exam date. The following required documentation must also be received in the office of the Board of Podiatry Examiners eight (8) weeks (September 9, 2016) prior to the exam date (November 4-5, 2016) to complete eligibility to sit for the examination. (*Temporary Military and NC Clinical Residency applications may be submitted without fee at any time during the year.*)
  - A. Proof of an education equivalent to four (4) years of high school instruction is required (e.g. photocopy of diploma, GED, or letter from HS.)
  - B. Official Transcript of pre-podiatry college studies from "a college or university approved by the American Association of Colleges and Universities" showing a minimum of three (3) years of study sent directly from the institution.
  - C. Proof of Graduation from pre-podiatry college studies. A copy of the diploma or a letter from the school will suffice.
  - D. Official Transcript of Podiatry School studies sent directly from the institution.
  - E. Proof of graduation from Podiatry School accredited by the Council of Podiatry Medical Education. A copy of the diploma or a letter from the school will suffice.
  - F. National Board Examination (APMLE) Grades (Parts I and II) sent directly from the National Board of Podiatric Medical Examiners.
  - G. National Board of Examination (APMLE) Grades Part III (PM Lexis Scores) sent directly from the Federation of Podiatric Medical Boards or the National Board of Podiatric Medical Examiners (*not required for Temporary Military or Clinical Residency License applications*).
  - H. Three certificates of recommendation (must be notarized). (See following section.)
  - I. Verification of completion of a minimum of one-year clinical residency sent directly from the residency director of the hospital, medical center, or surgery center. (*Temporary Military/Clinical Residency License applications, a letter from your residency director stating that you are currently in a clinical residency and dates of such*).
  - J. If applicable, verification of licensure in other state or territory sent directly from that state(s) and/or territory(ies).
6. The 2016 exam will be held at the Greensboro Marriott Downtown, 304 North Greene Street, Greensboro, NC, November 4-5, 2016.
7. Candidates who successfully pass the November examination are required to attend a practice-and ethics-training exam, considered a second part of the November licensing exam, usually held in late January, with the actual date announced at the November examination. Licenses are issued after the practice and ethics examination is successfully completed.
8. Failure to notify the Board of Podiatry Examiners office of cancellation may result in a forfeiture of all fees paid.
9. Candidates who fail the exam may apply to the Board for re-examination within a period of one (1) year and be entitled to re-examination upon the payment of the examination fee and resubmission of an updated application. However, no more than two re-examinations shall be permitted prior to going through the entire re-application process.

\_\_\_\_\_  
Signature of Applicant (unsigned applications will not be processed)

\_\_\_\_\_  
Date

**References:**

Please ask three persons, none of whom is a student or relative, preferably practicing podiatrists, who have known you for the past four years to serve as a reference indicating your character, dependability, podiatric practice expertise and responsibility. They can use the provided Certificate of Recommendation form or a formal letter of reference. These forms/letters must be notarized and should be sent to the North Carolina Board of Podiatry Examiners, 1500 Sunday Drive, Suite 102, Raleigh, NC 27607-5151.

List here the names of the persons from whom we may expect to receive letters

Name of Reference

Street Address

City/State/Zip

1.

2.

3.

**Applicant's Oath:**

I, \_\_\_\_\_, hereby certify under oath that I am the person named in this application for a license to practice podiatric medicine in the State of North Carolina, that all statements I have made herein are true, that I am the original and lawful possessor of and person named in the various forms and credentials furnished to this Board with my application. The Photograph submitted heretofore is a true likeness of myself and was taken within sixty days prior to the date of this application.

I hereby certify that I have read and understand that Employee Misclassification is prohibited in the State of North Carolina under the Employee Fair Classification Act and that any employer found to have engaged in employee misclassification may be assessed back taxes, wages, benefits, penalties or other monies by any State agency as a result of misclassifying one or more employees within the previous three calendar years and be assessed a civil penalty of no greater than one thousand dollars (\$1,000) per misclassified employee for any future instances of employee misclassification. I further understand that the Board shall deny the license of any applicant who fails to comply with this certification requirement as well as revoke or refuse to renew a license should the holder be found to have engaged in employee misclassification.

I further state that by filing this application for a license to practice podiatric medicine in the State of North Carolina, I hereby authorize and consent to have an investigation made as to my moral character, professional reputation and fitness for the practice of podiatric medicine. I agree to give any further information which may be required in reference to my past record. I understand that I will not receive a copy of the report or know its contents and I further understand that the contents of the investigative report will be privileged unless determined otherwise by court order.

