

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 25 .0202
Attachments: 21 NCAC 25 .0202 (Revised 5).docx

From: NCITLB <ncitlb@caphill.com>
Sent: Tuesday, January 14, 2025 10:48 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Busch, Benjamin <bbusch@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 25 .0202

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Good morning Mr. Peaslee,

Please see the attached revised rule with the corrections you requested to the Benbow citation and commas and spaces added where required in the citations.

Thank you,
Caitlin

Caitlin Schwab
Board Administrator
North Carolina Interpreters & Transliterators Licensing Board
701 Exposition Place, Ste 206
Raleigh, NC 27615
Phone: 919-779-5709
fax: 919-779-5642
NCITLB@caphill.com
NCITLB.org

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

21 NCAC 25 .0202 is amended as published in NC register 39:06 **with changes** as follows::

21 NCAC 25 .0202 THE APPLICATION PACKAGE AND REQUIREMENTS FOR LICENSURE

(a) An applicant for licensure shall submit the following materials to the Board:

- (1) A completed, signed, and dated application **in the format provided by the Board;**
- (2) A clear, two-inch by two-inch, passport-style photograph of the head and shoulders of the applicant, made within two years of the date of application;
- (3) A legible, fully-completed finger print card obtained from a local law enforcement agency;
- (4) The applicant's signed, written consent to a criminal record check;
- (5) One or more cashier's checks, certified checks or money orders made payable to the North Carolina Interpreter and Transliterator Licensing Board in the amounts ~~necessary to cover the cost of~~ **charged by the Department of Public Safety for** all necessary local, State and federal criminal record checks; and
- (6) A cashier's check, certified check or money order made payable to the North Carolina Interpreter and Transliterator Licensing Board in the amount specified by Rule .0203 of this Section.

~~(b) An applicant for an initial license under S.L. 2002-182, s. 7, as amended by S.L. 2003-56, shall submit the following materials to the Board:~~

- ~~(1) Written verification that the applicant was actively engaged as an interpreter or transliterator in this State for at least 200 hours for each of the two years immediately preceding 31 October 2002. The written verification must be signed by the individual who paid or approved payment for the services or the individual who supervised the applicant when the services were rendered;~~
- ~~(2) Letters of recommendation from any two individuals who are:~~
 - ~~(A) Interpreters who hold valid National Association of the Deaf level 4 or 5 certifications; or~~
 - ~~(B) Interpreters who are nationally certified by the Registry of Interpreters for the Deaf, Inc.;~~
 - ~~or~~
 - ~~(C) Transliterators who have national certifications recognized by the National Cued Speech Association ("NCSA"); or~~
 - ~~(D) Interpreters who hold quality assurance North Carolina Interpreter Classification System ("NCICS") level A or B classifications in effect on January 1, 2000; or~~
 - ~~(E) Consumers of interpreter or transliterator services who have observed the applicant's performance as an interpreter or transliterator; or~~
 - ~~(F) The parent or legal guardian of a deaf consumer of interpreter or transliterator services who has observed the applicant's performance as an interpreter or transliterator.~~

~~(c)-(b)~~ Upon application to the Board and payment of the required fees under 21 NCAC 25 .0203(a), the Board **may** **shall** grant an Applicant a full license as an interpreter or transliterator if the applicant meets all of the following qualifications:

- (1) Is 18 years of age or older.

(2) Is of good moral character as determined by the Board presumptively established by the applicant's eligibility under 21 NCAC 25 .0302. If the Board determines there is probable cause to question an applicant's moral character, and after notice to the applicant and a hearing, the Board shall deny a license if there is clear and convincing evidence the applicant lacks good moral character, including possessing the characteristics of honesty, maturity, discipline, attention to detail, and respect for the rights of others, as more fully discussed and interpreted in: In re Willis, 288 N.C. 1, 215 S.E. 2d 771, appeal dismissed, 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); In re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Scott Dillingham's Application, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.

(3) Meets one of the following criteria:

(A) Is nationally certified by the Registry of Interpreters for the Deaf, Inc., (RID).

(B) Holds a valid Testing, Evaluation and Certification Unit, Inc. (TECUnit) national certification in cued language transliteration.

(C) Holds a current Cued Language Transliterator State Level Assessment (CLTSLA) level 3 or above classification.

(D) Holds a Board for Evaluation of Interpreters (BEI) assessment of Advanced or above.

(E) A Deaf Interpreter who holds a Board for Evaluation of Interpreters (BEI) intermediary certificate level IV or above.

~~(d)~~ (c) Upon application to the Board and payment of the required fees under 21 NCAC 25 .0203(a), the Board may shall grant an Applicant a one-time provisional license as an interpreter or transliterator if the applicant meets all of the following qualifications:

(1) Is 18 years of age or older.

(2) Is of good moral character as determined by the Board presumptively established by the applicant's eligibility under 21 NCAC 25 .0302. If the Board determines there is probable cause to question an applicant's moral character, and after notice to the applicant and a hearing, the Board shall deny a license if there is clear and convincing evidence the applicant lacks good moral character, including possessing the characteristics of honesty, maturity, discipline, attention to detail, and respect for the rights of others, as more fully discussed and interpreted in: In re Willis, 288 N.C. 1, 215 S.E. 2d 771, appeal dismissed, 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174 (1989); In re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Scott Dillingham's Application, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.

