REQUEST FOR TECHNICAL CHANGE

AGENCY: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 – ALL RULES REVIEWED

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 15,2013**

***NOTE WELL: This request when viewed on computer may extend several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC 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. You may call this office to inquire concerning the staff recommendation.

In reviewing these 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-21.10.

*Please provide the link (URL) to the agency notice of text in block 6 of the submission for filing form.*

*The explanation given for the rule changes is the same for all the rules. Given the other explanations, that might be acceptable except that the first explanation in the first clause states that “changes in policies by IC & RC/AODA, Inc that statue directs Board to follow with attendant fee deletion.” There is no statute mentioned so it is unclear what is directing the board “to follow with attendant fee deletion.” Please provide an explanation by return email ASAP so we can determine if the explanation is satisfactory.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it 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: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 .0101

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 15,2013**

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC 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. You may call this office to inquire concerning the staff recommendation.

In reviewing these 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-21.10.

*In (3) please make “’Supervisor’” in “’Approved Supervisor’” lowercase.*

*Please correct the reference to repealed G.S. 90-113.31 in (3).*

*Also in the new definitions rule, G.S. 90-113.31A, there is no definition for “supervisor” so it is unclear what is meant in (3), line 12, by “a supervisor as set out in G.S. 90-113.31” even if the reference was meant to be to the newer definitions statute.*

*In (3) line 13 the definition of an “approved supervisor” refers to this position as a “Board designation pursuant to Rule .0211.” Rule .0211 is a rule concerning the “clinical” supervisor certification. This definition needs to be clarified as to what type of “approved” supervisor the rule refers to and whether “this Board designation” is referring to “approved supervisor” in this rule or “clinical supervisor” in Rule .0211.*

*In (4) line 15 please add a comma after “problems” and after “tobacco” in line 16. Incidentally, what exactly is “tobacco abuse?” If by “tobacco abuse” you mean “addiction” then change the wording to “alcohol or drug abuse, or tobacco addiction.”*

*In (5) line 18 delete “proximity of the.”*

*In (5) it is unclear what is meant by “face-to-face” since it seems to be used in two different ways to fulfill a requirement. In line 18 it appears to require someone to be physically in the same room. In line 19-20 it appears to allow the supervisor to be in a different location. Here are some specific requests concerning the remainder of that item, but it may be that these will no longer apply after you clarify the above. At any rate in making that clarification you do need to be aware of the following:*

*In line 18 change the comma in “person, face-to-face” to either “and” or “or.” Do the same in line 19 in “video, face-to-face.” The comma after “face,” in line 19 is not necessary and should be deleted.*

*In (6) line 21 make “’Supervision Specific Education’” lowercase.*

*In that same line delete or define “directly.”*

*In (9) line 26 add a comma after “decision-making.”*

*In (10) line 28 delete or define “crucial.” In that same line it seems that “either directly or indirectly” should be deleted as unnecessary since either way is “related to” alcohol or drug use, that is unless there is a third way that is related but the relationship to alcohol or drug use is neither direct nor indirect.*

*In (10) move “in the course of treatment” in line 29 to immediately after “event” in line 28.*

*At the end of line 28 delete the comma after “drug use,”.*

*In (11) line 30 make “Status Group” lowercase.*

*In (12) line 33 add a comma after “civic.” In the alternative you could make it “... industries, and civic and other community groups,” although I believe that at least some of the other groups in the list, e.g., schools and churches, would be considered “other community groups” and the punctuation should be as first noted.*

*In (13) line 37 make “Time” lowercase.*

*In (14) page 2 line 1 make “Professional Skill Building” lowercase.*

*Later in that same line add “the” before “general.”*

*In (15), page 2 line 3 delete “a body composed of.”*

*In (17) line 8 make “Reference” lowercase.*

*In (18) line 9 make “In Good Standing” lowercase.*

*In (23) line 18 make “Consultation” lowercase.*

*In (24 page 2 line 22 change “means” to “mean.”*

*In (28) page 2 line 34 change “the return” to “a return” to be consistent with your style of definitions in other rules, e.g., (17) letter of reference means “a” letter.*

*In (28) page 2 lines 34 and 35 you use two different phrases, “return to the pattern of substance abuse” and “resumption of substance abuse” to describe what seems to be the same thing – “relapse.” You should use the same wording so there is no confusion whether they might be describing two different situations.*

*In the last line of (28) add a comma after “psychological.”*

*In (29) page 3 lines 2 and 3 change “prescribed by the Board” to “prescribed by statute and the rules of the Board.”*