I authorize and request every person, hospital, clinic, community, governmental agency (local, state, federal or foreign), court, association, institution or other organization having control of any documents, records and other information pertaining to me to furnish to the North Carolina Board of Podiatry Examiners or any of its agents or representatives to inspect and make copies of such documents, records and other information in connection with this

\_\_\_\_\_  
Signature of Applicant (unsigned applications will not be processed)

\_\_\_\_\_  
Date

**THIS APPLICATION MUST BE NOTARIZED:**

STATE: \_\_\_\_\_

NOTARY: \_\_\_\_\_

Notary Public Seal

COUNTY: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_

**THE BOARD OF PODIATRY EXAMINERS OF THE STATE OF NORTH CAROLINA**

**THIS IS YOUR RENEWAL APPLICATION TO PRACTICE AS A PODIATRIST** Expiring Renewal Application

**Your license expires June 30, and in accordance with chapter 90, Article 12A of the General Statutes of North Carolina, you are required to make application and renew your license no later than June 30. A penalty of \$25.00 per month must accompany any renewal application and fee postmarked August 1 and thereafter. After December 31, your license becomes void. If you do not wish to renew, check here ☐ and return this form.**

**PAYABLE TO:** THE BOARD OF PODIATRY  
EXAMINERS OF THE STATE OF NORTH CAROLINA

**SEND CHECK TO:**  
NC BOARD OF PODIATRY EXAMINERS  
1500 SUNDAY DR, SUITE 102  
RALEIGH, NC 27607

1. Social security number (REQUIRED) \_\_\_\_\_  
2. NPI Number (Required): \_\_\_\_\_  
3. Marital status: ☐ Married ☐ Single

**RENEWAL FEE:** \$200.00

4. Name: \_\_\_\_\_  
5. NC License Number: \_\_\_\_\_ Birthdate: \_\_\_\_\_

6. Other states licensed in and their license numbers: \_\_\_\_\_

*Information currently appearing in your file. (7-15)*

*Complete 7-15 below only if info. on left is not correct (Please Print):*

7. Home address and phone number \_\_\_\_\_  
  
Business address and phone number \_\_\_\_\_  
  
8. Which address do you prefer for mailings? \_\_\_\_\_  
9. Email Address \_\_\_\_\_  
10. Would you like to receive email correspondence from the Board? i.e. continuing education confirmations, updates, Announcements, etc. ☐ Yes ☐ No  
11. Please list your Medicare Provider numbers in section B. \_\_\_\_\_  
12. What is your specialty (area of practice)? \_\_\_\_\_  
13. What is your present activity status? \_\_\_\_\_  
14. If in practice, what is the principal setting of your primary activity in this occupation? \_\_\_\_\_  
15. If in practice, what is the best description of your form of employment in this occupation? \_\_\_\_\_

7. Street \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_  
Zip Code \_\_\_\_\_ County \_\_\_\_\_  
Phone Number ( ) \_\_\_\_\_  
  
Business Name \_\_\_\_\_  
Street \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_  
Zip Code \_\_\_\_\_ County \_\_\_\_\_  
Phone Number ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_  
  
8. ☐ Home ☐ Business  
9. Email Address \_\_\_\_\_  
10. ☐ Yes ☐ No  
11. Medicare Provider Number(s): \_\_\_\_\_  
12. Enter code from Specialty list on the back of this form: \_\_\_\_\_  
13. Enter code from Activity list on the back of this form: \_\_\_\_\_  
14. Enter code from Setting list on the back of this form: \_\_\_\_\_  
15. Enter code from Employment list on the back of this form: \_\_\_\_\_

16. American Board of Podiatric Surgery: ☐ Eligible ☐ Certified ☐ None  
17. American College of Foot & Ankle Surgery: ☐ Associate ☐ Fellow ☐ Other (Explain) \_\_\_\_\_

**18. Hospital Staff Privileges:**

Hospital Name	City/ State	Date Privileges Began	Type of Privileges
			<input type="checkbox"/> Surgical <input type="checkbox"/> Medical
			<input type="checkbox"/> Surgical <input type="checkbox"/> Medical
			<input type="checkbox"/> Surgical <input type="checkbox"/> Medical

Have you ever been denied hospital privileges? ☐ yes ☐ no If yes, please provide the following information:

Hospital Name	City/State	Date	Reason given	Do you have a letter to this effect?
				<input type="checkbox"/> yes <input type="checkbox"/> no
				<input type="checkbox"/> yes <input type="checkbox"/> no