(3) Completes two continuing education units approved by the Board. These units must be completed for each renewable year.

(4) Holds at least a two-year associate degree in interpreting from an accredited a post-secondary institution and satisfies one the following:

- (A) Holds a quality assurance North Carolina Interpreter Classification System (NCICS) level C classification.
- (B) Holds a valid National Association of the Deaf (NAD) level 2 or 3 certification.
- (C) Holds a current Educational Interpreter Performance Assessment (EIPA) level 3.5 or above classification.
- (D) Holds a Board for Evaluation of Interpreters (BEI) assessment of Basic.
- (E) A Deaf Interpreter who holds a Board for Evaluation of Interpreters (BEI) intermediary certificate level III.

~~((e) (d))~~ Upon application to the Board, payment of the required fees under 21 NCAC 25 .0203(a), and meeting the requirements for a provisional license under ~~subdivisions~~ (1) and (2) of ~~subsection~~ paragraph (c) of this ~~section~~ rule, is 18 years of age or older, and is of good moral character as determined by the Board, the Board ~~may~~ shall also issue a provisional license to any of the following categories of persons seeking a one-time provisional license:

- (1) A deaf interpreter who completes 16 hours of training in interpreting coursework or workshops provided by the North Carolina Division of Services for the Deaf and Hard of Hearing, including role and function or ethics, and 20 hours in the 12 months immediately preceding the date of application in the provision of interpreting services.
- (2) An oral interpreter who completes a total of 40 hours of training in interpreting coursework or workshops related to oral interpreting.
- (3) A cued language transliterator who holds a current TECUnit Cued language Transliterator State Level Assessment (CLTSLA) level 2 or above classification.
- (4) A person providing interpreting or transliterating services who has a recognized credential from another state's licensing body in the field of interpreting or transliterating.
- (5) An interpreter or transliterator who has accumulated at least 200 hours per year in the provision of interpreting or transliterating services, in this State or another state, totaling at least 400 hours for the two years immediately preceding the date of the application. An applicant must provide documentation of hours when applying for a provisional license under this category, subject to verification by the Board.

~~(f) (e)~~ Subparagraphs subsections (e) (e) (b) (d) applies to licenses and provisional licenses issued or renewed by the North Carolina Interpreter and Transliterator Licensing Board on or after ~~October~~ December 1, 2023.

History Note: Authority G.S. 90D-6; 90D-7; 90D-10; S.L. 2002-182, s. 7, as amended by S.L. 2003-56; Eff. March 21, 2005;

~~Authority G.S. 90D-7, 90D-8; S.L. 2002-182, s. 7, as amended by S.L. 2023-137; Eff. December 1, 2023; Amended Eff. December 1, 2023;~~

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

Temporary Amendment Eff. July 5, 2024

112

Amended Eff February 1, 2025

113

114

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 25 .0202

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, January 13, 2025 9:47 AM
To: ncitlb@caphill.com; Busch, Benjamin <bbusch@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 25 .0202

Good morning,

One citation is incorrect (Benbow). Also please add commas and spaces where required in the citations.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

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Attachments: 21 NCAC 25 .0202 (Revised 4).docx

From: NCITLB <ncitlb@caphill.com>
Sent: Friday, January 10, 2025 11:04 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Busch, Benjamin <bbusch@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 25 .0202

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Bill,

Thank you for your draft opinion.

After discussion with the Board counsel, we have drafted the most up to date version of this rule to address your concerns with the good moral character portion of the rule.

Please let us know if you have any questions, and we thank you for your time and assistance.

Thank you,
Caitlin

Caitlin Schwab
Board Administrator
North Carolina Interpreters & Translators Licensing Board
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Raleigh, NC 27615
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

Temporary Amendment Eff. July 5, 2024

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Amended Eff February 1, 2025

113

114

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 25 .0202
Attachments: 01.25 Staff opinion 21 25 .0202.doc

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Thursday, January 9, 2025 4:29 PM
To: ncitlb@caphill.com; Busch, Benjamin <bbusch@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 25 .0202

Hi Caitlin,

Attached is my draft opinion which I believe will answer your question.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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From: NCITLB <ncitlb@caphill.com>
Sent: Thursday, January 9, 2025 4:22 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Busch, Benjamin <bbusch@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 25 .0202

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Hello William,

Could you please clarify what the issues are with paragraphs (b)(2) and (c)(2)? Is there a technical issue or a substantive issue?

Thank you,
Caitlin

Caitlin Schwab
Board Administrator
North Carolina Interpreters & Transliterators Licensing Board
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RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: N.C. Interpreter and Transliterator Board

RULE CITATION: 21 NCAC 25 .0202

RECOMMENDATION DATE:

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

The rule under consideration sets the qualifications for full licenses (Paragraph b), and provisional licenses (Paragraph c), by the Interpreter and Translator Board.

