

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Pharmacy

RULE CITATION: 21 NCAC 46 .1505

DEADLINE FOR RECEIPT: Tuesday, April 11, 2017

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 end (a)(2) with a period, rather than a semi-colon.

In (c), is the date of the first passing score the date of the exam or the date that they were notified of the passage? Are they one in the same?

In (d), what is your authority to limit the amount of times an applicant may take the examination? Is this set forth elsewhere in statute? Is there a national standard associated with the exam?

Assuming that you have authority for the limitation set forth in (d), how do (c) and (d) go together? I assume that if a person passes the first part of the exam on try number 4, and then fails to take the other test, that person has 5 additional attempts at exam one since they actually did pass it at some point?

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: March 28, 2017

1 21 NCAC 46 .1505 is amended as published in 31:12 NCR 1247 as follows:

2
3 **21 NCAC 46 .1505 EXAMINATION**

4 (a) The applicant shall pass the following examinations:

- 5 (1) the North American Pharmacist Licensure Examination (“NAPLEX”); and a national examination;
6 (2) the North Carolina version of the Multistate Pharmacy Jurisprudence Examination (“MPJE”); a
7 jurisprudence examination; and
8 (3) ~~a practical examination which includes an error and omission section.~~

9 (b) In order to pass either the NAPLEX or the MPJE, the applicant shall achieve the passing score set by the National
10 Association of Boards of Pharmacy (or any organization designated by the National Association of Boards of
11 Pharmacy to administer the NAPLEX or the MPJE). For the purpose of grading or rating, the answers, which shall
12 be legible, shall be valued by marks or points based on their importance, as determined by the judgment of the
13 examiners.

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

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

29
30 *History Note: Authority G.S. 90-85.15; 90-85.16;*

31 *Eff. April 1, 1983;*

32 *Amended Eff. May 1, 2017; April 1, 2004; April 1, 2003; July 1, 1996; December 31, 1985.*

MARCH 7, 2017

1 21 NCAC 46 .1615 is adopted as published in 31:10 NCR 980 as follows:
2

3 **21 NCAC 46 .1615 E-PROFILE NUMBER REQUIRED FOR LICENSE, PERMIT, OR**
4 **REGISTRATION**

5 (a) As part of the application for issuance or renewal of any in-state or out-of-state pharmacy permit, device and
6 medical equipment permit, license to practice pharmacy, or pharmacy technician registration issued by the Board, the
7 permittee, licensee, or registrant must report an e-Profile number to the Board.

8 (b) An e-Profile number is a unique identifier for permittees, licensees, and registrants that allows for the accurate
9 identification and collection of licensure, disciplinary, inspection, and other information in a secured electronic profile.

10 (c) A permittee, licensee, or registrant may obtain an e-Profile number at no cost by contacting the National
11 Association of Boards of Pharmacy by phone at (847) 391-4406; by mail at 1600 Feehanville Drive, Mount Prospect,
12 Illinois 60056; or electronically at www.nabp.pharmacy.

13 (d) Any person or entity holding a permit, license, or registration as of the effective date of this rule must obtain an
14 e-Profile number prior to renewal of the permit, license, or registration for 2018.

15

16 *History Note: Authority G.S. 90-85.6; 90-85.15; 90-85.15A; 90-85.17; 90-85.20; 90-85.21, 90-85.21A; 90-85.22;*
17 *Eff. May 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Pharmacy

RULE CITATION: 21 NCAC 46 .2102

DEADLINE FOR RECEIPT: Tuesday, April 11, 2017

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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.

Given 90-85.7(a), which states that “every person licensed to practice pharmacy in North Carolina and residing in North Carolina shall be entitled to vote”, why is this Rule necessary? Are you differentiating because you have also set forth who may vote for the medical equipment subcommittee?

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: March 28, 2017

1 21 NCAC 46 .2102 is amended as published in 31:12 NCR 1246 as follows:

2

3 **21 NCAC 46 .2102 ELIGIBILITY TO VOTE**

4 (a) Eligible voters for Board members shall be the pharmacists licensed in North Carolina and residing in North Carolina on
5 October 31 of the year the election begins. ~~March 15 immediately prior to the election.~~

6 (b) Eligible voters for the device and medical equipment subcommittee shall be all device and medical equipment permit
7 holders in North Carolina and residing in North Carolina on October 31 of the year the election begins. ~~March 15~~
8 ~~immediately prior to the election.~~

9

10 *History Note:* Authority G.S. 90-85.7; 90-85.22;

11 *Eff. April 1, 1983;*

12 *Amended Eff. May 1, 2017; September 1, 1995; May 1, 1989.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Pharmacy

RULE CITATION: 21 NCAC 46 .2104

DEADLINE FOR RECEIPT: Tuesday, April 11, 2017

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Will the Board always appoint this advisory committee? If not, how is the decision made to do so?

What years are those that an election for Board positions begin? How does your regulated public know this information?

Are "board positions" the same as "pharmacist members of the Board" as set forth in 90-85.7?

By "members of this committee", do you mean that each member is to bring 2 names, or the Committee as a whole is to submit 2 names"

Who are "eligible candidates"?

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: March 28, 2017

1 21 NCAC 46 .2104 is amended as published in 31:12 NCR 1246 as follows:

2

3 **21 NCAC 46 .2104 COMMITTEE ON NOMINATIONS**

4 The Board may appoint an advisory committee on nominations in ~~September~~ January of each year ~~that an election for Board~~
5 position(s) begins. ~~year.~~ Members of this committee shall submit at least two names of eligible candidates for each position to
6 be filled on the Board and on the device and medical equipment subcommittee by October 1 ~~March 1~~ for the next election.