19. Do you perform any of the following: ☐ Amputation ☐ Ankle Surgery ☐ Club Foot Correction

20. Board-Granted Specialty Privileges:

**Continuing Education**

Continuing Education credit hours earned between July 1st of the previous year and June 30th of the current year are the only hours acceptable for this renewal. According to our records, you have completed \_\_\_\_\_ of the 25 hours required for renewal, including 1 hour of Opioid training. Any additional hours for renewal must be submitted with this application no later than June 30th. Total CME (7/1-6/30) \_\_\_\_\_ ☐ NCF&AS

☐ Other (attach documentation)

Signature \_\_\_\_\_  
Date \_\_\_\_\_

---

**SPECIALTY**

Existing Renewal Application

<b>FOB</b>	Foot Orthopedics/Biomechanics	<b>RTG</b>	Roentgenology
<b>GP</b>	General Practice	<b>SGRY</b>	Surgery
<b>PODDERM</b>	Podiatric Dermatology		
<b>PG</b>	Podogeriatrics	<b>None</b>	No specialty
<b>PP</b>	Podopediatrics	<b>Other</b>	Other Specialty
		(specify):	_____

---

**ACTIVITY**

<b>ACTIVE</b>	Practicing Podiatry—Full Time (20 or more hours per week)
<b>ACTIVE PT</b>	Practicing Podiatry—Part Time (Less than 20 hours per week)
<b>INATEACH</b>	Not practicing Podiatry—Teaching
<b>RETIRED</b>	Not practicing Podiatry—Retired
<b>RESIDENT</b>	Not practicing Podiatry—in Residency Training
<b>OTHER</b>	Other (specify): _____

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**PRINCIPAL SETTING OF PRIMARY ACTIVITY***Nonfederal Health Facility*

<b>HNF</b>	Hospital
<b>NNF</b>	Nursing Home
<b>FSC</b>	Free Standing Clinic
<b>GRP</b>	Group pre-paid health plan facility
<b>PNF</b>	Practitioner's Office
<b>ONF</b>	Other nonfederal health facility (specify):

*Federal Health Facility*

<b>FHM</b>	Health facility on a military installation
<b>VAP</b>	V.A., Public Health, Indian Health
<b>OHF</b>	Other federal health facility (specify):

*Miscellaneous Settings*

<b>SCH</b>	School, Junior College, College, University, or other educational institution
<b>Other</b>	Other (specify): _____

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**FORM OF EMPLOYMENT***Self-Employed*

<b>SOLO</b>	Solo Practitioner
<b>NSSE</b>	NonSolo Practitioner

*Employee of*

<b>IP</b>	Individual Practitioner
<b>PG</b>	Partnership or group of practitioners
<b>LOCAL</b>	Local Government (other than county, state or local government)
<b>CNTY</b>	County Government
<b>STATE</b>	State Government
<b>FED</b>	Federal Government
<b>OTHER</b>	Other (specify): _____

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## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Podiatry Examiners

RULE CITATION: 21 NCAC 52 .0201

**DEADLINE FOR RECEIPT: Thursday, March 9, 2017**

**PLEASE NOTE:** *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.

*For this Rule, and as is noted in other rules, why is the term "board" not capitalized? Should it not be capitalized to clarify that the use is referring to the statutorily created "Board of Podiatry Examiners"? The use of the term "board" appears to be consistent throughout the rules, so a change may not be necessary at this time. Please consider the change in future rulemaking efforts as the term is "Board" in Article 12A of G.S. 90.*

*Line 11, is the correct phrase "Drug Enforcement License Number" or "Drug Enforcement Administration License Number" as used on line 10 of Rule .0207. Please use consistent terms or phrases in making this amendment.*

*Page 2, line 18, the amendment date of "April 1, 2017" should be on a new line 20. Please move down.*

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

21 NCAC 52 .0201 is amended with changes as published in 31:12 NCAC 1248-1251 as follows:

**21 NCAC 52 .0201 APPLICATION**

(a) Any applicant for a license to practice podiatry shall submit a written application to the executive secretary of the board. Such Application for Examination or Application of Reciprocity shall be made on a form provided from the board's website (<http://www.ncbpe.org>) or from the board's office as set forth in Rule .0101 of this Chapter. The application shall require the following information:

- (1) Application type (Regular, Temporary Military, Clinical Residency);
- (2) Date of Application;
- (3) Social Security ~~Number~~ Number;
- (4) Drug Enforcement License Number (DEA), if any;
- (5) National Provider Number (NPI), if any;
- ~~(4)~~ (6) Last name, first name, and middle name;
- ~~(5)~~ (7) Mailing address, including city, state, and zip code;
- ~~(6)~~ (8) Telephone number and type (home, mobile, business);
- ~~(7)~~ (9) Email address;
- ~~(8)~~ (10) Whether or not a U.S. citizen;
- ~~(9)~~ (11) Whether or not the applicant has or is serving in the military, awarded an MOS in podiatry and date, whether or not the applicant's spouse is currently serving in the military, and dates of service;
- ~~(10)~~ (12) Education (high school, college or university, graduate or professional, residencies, internships, fellowship training), including name and location of institution, dates attended, graduation completion, major and minor, and type of degree received;
- ~~(11)~~ (13) Whether or not the applicant intends to practice in North Carolina upon licensure;
- ~~(12)~~ (14) Whether or not the applicant has been licensed in another state or territory and, if so, state or territory, date of issue, expiration date, disciplinary actions (if any), and how license was obtained;
- ~~(13)~~ (15) Whether or not the licensee has ever had a license revoked, suspended, denied, or cancelled; denied the privilege of taking an exam; dropped, suspended, warned, placed on scholastic or disciplinary probation, expelled, or requested to resign from any school, college, or university, or advised by any such school of institution to discontinue studies therein; been a defendant in a legal action involving professional liability (malpractice), been named in a malpractice suit, had a professional liability claim paid on the applicant's behalf or paid such a claim; been a patient for the treatment of mental illness; been addicted to drugs or alcohol; had any medical, chemical dependency or psychiatric conditions that might adversely affect the applicant's ability to practice medicine or surgery or to perform the essential functions of the position; is presently engaged in illegal drug use; has any physical, mental or substance abuse problems that could impede the applicant's ability to provide care according to standards of professional performance or pose a threat to the health or safety of patients; has any history of alcohol, drug or chemical abuse or dependency (unrelated to prescription

drugs medically required to treat a chronic condition; or been convicted of a felony; and any explanation regarding such information that the applicant wishes to present to the board.

~~(14)~~ (16) Whether or not the applicant has previously taken the North Carolina exam and when;

~~(15)~~ (17) Whether or not the applicant requires special disability accommodations to take the board's examination;

~~(16)~~ (18) The reasons why the applicant is applying for licensure in North Carolina;

~~(17)~~ (19) A list of three references;

~~(18)~~ (20) Applicant's oath;

~~(19)~~ (21) A passport-quality photograph taken within 60 days prior to the date of the application; and

~~(20)~~ (22) Applicant's signature.

(b) Applicants shall furnish the board with proof that the applicant meets the educational and examination requirements set forth in G.S. 90-202.5(a)

(c) The application shall be accompanied by a non-refundable application fee of three hundred fifty dollars (\$350.00).

(d) Applications shall also be notarized by a Notary Public in good standing.

*History Note:* Authority G.S. 90-202.5; 90-202.6; 90-202.7;  
Eff. February 1, 1976;  
Amended Eff. April 1, 2017; June 1, 2011; April 1, 2005; January 1, 2005; December 1, 1988;  
Readopted Eff. September 1, 2016.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Podiatry Examiners

RULE CITATION: 21 NCAC 52 .0207

**DEADLINE FOR RECEIPT: Thursday, March 9, 2017**

***PLEASE NOTE: 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.

*Line 9, what is "NPI number"? Is that the "National Provider Number" that is identified on line 12 of Rule .0201? Please use consistent terms or phrases across rules.*

*Line 10, is the correct phrase "Drug Enforcement Administration License Number" or "Drug Enforcement License Number" as used on line 11 of Rule .0201. Please use consistent terms or phrases in making this amendment*

*Line 24, what is meant by "teaching, retired"? Those are not options for licensure and is therefore not a type of active status. Please clarify.*

*Lines 35, 36, and 37, why are the terms "Amputation," "Ankle Surgery," and "Clubfoot" capitalized? These terms are not capitalized in Article 12 of G.S. 90. Please uncapitalize the terms to be consistent with the statutory use.*

*Lines 35 and 37, replace "and/or" with either "and" or "or"*

*Page 2, line 19, add a space between ".0101" and "with"*

*Page 2, line 27, the amendment date of "April 1, 2017" should be on a new line 29. Please move down.*