*In (30) page 3 line 6 delete “as prescribed by the Board” as unnecessary or refer to where the renewal rules are set out.*

*In (33) page 2, the rule defines “sexual activity.” However the first two components of sexual activity are two instances of “contact ....” Yet the next definition is one for “sexual contact.” It seems to me that (33)(a) and (b) should be moved to (34).*

*This does introduce another issue: it seems to me that the “activities” sound more like “contacts” and the “contacts” sound more like “activities.” This is especially irritating in that the first two “activities” that are defined are two different types of “contact.” Perhaps these should be combined into one definition for “’Sexual activity’ or ‘sexual contact.’”*

*In (33)(c) page 3 line 15 insert a comma after “hand;” delete the following word, “or;” insert a comma after “finger” in the next line; delete “by” in “or by any object” in line 16; delete the word “or” before “arouse;” and insert a comma after “arouse.” On the other hand if the “or” after “degrade,” is intended to separate activities with different natures, then change the comma following “degrade,” to a semicolon.*

*Out of curiosity, why isn’t the penis included as something that can be used as an instrument of penetration along with a hand, finger, or any object? I understand that “penetration, however slight ... of [the] genital opening,” as set out in (33)(c) by a penis would meet the (34)(a) definition of intercourse and so you may have determined that it is unnecessary to include it as “sexual activity” as well as “sexual contact.” (This does relate back to that other issue I mentioned above: it seems to me that the “activities” sound more like “contacts” and the “contacts” sound more like “activities.”) But one area where this might become important is in the enforcement of the various prohibitions in rule .0509(c). It may not have been intended, but the prohibitions in (c)(1) – (4) all extend to both “sexual activity” and “sexual contact” while the prohibition in (c)(5) pertains to “sexual activity” only which would exclude intercourse. In the context of that rule it seems strange that intercourse would not be an excluded sexual activity.*

*In (34) I am not sure that the condition, “if initiated, agreed to, or not resisted by ...” is necessary. I guess it does rule out if the substance abuse professional is a victim of sexual assault that then there is no sexual contact or activity. (Of course the rule would actually require the professional to resist the assault, which might not be the wisest course of action. It seems to me that the contact or activity is still of a sexual nature, even if it is forced and saying it does not amount to sexual activity or conduct is denying the reality of the contact or activity. It further seems to me that “sexual assault” could be a defense against a charge of violating rule .0509 whether or not that is stated in this rule by way of definition. All of this is my long-winded way of saying I think the condition should be deleted. At the least I do believe that that phrase should be changed to “if initiated or agreed to by the ... professional.”*

*In (35) and (36), page 3, make “Abuse Counseling Experience” and “Abuse Prevention Consultant” lowercase.*

*In lines 27 and 30 of those two items change “full time or part-time, paid or voluntary” to “full-time, part-time, paid, or voluntary.*

*In (37) make “Abuse Specific” lowercase.*

*In (38), page 3, make “Supervised Practice” lowercase.*

*In (39), page 4 line 1 make “Record” lowercase.*

*In line 2 of that same item there is a statutory definition for “practice supervisor” and I presume that the supervision described in that statute would serve as a definition for “practice supervision” in this rule. However there is no such analog for “applicant supervision” or supervisor. Is a definition necessary?*

*In the history note the amendment’s effective date is in the wrong location; please correct.*

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

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 .0206

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 15,2013**

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In reviewing these 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-21.10.

*In (a) lines 6 and 7 make “Substance Abuse Prevention Consultant” and “Prevention Consultant” lowercase to match the statutory use.*

*In (b) line 10 you need to change the introduction to the subparagraphs as follows or something similar: “In addition to the requirements set out in G.S. 90-113.40, the requirements for certification include:”.*

*In (b)(1) you should refer to the statutory work experience hours rather than repeating them here. I would suggest something along the lines, “... (1) Supervised work experience as set out in G.S. 90-113.40(a)(8).”*

*The same request would apply to (b)(3), “... (3) Supervised practical training as set out in G.S. 90-113.40(a)(7).”*

*There is no authority cited to require “evaluations from colleagues or co-workers.” If the authority comes from standards adopted by IC&RC/AODA, Inc. or any other professional disciplines granted deemed status, which you may use to set further credentialing standards (as set out in G.S. 90-113.39), then put the applicable references in the authority portion of the history note. Also add that statute to the authority in the history note and be sure to include it in numerical order.*

*Delete subparagraph (b)(6) as unnecessary since it repeats the statute.*

*In subparagraph (b)(7), page 2 line 1, change “registration” to “certification.”*

