

Burgos, Alexander N

Subject: FW: Brd. of Electrolysis Examiners RRC Submission - 21 NCAC 19
Attachments: 21 NCAC 19 .0404 RRC revisions.docx; 21 NCAC 19 .0701 RRC revisions.docx; 21 NCAC 19 .0702 RRC revisions.docx; 21 NCAC 19 .0703 RRC revisions.docx; 21 NCAC 19 .0705 RRC revisions.docx; Electrolysis Examiners - 10.2022 - 21 NCAC 19 Change Request.docx

From: Seavers, Dennis <dennis.seavers@nc.gov>
Sent: Monday, October 3, 2022 5:36 PM
To: Duke, Lawrence <lawrence.duke@oah.nc.gov>; ncbeexam@att.net
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Brd. of Electrolysis Examiners RRC Submission - 21 NCAC 19

Dear Lawrence,

Thank you for the comments; they will certainly help improve the rules. I have attached revised rules to address your change requests.

I have also attached a version of your change-request document with comments from me in red. These comments address some of your questions or offer clarifications. (I removed your questions or requested changes whenever the board made a revision that is clear and should not require any explanation.) If you have any outstanding concerns or do not feel that my responses address your comments, please let me know and I will be happy to respond.

I believe you were out of the office last week and did not get a chance to respond to my email below. I have left Rule .0706 as originally formatted because I believe that is what 26 NCAC 02C .0405(b)(1) requires, and I have formatted Rule .0705 in the same way (after making post-publication changes in response to your comments). If you still believe the rules are formatted incorrectly, please let me know and we can discuss.

The agency reviewed your comments and agrees that Rule .0704 is no longer necessary. Unless you recommend a different approach, the agency will repeal the rule in response to a Commission objection.

Please feel free to contact me at dennis.seavers@nc.gov or (919) 814-0641.

Dennis

Dennis Seavers
Executive Director
North Carolina Board of Barber Examiners
(Responding on behalf of the North Carolina Board of Electrolysis Examiners)

RULE CITATION: 21 NCAC 19 .0404

Please see my comments under Rule .0701 below. Those comments explain the addition of “home study” to this rule.

Also in several items, “which” is used where “that” would be proper. Please change on Page 1, lines 5, 17, 18; Page 2, line 35; Page 3, lines 10 (also remove comma), 23; Page 4, lines 7, 19 (also remove comma), 21, 23, delete second “which” on 34; Page 5, line 3, 11 (also remove comma).

The instances of “which” that appear on page 1, lines 17 and 18, and page 4, line 19, are in definitions that have now been deleted.

In (16)(a), is “semi-critical instruments or devices” defined?

A definition appears in Item 42.

Also, in (a), (b), and (c), are the lists exhaustive?

If you are referring to the substances referred to in (a), (b), and (c), these are illustrative rather than exhaustive.

The second sentence of (23) seems to be a requirement for “forceps” within the Definition section. Is this located elsewhere, or can it be moved? Regardless, the second sentence should end: “...but may contact blood, serum, or other material...”

Since the requirements for forceps appear in Rule .0407, the agency has decided to strike the second sentence.

In (33), consider removing “various”, as it would suggest the allergic response must be to greater than one latex protein. Consider, “... response to a latex protein...”

In response to a separate request, we have removed this definition.

In (38), insert an Oxford comma after “objects”.

In response to a separate request, we have removed this definition.

In (43), insert an Oxford comma after “pressure gauges”.

In response to a separate request, we have removed this definition.

In (45), what is the purpose of the portion “... that may be difficult...” and after? If kept, rewrite as such, “... tables, pillows, or hard-to-clear surfaces, such as light handles and epilator surfaces.” The second period should be removed from the end of the sentence.

There will be circumstances where an object is shaped, situated, or affixed in such a way to make it difficult to disinfect because the object and its surfaces cannot be easily accessed or removed. Similarly, the object may be of such a size that it cannot be easily disinfected. In these cases, a protective disposable barrier would be used. The idea is similar to what you might see in a dentist's office: some objects can be removed and sterilized, but there will be others (such as a chair or cord) that have a plastic covering.

RULE CITATION: 21 NCAC 19 .0701

Throughout the Rule, "license effective period" is used numerous times. What statute or rule is the "license effective period" pursuant to? Also, what is the purpose of the language in paragraph (a) and (b)? The subparagraphs are not requirements for license renewals and read more as individual rules for electrologist and laser hair practitioners regarding CEUs.

G.S. § 88A-12 refers to the annual renewal requirement, so a license effective period would include that time period in which the license remains effective before it has to be renewed.

