Burgos, Alexander N

Subject: FW: [External] NCSBENHA Extended Readoption Deadline and Related Question

From: Doug Brocker <doug@brockerlawfirm.com>
Sent: Thursday, October 29, 2026 4:12 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; nhaboard@ncbenha.org; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>
Subject: [External] NCSBENHA Extended Readoption Deadline and Related Question

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Seth:

Thank you for sending the letter promptly and for your guidance in this process. We are already working on a readoption schedule, strategy, and plan under the new deadline.

One issue that remains that affects our plan is whether the Commission believes that a fiscal note could be necessary for a fee rule being readopted when the agency is making some changes to the rule but not to any fee amount nor other aspects that would have an economic impact. We do not think it would require a fiscal note under those circumstances pursuant to NCGS 150B-21.3A(d)(2). We would appreciate any guidance from the Commission on the issue, especially if you disagree with our view. That issue will affect all the Boards we represent, who all have licensing and renewal fees, including through each readoption process.

Doug

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From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, October 29, 2026 3:43 PM
To: Doug Brocker <doug@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; nhaboard@ncbenha.org; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>
Subject: RE: [External] NCSBENHA Readoption Extension Request for RRC October meeting - alternative dates

Doug,

Attached is a letter memorializing the RRC's decision to change the readoption deadline for the listed rules to December 1, 2027.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: [External] NCSBENHA Readoption Extension Request for RRC October meeting - alternative dates

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Wednesday, October 28, 2026 2:46 PM
To: Doug Brocker <doug@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; nhaboard@ncbenha.org; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>
Subject: RE: [External] NCSBENHA Readoption Extension Request for RRC October meeting - alternative dates

Doug,

The readoption deadline is the deadline for your agency to do their final adoption of the rules (post-publication). Then, as is normal, you would have 30 days to submit the rules to RRC.

If you haven't seen it, we have the publication chart for 2027 up: https://www.oah.nc.gov/documents/2027-publication-schedule-9-17-26/open. We haven't made 2028 yet.

Also, just so you are aware, your request will be at the end of the public agenda. However, we have a very light meeting otherwise, so I would anticipate that they may be considering your request by 10:15 or so.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: Doug Brocker <doug@brockerlawfirm.com>
Sent: Wednesday, October 28, 2026 11:38 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; nhaboard@ncbenha.org; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>
Subject: [External] NCSBENHA Readoption Extension Request for RRC October meeting - alternative dates

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Seth:

I will see you tomorrow morning. Do you know what the Board's adoption deadlines would be for those alternative dates if the Commission granted an extension until one of those three meetings? I know it would earlier but am not sure how far in advance of each meeting. I plan to address it in my comments on the request. Thank you.

Doug

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Burgos, Alexander N

Subject: FW: [External] RE: NCSBENHA Readoption Extension Request for RRC October meeting

From: Doug Brocker <doug@brockerlawfirm.com>
Sent: Monday, October 26, 2026 11:25 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; nhaboard@ncbenha.org; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>
Subject: [External] RE: NCSBENHA Readoption Extension Request for RRC October meeting

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Seth and Alexander:

I've decided to come back early on Wednesday evening so I can attend the RRC meeting in person on Thursday morning and discuss this request with the Commission. I have proposed readoption designations for the Dental Board also on the agenda but do not plan to speak on that matter unless the Commission members have questions. Thank you.

Doug

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Burgos, Alexander N

Subject: FW: [External] NCSBENHA Readoption Extension Request for RRC October meeting

From: Doug Brocker <doug@brockerlawfirm.com>
Sent: Friday, October 23, 2026 2:43 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; nhaboard@ncbenha.org; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>
Subject: [External] NCSBENHA Readoption Extension Request for RRC October meeting

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Seth:

I have been in a Counseling Board quarterly meeting, but I received your message. I appreciate the advance notice about potential alternative dates and deadlines so I can address it with the Board and be prepared to address that potential discussion at the Commission meeting. I am scheduled to be out of town next Thursday, so I plan to attend and present remotely. I will let you know if I decide to come back early so I attend the meeting in person. Thank you.

Doug

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Burgos, Alexander N

Subject: FW: [External] NCSBENHA Readoption Extension Request for RRC October meeting

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, October 22, 2026 4:46 PM
To: Doug Brocker <doug@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; nhaboard@ncbenha.org; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>
Subject: Re: [External] NCSBENHA Readoption Extension Request for RRC October meeting

Doug,

Thanks for your submission and it will be discussed at the October RRC meeting.

As discussed on the phone, decisions to grant these extensions are in the Commission's discretion, so they will likely want to discuss the issue.

In the interest of you making your best case, you may want to consider (if you haven't already) whether other deadlines would be acceptable. RRC has already scheduled 160 rules for readoption in June 2028, and I would generally recommend we not add 60 additional rules that month. Looking at our calendar, some nearby months that are not quite as full are December 2027, May 2028, and November 2028. If the Commission decides to grant your extension request, I would recommend one of those deadlines based on current workload.