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

Abigail M. Hammond  
Commission Counsel

Date submitted to agency: Wednesday, February 22, 2017

21 NCAC 52 .0207 is amended with changes as published in 31:12 NCAC 1248-1251 as follows:

**21 NCAC 52 .0207 ANNUAL RENEWAL OF LICENSE**

(a) The executive secretary of the board shall mail to the last known address of each license holder each year a form on which to apply for renewal of his or her license. The renewal application shall be pre-populated with information contained in the board's licensee database with a space for corrections or additions with regard to the following information about the licensee:

- (1) Social security number;
- (2) NPI number;
- (3) Drug Enforcement Administration License Number, if any;
- ~~(3)~~ (4) Marital status;
- ~~(4)~~ (5) Name;
- ~~(5)~~ (6) NC license number;
- ~~(6)~~ (7) Birthdate;
- ~~(7)~~ (8) Other states licensed in and license numbers;
- ~~(8)~~ (9) Home address and phone number;
- ~~(9)~~ (10) Business address and phone number;
- ~~(10)~~ (11) Preferred mailing address (business or home);
- ~~(11)~~ (12) Email address;
- ~~(12)~~ (13) Whether or not the licensee would like to receive email correspondence from the board;
- ~~(13)~~ (14) Medicare provider number;
- ~~(14) Specialty area of practice (e.g., general, surgery, podogeriatrics, podopediatrics, foot orthopedics or biomechanics, other);~~
- (15) Present active status (e.g., ~~active full time, active part time,~~ active, teaching, retired, residency, other);
- (16) Principal setting of practice (e.g., hospital, nursing home, free-standing clinic, group, practitioner's office, nonfederal health facility, military facility, Veteran's Administration medical facility, school, other);
- (17) Form of employment (e.g., self-employed as a solo practitioner or non-solo practitioner, or employee of individual practitioner, partnership or group, government, other);
- (18) National board certifications (American Board of ~~Podiatry~~ Podiatric Surgery, American Board of Foot and Ankle Surgery, American Board of Lower Extremity Surgery, and American Board of Multiple Specialties in Podiatry); ~~College of Foot & Ankle Surgery);~~
- (19) Hospital staff privileges (hospital, location, date privileges began, type of privileges), any denial of such privileges, and the reason for such ~~denial;~~ denial since last renewal application;
- (20) Whether or not the licensee performs Amputations, Ankle Surgery, and/or Clubfoot procedures;
- (21) Whether or not the licensee is granted specialty privileges by the board for Amputations, Ankle Surgery, and/or Clubfoot procedures;



(22) Continuing Medical Education (CME) credits earned in the previous license year, pursuant to G.S. 90-202.11 and S.L. 2015-241, s. 12F, 16(c);

(23) Whether or not the licensee has ever had a license revoked, suspended, denied, or cancelled; been a defendant in a legal action involving professional liability (malpractice), been named in a malpractice suit, had a professional liability claim paid on the applicant's behalf or paid such a claim; ~~been a patient for the treatment of mental illness; been addicted to drugs or alcohol;~~ had any medical, chemical dependency or psychiatric conditions that might adversely affect the applicant's ability to practice medicine or surgery or to perform the essential functions of the position; is presently engaged in illegal drug use; has any physical, mental or substance abuse problems that could impede the applicant's ability to provide care according to standards of professional performance or pose a threat to the health or safety of patients; has any history of alcohol, drug or chemical abuse or dependency (unrelated to prescription drugs medically required to treat a chronic condition); or been convicted of a felony; and any explanation regarding such information that the applicant wishes to present to the board;

(24) Original signature;

(25) Date of renewal application; or

(26) Desire not to renew license.

(b) The renewal form and accompanying documents shall be returned to the board's offices as set forth in Rule .0101 with the original signatures of the licensed podiatrist. The penalties for failure to comply with this Rule are specified in G.S. 90-202.10.

(c) If the licensee does not receive his or her renewal application from the board directly, the licensee may obtain a generic copy, without the pre-populated information, from the board's website at <http://www.ncbpe.org> or by contacting the board's office as set forth in Rule .0101 of this Chapter.