The rule refers to renewals because G.S. § 88A-12(a) requires licensees to complete a continuing educational program approved by the Board for a person as a condition of renewal. The rule is saying that the board will only approve a renewal after the CEU-related requirements are met (along with requirements listed elsewhere, such as payment of a renewal fee).

In (a)(1), delete the comma following "Chapter". Also, in (a)(1), what does "years of practice" mean? Do you mean years of licensure or the practice of electrology? This is vague and could apply to years being engaged in an electrologist practice while unlicensed.

Although I would agree that "years of practice" on its own could include unlicensed practice and thus be vague, I do not believe this sentence can be read to include unlicensed practice because the practice has to be "without interruption in licensure." If there were unlicensed practice, there would necessarily be an interruption in licensure.

In (a)(6), move the definition for "home study" to (5) since (5) is the earliest the phrase is used. Also, how is a "home study" "credited"?

I moved the definition of "home study" to Rule .0404 since it would have been a little difficult to fit it into (a)(5) with disrupting flow, and because it probably most belongs in the list of definitions. If you still prefer it to be in (5), please let me know.

I believe the revision to (a)(6) makes the rule clearer and will address your other question.

In (a)(9), when shall the licensees "renew licenses and pay for inspections for the upcoming year"? How does this not conflict with G.S. 88A-12?

Paragraph (a)(9) was worded in a confusing way. The agency's intention was to make it clear that the initial license was not a permanent license and would need to be renewed. The wording of the rule made it seem like the Board was saying that a person would need to pay both an initial license fee and a renewal up front. Since this language really is unnecessary, I have removed it. The inspections occur at the beginning of a license period, so the requirement to pay for inspections for the upcoming year is a way of saying that the person must pay the fee in G.S. § 88A-(b)(6c). If this is creating confusion, we can make a revision.

In (a)(10), what is the "initial inspection" and what is it pursuant to?

This phrase has the same meaning as the office inspection referred to in G.S. § 88A-9(6c).

RULE CITATION: 21 NCAC 19 .0702

In (b), what is the authority to require the named entities provide such information outside of information needed for granting approval under G.S. 88a-13?

The board needs to know who attended and the amount of time they attended to maintain the records required by G.S. § 88A-13(c). If the board were to not receive that information, it would not know that licensees received CE hours, nor would it know how many hours they received.

In (e), what are the criteria used by the Board in the IACET and ANSI?

The organizations listed are generally recognized organizations that have established the standards, and the board is incorporating them by reference. There are several criteria, with details about what the categories listed below would mean. But examples include:

- Identification of needs;
- Planning and instructional personnel;
- Content and instructional methods; and
- Learning environment and support systems.

In (f), is there a requirement as to the type of mailing or address used?

I added language to specify that the mailing would be by first-class mail. The address would be the address the licensee has previously provided to the board.

RULE CITATION: 21 NCAC 19 .0703

Also, what does "[a] course may be audited or taken for credit" mean?

It is not uncommon for colleges or universities to allow individuals who are not enrolled students to attend a class, but they do not receive credit. Or enrolled students may attend a class but not get credit (perhaps because of limitations on how many credits they can receive in a semester). These are examples of auditing classes. The rule is making it clear that even individuals who audit the classes can get credit for the purpose of CEUs.

RULE CITATION: 21 NCAC 19 .0705

Regarding (b) and (c), what happens in the event the course “subject matter, length, or instructor” after the two-month period before the course-registration date?

I think the question may be incomplete, so I am not sure what you were asking.

RULE CITATION: 21 NCAC 19 .0706

What makes the listed “factors” compliant with G.S. 150B-19(6)’s requirement to provide “specific guidelines” for any waiver?

Given that this is a waiver rule, the listed factors are reasonably specific guidelines for what the board will consider when it decides whether to grant a waiver. I understand why you are asking this question, and I know that G.S. § 150B-19(6) does not define “specific guidelines.” But please note that the Commission has previously considered essentially identical rules and determined that the factors listed in the adoption meet the statutory requirement for the rule to have “specific guidelines.” Below are the previously approved rules:

- 21 NCAC 10 .0216 (Board of Chiropractic Examiners) – approved unanimously on June 17, 2021;
- 21 NCAC 12A .0607 (Licensing Board for General Contractors) – approved unanimously on June 17, 2021;
- 21 NCAC 34A .0128 (Board of Funeral Service) – approved unanimously on February 18, 2021;
- 21 NCAC 39 .0904 (Onsite Water Contractors and Inspectors Certification Board) – approved unanimously on May 20, 2021;
- 21 NCAC 40 .0113 (Opticians) – approved unanimously on March 18, 2021; and
- 21 NCAC 64 .0108 (Speech Pathology and Audiology Board) – approved unanimously on May 20, 2021.