Note that you do not need to update your letter. I just wanted to make sure you were aware of that wrinkle so you could be prepared if the discussion goes that way.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

From: Doug Brocker <doug@brockerlawfirm.com>
Sent: Tuesday, October 20, 2026 8:04 PM
To: Ascher, Seth M
Cc: Burgos, Alexander N; nhaboard@ncbenha.org; Sherri Roycroft; Whitney Waldenberg
Subject: [External] NCSBENHA Readoption Extension Request for RRC October meeting
Attachments: 2026-10-20 NCSBENHA Rules Readoption Extension Request.pdf

Importance: High

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Seth:

Attach is a request for an extension of the rules readoption deadline that I called you to discuss last week. It is from the Board's Executive Director and co-rulemaking coordinator, Martha Bell, who I've copied. I've also copied Alexander on the message. **Please confirm receipt and let me know if you need anything further or need me to send the request to anyone else at the OAH or RRC.** Thank you.

Doug



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North Carolina State Board of Examiners For Nursing Home Administrators

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Raleigh NC 27612
919-571-4164 Fax: 919-571-4166
www.ncbenha.org email: nhaboard@ncbenha.org

North Carolina Rules Review Commission
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, North Carolina 27609
Via Email to rrc.comments@oah.nc.gov

Re: Request from North Carolina State Board of Examiners for Nursing Home Administrators for an extension of time to readopt rules pursuant to N.C. Gen. Stat. § 150B-21.3A and 26 NCAC 05 .0204

Dear Chair Parker and Commission Members:

On behalf of the North Carolina State Board of Examiners for Nursing Home Administrators ("NHA Board" or "Board"), please accept this letter requesting an extension of the deadline for the readoption of rules pursuant to N.C. Gen. Stat. § 150B-21.3A and 26 NCAC 05 .0204.

The Commission established the readoption deadline at its December 19, 2024, meeting, and determined that the NHA Board must readopt its existing as necessary rules by June 1, 2027. Although the time for technical compliance with the current deadline has not passed, for the reasons stated herein, the NHA Board respectfully submits that it needs additional time to complete the readoption process in a manner that best serves the public interest and is requesting a one-year extension to June 1, 2028, for good cause.

N.C. Gen. Stat. § 150B-21.3A(d)(2) contemplates that there is discretion in setting the deadline for readoption and that the agency's rulemaking priorities are to be taken into consideration. Although directed at requests for extension of time to complete the periodic review, Rule .0204 of the Commission's rules provides several factors for consideration in evaluating whether to grant an extension of time that we believe are relevant here. The pertinent factors are the (1) efforts of the agency to comply with the review, and (2) the changes of composition of the agency or its staff that resulted in a delay.

Since the readoption deadline was set, the NHA Board has undertaken a substantive review of its 62 existing rules for readoption to discuss potential amendments. The Board has been actively working on the readoption process. However, on August 18, 2026, the Board engaged new counsel and on October 13, 2026, designated its new counsel as a rulemaking coordinator for the Board.

The change in counsel and rulemaking coordinator has impacted the readoption process and the Board's understanding of what needs to be involved in that process. The Board did not have an appreciation for the extent of time and effort that would be involved in the readoption process until it made this recent change. The NHA Board acted promptly at its next meeting to make the designation and authorize requesting an extension.

Upon being designated rulemaking coordinator, the new counsel inquired into the status of the readoption of the existing necessary rules. Based on rulemaking experience for other Boards, the new counsel determined that extensive amendments may be needed to the NHA Board's rules slated for readoption. In particular, we have come to understand that there may be significant work required in terms of ensuring that all information required by the Board's applications or forms are included in the readopted rules, and to ensure that the rules are compliant in all aspects required by law. In light of these considerations, the Board is requesting additional time to provide the most cogent set of rules possible, with adequate consideration for public comment. The Board believes that this can be accomplished with just a year's extension of time and is unaware of any opposition to the extension.

Ultimately, the extension of time to engage in meaningful, substantive review of the Board's necessary rules is for the benefit of the public and is grounded in the change of personnel and new considerations that came to light with that change. We believe that the change in counsel and rulemaking coordinator is good cause for granting the extension, consistent with N.C. Gen. State § 150B-21.3A(d)(2) and 26 NCAC 05 .0204.

Additionally, concurrent with this request and pursuant to the requirements set forth in 26 NCAC 05 .0204, the Board is posting notice of this request on its website that the RRC will review the request at its next regularly scheduled meeting. The notice also informs the public that individuals may contact the Commission to object to the delay. The Board has no individuals who requested to be notified of changes to its rules.

The NHA Board is grateful for the Commission's consideration of this request for an extension of time. The NHA Board's new counsel and rulemaking coordinator will attend the meeting and can address any questions the Commission may have regarding this request and the reasons behind it.

Sincerely,

Martha N. Bell

Martha N. Bell
Executive Director