REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 – ALL RULES FILED

The staff of the Rules Review Commission has completed its opinion review of the rule or set of rules your agency filed with us for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved.

In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*The submission form states that the notice of text was on “01-24-11.” It appears that may have been the date you submitted it to OAH. However the notice was actually in the February 15, 2011 issue of the NCR and that is the date that is supposed to appear on the filing form. Please correct this on all forms. (You may do this manually on the forms already filed rather than preparing new forms.)*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and submit it along with two copies and an electronic copy to our office at 1711 New Hope Church Rd., Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0101

The staff of the Rules Review Commission has completed its opinion review of the rule or set of rules your agency filed with us for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved.

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*Given that you have the definition of “podiatry” in (b)(5) line 22 by referring to the same statute as you refer to in (b) line 9, I would delete the reference to the statute in (b) lines 9 and 10 and change it to read what is in the last words of (b), “The following terms have the following meanings:” and leave the remainder of (b) including (b)(5) as is.*

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Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0201

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*This rule should be broken into paragraphs since there are a number of different provisions in it.*

*I would make the first two sentences, lines 4 – 7, (a); the next sentence lines 7 – 10 would be (b); and the next sentences, lines 10 and 11 should be combined into one to read, “(c) The application must be accompanied by a non-refundable application fee of three … ($350.00).” [Highlighting added to emphasize the change and notice the change in the formatting of the dollar figure – see 26 NCAC 02C .0108(11).] The last sentence line 12 would become (d).*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0202

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In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*The only provision of substance in this rule that is not in the statute is the last sentence. You cannot have a rule that allows the board to act as it sees fit, without specific statutory authority – and there is no such authority. The discretion allowed by statute must be made specific in a rule. I would rewrite the first two sentences as follows or similar language, “The board shall conduct a licensing [or whatever term you prefer] examination as set out in G.S. 90-202.6. The examination shall be scheduled so as not to conflict with the APMLE.”*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0204

The staff of the Rules Review Commission has completed its opinion review of the rule or set of rules your agency filed with us for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved.

In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*It seems to me that you should put some notice in this rule that a person is entitled to only two reexaminations under the statutory provision. Otherwise it is not clear in that the rule would seem to permit perpetual reexamination within a year of failing.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0206

The staff of the Rules Review Commission has completed its opinion review of the rule or set of rules your agency filed with us for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved.

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*You don’t need this rule. It seems to be completely an internal matter of how the board issues licenses and doesn’t require or forbid the applicant in any manner. It does not even require much of the agency. Unless the board has some aching desire to retain it, I am recommending to the RRC that they object to this rule based on lack of necessity and asking you to repeal it.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0208

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*In lines 7 and 8 change “will” to “shall” in the two places it occurs.*

*In line 8 after “approval process” add “as set out in these rules,” or refer to the specific rule(s) where the approval process is set out, or delete the approval requirement. The board is not allowed to set approval standards outside rulemaking.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0301

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*The web site URL needs to be more specific. It currently points to the entire Chapter 55B and not to G.S. 55B-10.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0302

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In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*The web site URL needs to be more specific. It currently points to the entire Chapter 55B and not to G.S. 55B-11.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0303

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In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*The web site URL needs to be more specific. It currently points to the entire Chapter 55B and not to G.S. 55B-11.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: N.C. BOARD OF PODIATRY EXAMINERS

DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0601

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In reviewing the rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.1.

*I believe this rule would read better if in line 7 you changed “shall require” to “requires” and would still retain the same meaning and effect.*

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DEADLINE FOR RECEIPT: TUESDAY, MAY 17, 2011

RULE CITATION: 21 NCAC 52 .0611

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*In (a) what is the meaning of “prescribe”?*

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