The rule has an analogue in the Office of Administrative Rule at 26 NCAC 02C .0111, which also cites G.S. § 150B-19(6) and which served as the model for the rules in the list above.

Further, is this Rule or are these factors tied to any event or decision, such as emergency orders? What causes this to trigger?

The written request submitted by the licensee or applicant (see line 5) would be the trigger and cause the board to apply the factors listed in the rule.

In (5), what does “notice to and opposition by the public” mean? Are there notice requirements?

This factor is designed to make sure members of the public who might oppose the waiver request are aware of the request and can weigh in. The rule only requires that notice be given, not that notice match (for example) the APA notice requirements for a contested case. For example, if the board is considering the waiver request at an open meeting, it could put information about the possible waiver on its website or any other place where it posts meeting information.

Generally, what triggers this Rule? Must a licensee, applicant, or other covered person request a waiver? How?

This is addressed on line 5, which specifies that the licensee or applicant must request the waiver in writing at the address in 21 NCAC 19 .0101. The submission of that request would be what triggers the rule.

When does a waiver under this Rule expire? Say, for example, the agency waives CEUs for a licensee for renewal. Does this apply for each year to come? What is the limiting principle?

The limitations will be fact-specific. But in the example you give, the waiver would apply to that particular renewal. The specific guidelines in the rule would limit the waiver. For instance, Item 6 addresses the need for the waiver, so a broad waiver that is not particular to the specific circumstances would not meet the guidelines in the rule.

21 NCAC 19 .0404 is amended with changes as published in 37:02 NCR 202-205 as follows:

21 NCAC 19 .0404 DEFINITIONS AND OVERVIEW

In addition to the terms defined in ~~G.S. 88-A~~, G.S. 88A, the following terms have the following meanings:

- (1) "Alcohol-based hand rub or gel" is means a preparation ~~which that~~ contains 60 percent to 95 percent ethanol or isopropanol that is designed for application to the hands ~~in order~~ to reduce the number of viable microorganisms on the hands.
- (2) ~~Antiseptic~~ "Antiseptic" is means a germicide used on skin or living tissue to inhibit or destroy microorganisms.
- (3) "Aseptic technique" is means the term used to describe the precautionary measures taken to help reduce the risk of post treatment infections by decreasing the opportunity for microorganisms to enter the body. Precautionary measures include handwashing, disinfection, sterilization of surfaces and instruments, use of protective barriers, containment and disposal of waste, and instrument and surface manipulations that minimize cross contamination.
- (4) "Autoclave" is means a vessel used for sterilization by the application of saturated steam under pressure and heat.
- ~~(5) "Biological indicator" is a commercially prepared device populated with bacterial spores which is used to test the method of sterilization being monitored and which demonstrates whether or not conditions necessary to achieve sterilization were met during the cycle being monitored.~~
- ~~(6)~~(5) "Chemical indicator" is means a chemically treated paper strip used to monitor parameters of a heat sterilization process by means of a characteristic color change. A chemical indicator does not indicate that sterilization has been achieved, but ~~rather,~~ a chemical indicator indicates that the temperature needed has been attained.
- ~~(7)~~(6) "Cleaning" is means the removal of all visible organic material from objects using friction, ~~detergent~~ detergent, and water prior to the disinfection and sterilization processes.
- ~~(8) "Contaminate" is to make something impure by exposure to or addition of a polluting substance.~~
- ~~(9)~~(7) "Contaminated" is means the presence of potentially infectious pathogenic microorganisms on surfaces of a objects.
- ~~[(40)]~~(8) "Continuing education unit" or "CEU" means one contact hour of participation in an organized learning experience ~~that is: that:~~
 - (a) is related to the practice of electrolysis or laser light-based hair reduction;
 - (b) ~~[contributes to the competency]~~ is related to the scope of practice of a practitioner of electrolysis or laser light-based hair reduction;
 - (c) obtained by a licensee occurs after the original granting of licensure; and
 - (d) is approved by the Board at least [30] 60 days before the event according to the standards set forth in G.S. 88A-13.