*History Note:* Authority G.S. 90-202.4(g); 90-202.10; 90-202.11; S.L. 2015-241, s. 12F, 16(c);  
Eff. February 1, 1976;  
Amended Eff. April 1, 2017; April 1, 2013; January 1, 2005; December 1, 1988;  
Readopted Eff. September 1, 2016.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Podiatry Examiners

RULE CITATION: 21 NCAC 52 .0214

**DEADLINE FOR RECEIPT: Thursday, March 9, 2017**

***PLEASE NOTE: 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.

*Line 4, should the "may" be a "shall"? When would the Board not "exercise its authority"? Please review and clarify if necessary.*

*Line 7, consider adding additional support to the history note, such as 90-202.4 and 90-202.8*

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

Abigail M. Hammond  
Commission Counsel  
Date submitted to agency: Wednesday, February 22, 2017

21 NCAC 52 .0214 is adopted as published in 31:12 NCR 1248-1251 as follows:

**21 NCAC 52 .0214 NOTICE OF UNLICENSED ACTIVITY**

The Board may exercise its authority to investigate unlicensed activity, provide notice of possible violations, and seek injunctive relief pursuant to G.S. 90-202.13.

History: Authority 90-202.13;

Eff: April 1, 2017

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Podiatry Examiners

RULE CITATION: 21 NCAC 52 .0409

**DEADLINE FOR RECEIPT: Thursday, March 9, 2017**

***PLEASE NOTE: 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.

*Line 25 thru 26, replace "should it be deemed necessary by the Grievance Committee" with "if the Grievance Committee determines"*

*Lines 28 and 34, replace "Should" with "If"*

*Lines 28 and 34, replace "determine" with "determines"*

*Lines 35 and 36, replace "N.C.G.S. 150B" with "Article 3A of G.S. 150B"*

*Page 2, line 1, consider adding additional support to the history note, such as 90-202.4*

*Page 2, line 1, delete the citations after "90-202.8" as a technical change requests will specify the role of Article 3A of G.S. 150B. If necessary, the citation to "G.S. 150B, Article 3A" may be replaced with "150B-3." Then delete the bracketed bill that was not codified into law, as this is not existing statutory authority to justify this Rule.*

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

21 NCAC 52 .0409 is adopted with changes as published in 31:12 NCR 1248-1251 as follows:

**21 NCAC 52 .0409 COMPLAINTS**

- (a) Any person may file a complaint, pursuant to G.S. 150B, Article 3A, against a licensed podiatrist with the board by completing the online complaint form on the board website, <http://www.ncbpe.org> or by providing a completed hardcopy complaint form to the Board, which may be obtained from the board's offices as listed in .0101 of these Rules .
- (b) The complaint shall set forth the name and contact information of the podiatrist against whom the complaint is lodged, a summary of the facts of the complaint, the complainant's name, mailing address and phone number, and whether or not a copy of the complaint may be sent to the podiatrist about whom the complaint is lodged. Within 14 days of a hardcopy complaint received by the board, a receipt notification shall be sent to the complainant by mail. If an online complaint has been submitted to the board, an electronic receipt notification shall automatically be generated and emailed to the board's Executive Secretary and the complainant. A copy of the complaint shall be sent to the respondent named in the complaint, if so authorized by the complainant; otherwise, the complaint shall be filed in the podiatrist's file for future reference. Should the complaint be sent to the podiatrist, said podiatrist shall respond to the complaint in writing to the board within 45 days of receipt of the complaint and provide the board with a copy of the complainant's medical records pursuant to any board request.
- (c) At such time as a complaint is received at the board's office and authorization given by the complainant to share the complaint with the podiatrist against whom the complaint is lodged, the Executive Secretary shall notify the board's appointed Grievance Committee members with a copy of the complaint. A Grievance Committee member who does not have a conflict of interest as defined in G.S. 138A-36(a) shall be assigned to conduct an investigation to determine if probable cause exists that a violation of the Podiatry Practice Act (G.S. 90-202.8) may have occurred. After review, should it be deemed necessary by the Grievance Committee ~~member assigned to the case~~ that further investigation is required to determine if probable cause exists, an outside investigator may be retained with the board's permission.
- (d) Should the Grievance Committee member determine that no probable cause exists that there was a violation of the Podiatry Practice Act, the Grievance Committee member shall submit a summary of his investigation and conclusion first to the remaining members of the Grievance Committee, and if the members concur, to the board for approval. If the decision is approved by the board at a regularly called meeting of the board, both the complainant and respondent shall be notified of the disposition of the case within 14 days of the board's decision.
- (e) Should the Grievance Committee determine that probable cause of a violation of the Podiatry Practice Act does exist, the Committee shall notify the board and an administrative hearing in compliance with N.C.G.S. 150B shall be scheduled. The complainant and the respondent shall be given Notice of the Hearing and the disposition of the case.



1

2 *History: Authority: G.S. 90-202.8; G.S. 150B, Article 3A; [H1007 – G.S. 93B-22]*

3 *Eff: April 1, 2017*