7

8 *History Note: Authority G.S. 90-85.7;*

9 *Eff. April 1, 1983;*

10 *Amended Eff. May 1, 2017; July 1, 1996; May 1, 1989.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Pharmacy

RULE CITATION: 21 NCAC 46 .2105

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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 delete "also" on line 4.

On line 5, what is "such document"? Is this the nomination? Is there a specific form? What information is required? Must they just submit the name of the person? Please consider breaking this out into additional Paragraphs.

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: March 28, 2017

1 21 NCAC 46 .2105 is amended as published in 31:12 NCR 1246 as follows:

2

3 **21 NCAC 46 .2105 NOMINATION BY PETITION**

4 Nominations may also be made by the petition of 10 eligible voters from a geographic area as specified in Rule .2103 of this

5 Section, such document to be filed in the Board office or postmarked before October 1 ~~March 10~~ for the next election.

6 ~~Nominations shall be closed on March 15th.~~

7

8 *History Note: Legislative Objection Lodged Eff. March 29, 1983;*

9 *Authority G.S. 90-85.7;*

10 *Eff. April 1, 1983;*

11 *Curative Eff. April 1, 1983;*

12 *Amended Eff. May 1, 2017; May 1, 1989.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Pharmacy

RULE CITATION: 21 NCAC 46 .2107

DEADLINE FOR RECEIPT: Tuesday, April 11, 2017

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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), should “the” be before “November 1 six months prior...” as it is before “March 1”? I think that adding a “the” would add clarity to the sentence.

In (e), please delete or define “properly.”

In (e), how will they determine the validity of any challenged ballots?

In (f), have you considered using “tie votes” rather than “run-off” to match the language contained in 163-111(d)?

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: March 28, 2017

1 21 NCAC 46 .2107 is amended as published in 31:12 NCR 1246 as follows:

2
3 **21 NCAC 46 .2107 BALLOTS: CASTING AND COUNTING**

4 (a) The ballot casting period for each election for a Board position shall begin on November 1 six months prior to the
5 expiration of a Board member's five-year term of office and shall conclude the March 1 after the ballot casting period begins.

6 ~~(a) (b)~~ The Board shall provide a access to an electronic ballot to all eligible voters on November 1 in April of each year that
7 there is an election for Board position(s) begins. position(s). The Board shall employ the following method for balloting:

8 (1) ~~— The Board shall provide access to an electronic ballot to all eligible voters; and~~

9 (2) ~~— A paper ballot shall be mailed, with return envelope, to any eligible voter who makes a written request for a~~
10 paper ballot in lieu of access to an electronic ballot and whose request is actually received by the Board on
11 or before April 20.

12 ~~(b) (c)~~ A description of a nominee's qualifications shall be accessible to all eligible voters. voters casting their ballots
13 electronically. The same description of the nominee's qualifications shall accompany each paper ballot sent pursuant to
14 Subparagraph (a)(2) of this Rule.

15 ~~(c) (d)~~ On or before the March 1 that the ballot casting period ends, May 15, all ballots shall be cast electronically.
16 electronically, physically delivered to the Board office or postmarked, if the ballot is sent by U.S. mail.

17 ~~(d) (e)~~ Ballots received shall be counted and certified by the Board of Pharmacy at the next regularly scheduled Board
18 meeting following an election or at a special Board meeting properly called and noticed for the purpose of counting and
19 certifying the ballots cast. election. ~~The Board of Pharmacy shall determine the validity of any challenged ballot, and~~
20 ~~electronic or mechanical devices may be used in compiling election results. No person running standing for election or~~
21 ~~reelection may participate in the counting and certification of ballots for the election or reelection involving that person.~~

22 (f) If, by operation of Rule .2108 of this Section, a candidate is eligible to request a run-off election, that candidate must
23 provide a request for a run-off, in writing to the Board's Executive Director within one week of the date that the Board
24 certifies the election results. The run-off election shall begin one week from the date that the eligible candidate requests the
25 run-off election and the ballot casting period shall be open for two weeks. With the exception of ballot casting period dates, a
26 run-off election shall follow the same procedures described in this Rule.

27 ~~(e) (g)~~ The Executive Director shall convey the certified election results to the Governor.

28
29 *History Note: Authority G.S. 90-85.7;*

30 *Eff. April 1, 1983;*

31 *Amended Eff. May 1, 2017; January 1, 2009; April 1, 2003.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Pharmacy

RULE CITATION: 21 NCAC 46 .2108

DEADLINE FOR RECEIPT: Tuesday, April 11, 2017

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Please delete the incorporation language. I would suggest ending the sentence after "163-111(a)(1) and (b)(1).

On line 4, what "election results" are being referenced? Are these the elections of pharmacist members of the Board?

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: March 28, 2017

1 21 NCAC 46 .2108 is amended as published in 31:12 NCR 1246 as follows:

2

3 **21 NCAC 46 .2108 DETERMINATION OF ELECTION RESULTS**

4 The determination of election results shall be in accordance with G.S. ~~163-111~~, 163-111(a)(1) and (b)(1) which ~~is adopted~~ are
5 incorporated herein by reference and include subsequent amendments and editions. A copy of G.S. 163-111 is available at
6 www.ncleg.net for inspection at the Board office and may be obtained from the Board office for a cost of 25 cents (\$.25) per
7 page.

8

9 *History Note: Authority G.S. 90-85.7;*

10 *Eff. March 1, 1991;*

11 *Amended Eff. May 1, 2017; December 1, 2001.*