- 1 (10)(11)(9) "Cross-contamination" **is means** the process by which bacteria or other microorganisms are
2 transferred from one substance or object to ~~another~~, **another** with harmful effect.
- 3 (11)(12)(10) "Critical items" **are means** instruments, devices, ~~objects~~ **objects**, or environmental surfaces
4 that will come in direct contact with the bloodstream or other normally sterile areas of the body.
- 5 (12)(13)(11) "Decontaminate" **is means** to neutralize or remove dangerous substances or germs from an
6 area or object.
- 7 (13)(14)(12) "Decontamination" **is means** the use of physical or chemical means to remove, inactivate,
8 or destroy pathogens on a surface or item so that they are no longer capable of transmitting infectious
9 particles and to render the surface or item safe for handling, use, or disposal.
- 10 (14)(15)(13) "Disinfect" **is means** to clean with a disinfectant ~~in order~~ to destroy bacteria.
- 11 (15)(16)(14) "Disinfectant" **is means** a chemical agent used on inanimate surfaces and objects to destroy
12 infectious fungi and bacteria, but not necessarily their ~~spores~~ **spores**, and is classified into levels of
13 potency as follows:
- 14 (a)(A) ~~High level~~, **"High-level,"** which is utilized for the reprocessing of semi-critical instruments
15 or devices and includes Food and Drug Administration (FDA) regulated substances such
16 as glutaraldehyde-, chlorine dioxide-hydrogen peroxide, orthophthaldehyde-, and peracetic
17 acid-based formulations;
- 18 (b)(B) ~~Intermediate level~~, **"Intermediate-level,"** which is utilized for disinfecting tips for epilator
19 needles and includes Environmental Protection Agency (EPA) regulated substances such
20 as alcohols containing 70 to 90 percent ethanol or isopropanol, chlorine compounds, and
21 certain phenolic or iodophor preparations as determined by the EPA;
- 22 (c)(C) ~~Low level~~, **"Low-level,"** which is utilized for disinfecting environmental or non-instrument
23 surfaces and includes EPA regulated substances such as quaternary ammonium compounds
24 and certain phenolic or iodophor preparations as determined by the EPA.
- 25 (16)(17)(15) ~~Disinfection~~ **"Disinfection" is means** a procedure that reduces the level of microbial
26 contamination and is classified into the following levels:
- 27 (a)(A) "High-level," which inactivates some, but not necessarily all, bacterial spores. This process
28 will also kill Mycobacterium tuberculosis var. ~~bovis~~, **bovis** and all microorganisms ~~with~~
29 ~~the exception of~~ **except for** high levels of bacterial spores.
- 30 (b)(B) "Intermediate-level," which does not kill bacterial ~~spores~~, **spores** but ~~is capable of killing~~,
31 ~~can kill~~ M. tuberculosis var. bovis, most vegetative bacteria and fungi, as well as viruses
32 such as hepatitis B virus (HBV) and human immunodeficiency virus (HIV);
- 33 (c)(C) ~~"Low level"~~, **"Low-level,"** which inactivates most bacteria, some ~~viruses~~ **viruses**, and ~~fungi~~
34 ~~fungi~~, but not bacterial spores or Mycobacterium tuberculosis var. bovis.
- 35 (17)(18)(16) "Dry heat sterilizer" **is means** a forced air oven-type device designed to sterilize items by
36 exposure to high temperatures for designated exposure periods.

1 (18)(19)(17) "Environmental surfaces" are means surfaces in the electrology treatment room which that
2 may potentially contribute to cross-contamination by hands-of contact with the electrologist or by
3 contact with instruments that will subsequently come into contact with clients.

4 (19)(20)(18) "Enzyme detergent" is means the detergent that helps break down organic soils and fats,
5 fats and suspends particles during cleaning. An enzyme detergent is used as a soaking solution for
6 critical and non-critical instruments and as the detergent used in the ultrasonic device.

7 (20)(21)(19) "Epilator" is means an electrical device used to perform electrolysis.

8 (21)(22)(20) "Epilator cords" are means insulated plastic covered cords used to complete the current
9 circuit between the epilator and the epilator needle or the indifferent electrode.

10 (22)(23)(21) "Forceps" are means the sterilized instruments or "tweezers" used in electrology treatments
11 to lift the treated hair from the follicle. Forceps used in electrology are not intended to be critical
12 items, but may come in contact with blood, serum or other material and shall be sterile when used.

13 (23)(24)(22) "Gloves" are means coverings for the hands, which hands that provide a protective barrier
14 against infections and toxic substances.

15 (24)(25)(23) "Hand hygiene" is means the general term that applies to:

16 (a)(A) "Hand washing," the decontamination process for the removal of soil and transient
17 microorganisms from the hands by a vigorous rubbing together of all surfaces of lathered
18 hands lathered with plain soap for at least 15 seconds, followed by rinsing under a stream
19 of water;

20 (b)(B) "Antiseptic hand wash," the washing of hands with water and soap or other detergents
21 containing an antiseptic agent;

22 (c)(C) "Antiseptic hand rub," the application of an alcohol-based hand rub product, to all surfaces
23 of the hands to reduce the number of microorganisms present; and

24 (d)(D) "Hand antisepsis," a preoperative antiseptic hand wash or antiseptic hand rub to eliminate
25 transient microorganisms and reduce resident hand flora.