*Please correct the reference to repealed G.S. 90-113.31 in the history note.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 .0209

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*It seems to me that in (a) line 3, you should change “a Counselor, Prevention Consultant, ... Addictions Specialist” to either “a person” or “an applicant,” especially since the names seem to change every so often. If you don’t make that change then you need to make them lowercase to be consistent with the statutory use.*

*In lines 5 and 6 make all the various positions or title lowercase so that they are all in agreement with “substance abuse counselor” beginning in line 4 and with the use in the statutes.*

*In (c) line 11 make “State” lowercase.*

*In the authority portion of the history note it seems to me you should add G.S. 90-113.36 and -113.37A as authority and delete 90-113.38 from the authority.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 .0301

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*Add G.S. 90-113.33 and perhaps 90-113.36 to the history note authority in their proper places in the order of statutes.*

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

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 .0303

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 15,2013**

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*In (a) I believe the rule would sound better if you moved “to the Board” at the end of line 5 to after “letter of intent” in line 4.*

*In (b)(3) line 11 it seems to me that “the examination” should be “an examination.” If a specific examination is meant, then specify that exam.*

*In (d), line 17, I would change “statutes and rules” to “governing law.” This is because a discipline granted deemed status may include non-governmental organizations not directly controlled by statutory law but governed by such things as corporate charters, articles of incorporation, and by-laws.*

*Delete G.S. 90-113.32 and -113.43 from the authority. Neither is relevant to the contents of this rule.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 .0304

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*In (a) delete the entire “Standards and Credentialing Committee of the” in line 4. This is set in the statute and is not necessary to repeat.*

*Delete G.S. 90-113.32 and -113.43 from the authority. Neither is relevant to the contents of this rule.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 .0305

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*Please rewrite (1) and add a new (d) substantially as follows:*

(1) . . .

(a) . . .

(b) . . .

(c) Six hours of clinical supervision specific training.

(d) Six hours selected from the following list

(i) Nicotine Dependence;

(ii) Psychopathology;

(iii) Evidence-Based Treatment Approaches;

(iv) Substance Abuse Issues in Older Adults; and

(v) Substance Abuse Issues Affecting Veterans.

All hours listed in sub-items (a), (b), (c) and (d) of this item may be included in the 180 hours completed for licensure in the core competencies by ~~the~~ an applicant not in the deemed status ~~group~~ group. ~~as well as:were included in the 180 hours completed for certification in the core competencies by the applicant not in the deemed status group;~~

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Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 .0306

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*The amendment changes “certification” in the title of this rule to “licensure.” In (a)(1) line 6 change “certification” to “licensure” to match the other changes.*

*In (b) the term “certification” is changed to “licensure” or “licensing” in (1) and (2) and the term “re-licensing” is added in (3). However in (b)(3)(D) and (b)(5) the term “re-credentialing” is used in place of “certification” and “recertification” in a context that seems the same as the other three changes. Please either verify and explain the difference in usage or make the terms the same and consistent.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

RULE CITATION: 21 NCAC 68 .0512

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*In (a)(1) line 10 delete or define “influential.”*

*In (a)(2)(A) the restrictions are a little bit confusing or at least they read awkwardly. I will suggest what I think would read better: “Instruct or supervise a person living in the supervisor’s household or a family member who is related to the supervisor to the second degree by either marriage or blood.”*

*Now, in line with that I am not sure if everyone would have the same understanding of what “to the second degree” entails. I believe you should have a definition or explanation of what constitutes “to the second degree” or refer to where it can be found.*

*And it would seem that perhaps you should add related by civil union to the mix as well.*

*In (a)(6) since there seems no permission to disclose confidential information to “professional colleagues” in educational or training settings where there is only a single supervisor, I would assume that “professional colleagues” in (a)(6)(C) line 30 should be changed to “supervisors.” If that is not the correct interpretation then it seems to me that “In educational or ... and then only,” should be deleted as unnecessary. If that is not the correct interpretation either, then the rule is unclear.*

*In (a)(9), page 2 line 5, define “clear” or delete “are clear and.”*

*In (a)(9) I am not sure why it would not be “practicable” to disclose those fees “prior to the beginning of supervision” especially since they have to be in writing. Either delete or define “if practicable.”*

*In (b), page 2 line 7 make “Record” lowercase.*

*12, delete the comma following “mailed,”. At the end of that line add “after receipt of the certified notice from the Board” or similar language.*

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Joseph J. DeLuca, Jr.