26 (25)(26)(24) "Health History Assessment File" is means a the cumulative and permanent documentation
27 of a client's medical and treatment record which that is maintained by the electrologist, electrologist
28 as set forth in Rule .0409 of this Section.

29 (26)(27)(25) "Hirsute or Hirsutism" is means the excessive growth of hair that is thickened caused by
30 hormonal or biochemical imbalances or genetic predisposition.

31 (26) "Home study" means an educational activity undertaken by an individual, completed by
32 correspondence or online, and with a certification of completion awarded at the end of the course.

33 (27)(28)(27) "Hospital-grade disinfectant" is means a chemical germicide that is classed in a spectrum
34 of activity as either low-level or intermediate-level, as defined in Item 15 of this Rule, with labeled
35 claims for effectiveness against Salmonella choleraesuis, Staphylococcus aureus aureus, and
36 Pseudomonas aeruginosa.

1 (28)(29)(28) "Indifferent electrode" is means a stainless steel bar held by the client during electrology
2 treatments to complete current circuit with galvanic electrolysis modality or with the use of a timer
3 delay switch in automatic delivery epilators.

4 (30)(29) "In-person seminar" is means continuing education that occurs in a physical location
5 rather than online.

6 (29)(31)(30) "Instruments" are means tools or devices designed to perform a specific function, function
7 within the field of electrology, such as grasping, holding, or retracting.

8 (30)(32)(31) "Intact skin" is means skin in which the natural protective barrier has not been altered by
9 infection or trauma.

10 (31)(33) "Latex allergy" is a systemic or local allergic response to various latex proteins to which
11 the individual has been sensitized.

12 (32)(34) "Medical grade gloves" are disposable gloves used during medical examinations and
13 procedures to prevent contamination between caregivers and patients.

14 (33)(35)(32) "Microbial" is means a minute life form; a microorganism, especially a bacterium that
15 causes disease.

16 (34)(36)(33) "Nitrile" is means non-sterile, latex-free substance from which gloves are manufactured.

17 (35)(37)(34) "Needle" is means the pre-sterilized, disposable wire filament which that is inserted into
18 the hair follicle for application of electrical current in electrology.

19 (36)(38) "Non-critical items" are instruments, devices, objects or environmental surfaces that will
20 come in contact only with intact skin.

21 (37)(39)(35) "Non-intact skin" is means skin in which there is a break in the skin's natural integrity, for
22 example, exposed skin that is chapped, abraded, or afflicted with dermatitis.

23 (38)(40)(36) "Packaging" is means a generic term meant to include all types of containment, such as
24 woven or non-woven wraps, paper or film pouches, or rigid container systems.

25 (39)(41)(37) "Pathogen" is means a microorganism or substance capable of producing a disease.

26 (40)(42)(38) "Phoresis rollers" are means sterilized stainless steel rollers used to apply current to skin
27 before or after electrology treatment.

28 (41)(43) "Physical visible indicators" are monitoring devices built into a sterilizer, such as indicating
29 thermometers, recording thermometers, pressure gauges and automatic controls, which are used in
30 identifying and preventing malfunctions and operational errors and for recordkeeping purposes.

31 (42)(44)(39) "Plain soap" is means a detergent-based cleanser without antimicrobial additives which
32 that is used for the physical removal of dirt and transient microorganisms.

33 (43)(45)(40) "Protective disposable barrier" is means a disposable, moisture-resistant covering which
34 that reduces the potential for contaminating environmental or medical device surfaces that may be
35 difficult or inconvenient to clean and disinfect routinely, for example, tables tables, and pillows, or
36 hard-to-clean surfaces surfaces, such as light handles and epilator surfaces., surfaces.

1 (44)(46)(41) "Reprocessing" ~~is~~ **means** the process of cleaning, ~~disinfecting~~ **disinfecting**, or sterilizing a
2 reusable instrument that has been used or contaminated in order to be made safe for its intended use.

3 (45)(47)(42) "Semi-critical items" ~~are~~ **means** instruments, devices, ~~objects~~ **objects**, or environmental
4 ~~surface~~ **surfaces** that may come in contact with mucous membranes and non-intact skin, but do not
5 ordinarily penetrate body surfaces. Semi-critical items require sterilization or exposure to high-level
6 disinfection as set in Item ~~44~~ **41** of this Rule.

7 (46)(48)(43) "Sharps container" ~~is~~ **means** a manufactured and labeled, leak-proof, rigid, puncture-
8 resistant, durable plastic container into which needles are placed after use and ~~which~~ **that** is designed
9 to be disposed of as an item of ~~regulated~~ medical ~~waste~~. **waste regulated by the North Carolina**
10 **Department of Environmental Quality.**

11 (47)(49)(44) "Standards" ~~is~~ **means** the level of quality or excellence.

12 (48)(50)(45) "Sterility assurance file" ~~is~~ **means** the record containing the sterilizer maintenance and use
13 log and culture report from each biological monitor.

14 (49)(51)(46) "Sterilization" ~~is~~ **means** the process ~~which~~ **that** destroys all forms of microbial life. The
15 ~~recommended~~ methods of sterilization of instruments and items used in the practice of electrology
16 are the dry heat sterilizer or the autoclave.

17 (50)(52) ~~"Tip for epilator needle" is the cap or plastic tip that surrounds the base of the needle and~~
18 ~~covers the pin device where the needle shank is seated.~~

19 (51)(53)(47) "Treatment room" ~~is~~ **means** the operatory where electrolysis treatments are performed.

20 (52)(54)(48) "Ultrasonic cleaner" ~~is~~ **means** a ~~processing unit using~~ **device that uses** ultrasonic waves
21 transmitted through the cleaning solution in a mechanical process known as cavitation. The
22 transmitted sound waves produce tiny air bubbles on instrument ~~surfaces, which~~ **surfaces that** scrub
23 tightly adhering or embedded particles from solid surfaces and remove soil deposits from hard-to-
24 reach areas.

25
26 *History Note:* *Authority G.S. 88A-6; ~~88A-13~~; 88A-16;*
27 *Eff. December 1, 2010;*
28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1,*
29 *~~2018~~. ~~2018~~;*
30 *Amended Eff. November 1, 2022.*

21 NCAC 19 .0701 is amended with changes as published in 37:02 NCR 205-206 as follows:

21 NCAC 19 .0701 CONTINUING EDUCATION REQUIREMENTS, LICENSE RENEWAL, REINSTATEMENT AND REACTIVATION

(a) ~~Requirements~~ The following are requirements for the Board to approve renewals for electrologist or laser hair practitioners:

- (1) Each electrologist licensed in this State shall complete ~~one CEU, 10 CEUs~~ as defined in Rule .0103 Rule .0404 of this Chapter, Chapter per ~~renewal license effective~~ period as a requirement for renewal of the electrology license. ~~For electrologists Electrologists with 20 30 or more years of practice, practice without interruption in licensure the CEU requirement shall be completion of one CEU complete 10 CEUs every five years. The first five-year period shall be measured from the issuance date of the license in year 30, and subsequent periods shall be measured from the issuance date in each fifth year thereafter.~~
- (2) Each A laser hair practitioner licensed in this State shall complete ~~one CEU 10 CEUs~~ per ~~renewal license effective~~ period as a requirement for renewal of the laser hair practitioner license.
- (3) An electrologist or laser hair practitioner who has been placed on the inactive list by the Board as set forth in G.S. 88A-14 for less fewer than five years and desires to return to active ~~status, status~~ shall present evidenee certification of completion of ~~one CEU 10 CEUs~~ within the 12 months preceding the reactivation application in satisfaction of the competency requirement of G.S. 88A-14.
- (4) An electrologist or laser hair practitioner whose license has been expired for 90 days or more but less than five years shall present certification of completion of ~~one CEU 10 CEUs~~ for each ~~renewal license effective~~ period or part of a ~~renewal license effective~~ period that has elapsed since the electrologist's or laser hair practitioner's license was last ~~current current~~, in satisfaction of the competency requirement of G.S. 88A-12. At least ~~one 10~~ of the CEUs offered in satisfaction of a competency requirement shall have been completed within the 12 months immediately preceding the application for reinstatement.
- (5) Not more than ~~one CEU 10 CEUs~~ [earned through in person seminar] may be carried over ~~per renewal period, to the next license effective period.~~ CEUs earned through [other content delivery methods] home study [cannot] shall only be carried over to the next license effective [period.] period if the following occur:
 - (A) The education provider records the full name and license number of the attendee;
 - (B) There is both a host and a monitor administering the education, where the monitor verifies that attendees are present during the presentation;
 - (C) The attendee has a camera on at all times so that the monitor can verify that the attendee is participating in the presentation;

1 (D) The education provider records the time the attendee was present during the education; and

2 (E) The education provider submits verification of the licensee's attendance at the presentation
3 within 30 days of the event to the address in Rule .0101 of this Chapter.

4 (6) ~~No~~ Licensees shall not receive credit from the Board for more than ~~one CEU~~ 10 CEUs of home
5 study ~~may be credited~~ for continuing education in each ~~renewal~~ license effective period. "Home
6 study" is defined as an educational activity undertaken by an individual, completed by
7 correspondence or online, and with a certification of completion awarded at the end of the course.
8 ~~Continuing education hours obtained through home study may~~ ~~shall~~ not be carried over to a
9 subsequent renewal [license effective] period.

10 (7) In the initial year of licensure, new licensees ~~tested~~ who take a licensing examination after the sixth
11 month of the calendar year shall not be required to obtain CEUs until the following renewal year.

12 (8) Over any two ~~renewal~~ sequential license effective periods, the Board shall give credit for no more
13 than ~~one half CEU~~ five CEUs in the area of business management.

14 (9) New licensees shall be required to ~~renew licenses and~~ pay for inspections for the upcoming year.

15 (10) An initial license shall not be issued until an initial inspection has been completed on the practicing
16 office.

17 (b) ~~Requirements~~ The following are requirements for the Board to approve renewals for instructors:

18 (1) An instructor whose certification has been placed on the inactive list for more than 90 days and ~~less~~
19 ~~fewer~~ than ~~3~~ three years shall present certification of completion of ~~one CEU~~ 10 CEUs within the
20 12 months immediately preceding the application for reactivation of certification.

21 (2) An instructor whose certification has been expired for more than 90 days, but less than ~~3~~ three years
22 shall present certification of completion of ~~one CEU~~ 10 CEUs for each ~~renewal~~ license effective
23 period or part of a ~~renewal~~ license effective period that has elapsed since the instructor's license was
24 last current. At least ~~one~~ 10 of the CEUs offered in satisfaction of a competency requirement shall
25 have been completed within the 12 months immediately preceding the application for reinstatement
26 of certification.

27
28 *History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;*
29 *Eff. March 1, 1995;*
30 *Amendment Eff. October 1, 2015; December 1, 2010;*
31 *Readopted Eff. September 1, 2019; 2019;*
32 *Amended Eff. November 1, 2022.*

1 21 NCAC 19 .0702 is amended with changes as published in 37:02 NCR 206 as follows:

2
3 **21 NCAC 19 .0702 BOARD APPROVAL OF COURSES**

4 (a) The Board shall approve a program or course if it is:

- 5 (1) ~~In~~ in any subject required by 21 NCAC 19 .0601; and
- 6 (2) ~~Offered~~ offered by one of the following entities:
 - 7 (A) a college or university authorized to grant degrees in this State;
 - 8 (B) a national professional electrolysis or laser hair practice association;
 - 9 (C) a school or Continuing Education (CE) provider certified by the Board;
 - 10 (D) American Society of Laser Medicine (ASLM);
 - 11 (E) American Academy of Dermatology (AAD); or
 - 12 (F) an entity providing a program of Certified Medical Education (CME).

13 (b) The applicant or entity offering the program or course shall provide the Board with the information listed in
14 Paragraph (c) of this Rule and shall certify to the Board the names of all electrologists licensed by the Board who
15 attended the program or course and their actual hours of attendance.

16 (c) The Board shall not approve a program or course without the following information:

- 17 (1) Title, location, and date of the ~~course;~~ course or courses;
- 18 (2) Sponsoring entity;
- 19 (3) Course objective and outline of each course's content;
- 20 (4) Hours of ~~study;~~ study for each course topic; and
- 21 (5) Name, education, and background of each instructor.

22 (d) An electrologist or laser hair practitioner seeking credit for a program or course offered by an entity not listed in
23 Paragraph (a) of this Rule may request that the Board approve the course by submitting ~~in writing, at least two months~~
24 ~~in advance of the course registration date, the information listed in Paragraph (c) of this Rule on an application form~~
25 ~~provided by the Board. The Application for Approval of Continuing Education may be obtained online at~~
26 ~~www.ncbee.com. the application for approval of continuing education as set forth in Rule .0705 of this Section.~~

27 (e) The Board shall approve a program or course if requested pursuant to Paragraph (d) of this Rule upon finding that
28 it meets the requirements of G.S. 88A-13. ~~In determining whether or not to make~~ When making this finding, the Board
29 shall consider ~~the program or course in light of~~ the criteria set forth in The Continuing Education Unit Criteria and
30 Guidelines, current edition, as adopted by the International Association for Continuing Education and Training
31 (IACET) in conjunction with the American Standards National Institute (ANSI) and incorporated herein by reference
32 including subsequent amendments or editions. ~~The presence of all criteria or the absence of individual criteria shall~~
33 ~~not be conclusive, and the Board shall have discretion in the approval of programs, courses, or providers on a case-~~
34 ~~by-case basis.~~ Copies of The Continuing Education Unit Criteria and Guidelines, current edition, may be obtained at
35 ~~a cost of twenty nine dollars and ninety five cents (\$29.95)~~ for four hundred ninety-five dollars (\$495.00) at
36 <http://www.IACET.org>.

1 (f) The Board shall notify the electrologist by **first-class** mail of the Board's findings and decision regarding the
2 request made pursuant to Paragraph (d) of this Rule.

3 (g) A change in subject matter, length, or instructor of a course requires reapproval by the Board.

4 (h) The entity offering the program or course shall either provide to the electrologist or directly to the Board
5 certification of the electrologist's actual hours of attendance after the program or course is complete.

6

7 *History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;*

8 *Eff. March 1, 1995;*

9 *Amended Eff. September 1, 2015; December 1, 2010;*

10 *Readopted Eff. September 1, ~~2019~~ 2019;*

11 *Amended Eff. November 1, 2022.*

1 21 NCAC 19 .0703 is amended as published in 37:02 NCR 207 as follows:

2

3 **21 NCAC 19 .0703 COMPUTATION OF CONTINUING EDUCATION UNITS**

4 (a) To obtain credit as a contact hour of continuing education, the learning **activity experience** scheduled for an hour
5 shall occupy at least 50 minutes of the hour.

6 (b) An electrologist may fulfill the continuing education requirements of Rule .0701 of this Section by completing
7 more than one course if the total equals ~~one~~ 10 or more CEUs.

8 (c) One semester credit hour at a university or college **in a course that would enhance the practice of electrology or**
9 **laser hair practice, such as a course in the endocrine system,** shall be equivalent to ~~one CEU,~~ 10 CEUs. A course may
10 be audited or taken for credit.

11 (d) An electrologist who teaches in a program or course approved by the Board may obtain CEU credit at the rate of
12 four contact hours for each contact hour of teaching.

13

14 *History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;*

15 *Eff. March 1, 1995;*

16 *Readopted Eff. September 1, ~~2019,~~ 2019;*

17 *Amended Eff. November 1, 2022.*

1 21 NCAC 19 .0705 is adopted with changes as published in 37:02 NCR 207 as follows:

2

3 **21 NCAC 19 .0705 APPLICATION FOR APPROVAL OF CONTINUING EDUCATION**

4 (a) ~~The application~~ An applicant for approval of continuing education ~~shall be filed~~ as set forth in Rule .0702(d) of
5 this ~~Section~~. Section shall include ~~It requests the following:~~ following in his or her application:

6 (1) the application date;

7 (2) the sponsoring entity offering the continuing education;

8 (3) the name of the speakers or presenters;

9 (4) the title of the course;

10 (5) the location of the course;

11 (6) the date of the course;

12 (7) the number of hours of study;

13 (8) the course objectives and a summary of the course content;

14 (9) the educational or professional background of the speakers or presenters, or a copy of the curricula
15 vitae of the speakers or presenters; and

16 (10) a summary of the learning outcomes of the course.

17 (b) ~~Applicants~~ An applicant shall submit the form to the address in Rule .0101 of this Chapter at least two months
18 before the course-registration date.

19 (c) Any change in subject matter, length, or instructor of a course shall require a new application.

20 (d) The application form is available at the website ~~listed~~ address listed in Rule .0101 of this Chapter.

21 (e) The application form shall be submitted as a fillable PDF and shall not be submitted as a handwritten form.

22

23 *History Note: Authority G.S. 88A-6; 88A-13;*

24 *Eff. November 1, 2022.*

Burgos, Alexander N

From: Seavers, Dennis
Sent: Friday, September 23, 2022 2:14 PM
To: Duke, Lawrence; ncbeexam@att.net
Cc: Burgos, Alexander N
Subject: RE: Brd. of Electrolysis Examiners RRC Submission - 21 NCAC 19

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Lawrence,

The Board of Electrolysis Examiners has asked me to assist with this rulemaking filing. Thank you for the comments and requested changes. After consulting with the agency on some of these questions, I will submit responses and revisions.

In the meantime, will you please check on your first request for Rule .0706—the one that says the rule should have all language underlined, with highlighting for language changed since adoption. Is that request not consistent with 21 NCAC 02C .0405(b)(1), and with the rule formatting example at the link below? If I misunderstood that rule, please let me know and I will be happy to make the requested formatting change.

<https://www.oah.nc.gov/media/13686/download?attachment>

Dennis

Dennis Seavers
Executive Director
North Carolina Board of Barber Examiners

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Sent: Friday, September 23, 2022 1:56 PM
To: ncbeexam@att.net; Seavers, Dennis <dennis.seavers@nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Brd. of Electrolysis Examiners RRC Submission - 21 NCAC 19

Ms. Magas,

I'm the attorney who has reviewed the Rules submitted by the Board of Electrolysis Examiners for the October 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, October 20, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get closer to the meeting. If there are any other representatives from your Board who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Wednesday, October 5, 2022.

In the meantime, please let me know if you have any questions or concerns about these changes.

Thank you,

Lawrence Duke

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1938
Lawrence.Duke@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.