"Good moral character" is a qualification for each license.

Good moral character is an undefined term in Chapter 25. In the absence of any definition or standard, the term is completely subjective and qualification can be arbitrarily applied by the Board.

Accordingly, staff counsel recommends the Commission object to the rule pursuant to G.S. 150B-21.9(a)(2) for lack of clarity and ambiguity.

William W. Peaslee
Commission Counsel

§ 150B-21.9. Standards and timetable for review by Commission.

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1. (1991, c. 418, s. 1; 1995, c. 507, s. 27.8(f); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-229, s. 9.)

Burgos, Alexander N

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William:

Please find attached final revised version. We have peeled back the good moral character requirement to simply be co-extensive with the applicant's eligibility. The Board may reconsider whether to add an additional element to good moral character requirement at a later time. The Board's periodic review comes up next year.

Please review and advise if there are any remaining issues.



Benjamin D. Busch

Attorney III

Department of Justice

(919) 716-0079

bbusch@ncdoj.gov

114 W. Edenton St., Raleigh, NC 27603

ncdoj.gov

Please note messages to or from this address may be public records.

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- (1) Is 18 years of age or older.

(2) Is of good moral character as determined by the Board presumptively established by the applicant's eligibility under 21 NCAC 25 .0302. If the Board determines there is probable cause to question an applicant's moral character, and after notice to the applicant and a hearing, the Board shall deny a license if there exists clear and convincing evidence rebutting the presumption that the applicant is of good moral character.

(3) Meets one of the following criteria:

(A) Is nationally certified by the Registry of Interpreters for the Deaf, Inc., (RID).

(B) Holds a valid Testing, Evaluation and Certification Unit, Inc. (TECUnit) national certification in cued language transliteration.

(C) Holds a current Cued Language Transliterator State Level Assessment (CLTSLA) level 3 or above classification.

(D) Holds a Board for Evaluation of Interpreters (BEI) assessment of Advanced or above.

(E) A Deaf Interpreter who holds a Board for Evaluation of Interpreters (BEI) intermediary certificate level IV or above.

~~(d)~~ (c) Upon application to the Board and payment of the required fees under 21 NCAC 25 .0203(a), the Board may shall grant an Applicant a one-time provisional license as an interpreter or transliterator if the applicant meets all of the following qualifications:

(1) Is 18 years of age or older.

(2) Is of good moral character as determined by the Board presumptively established by the applicant's eligibility under 21 NCAC 25 .0302. If the Board determines there is probable cause to question an applicant's moral character, and after notice to the applicant and a hearing, the Board shall deny a license if there exists clear and convincing evidence rebutting the presumption that the applicant is of good moral character.

(3) Completes two continuing education units approved by the Board. These units must be completed for each renewable year.

(4) Holds at least a two-year associate degree in interpreting from an accredited a post-secondary institution and satisfies one the following:

(A) Holds a quality assurance North Carolina Interpreter Classification System (NCICS) level C classification.

(B) Holds a valid National Association of the Deaf (NAD) level 2 or 3 certification.

(C) Holds a current Educational Interpreter Performance Assessment (EIPA) level 3.5 or above classification.

(D) Holds a Board for Evaluation of Interpreters (BEI) assessment of Basic.

(E) A Deaf Interpreter who holds a Board for Evaluation of Interpreters (BEI) intermediary certificate level III.

~~((e)~~ (d) Upon application to the Board, payment of the required fees under 21 NCAC 25 .0203(a), and meeting the requirements for a provisional license under subdivisions (1) and (2) of subsection paragraph (c) of this section rule,

is 18 years of age or older, and is of good moral character as determined by the Board, the Board may shall also issue a provisional license to any of the following categories of persons seeking a one-time provisional license:

- (1) A deaf interpreter who completes 16 hours of training in interpreting coursework or workshops provided by the North Carolina Division of Services for the Deaf and Hard of Hearing, including role and function or ethics, and 20 hours in the 12 months immediately preceding the date of application in the provision of interpreting services.
- (2) An oral interpreter who completes a total of 40 hours of training in interpreting coursework or workshops related to oral interpreting.
- (3) A cued language transliterator who holds a current TECUnit Cued language Transliterator State Level Assessment (CLTSLA) level 2 or above classification.
- (4) A person providing interpreting or transliterating services who has a recognized credential from another state's licensing body in the field of interpreting or transliterating.
- (5) An interpreter or transliterator who has accumulated at least 200 hours per year in the provision of interpreting or transliterating services, in this State or another state, totaling at least 400 hours for the two years immediately preceding the date of the application. An applicant must provide documentation of hours when applying for a provisional license under this category, subject to verification by the Board.

~~(f) (e) Subparagraphs subsections (c) (e) (b) (d) applies to licenses and provisional licenses issued or renewed by the North Carolina Interpreter and Transliterator Licensing Board on or after October December 1, 2023.~~

History Note: Authority G.S. 90D-6; 90D-7; 90D-10; S.L. 2002-182, s. 7, as amended by S.L. 2003-56; Eff. March 21, 2005;

~~*Authority G.S. 90D-7, 90D-8; S.L. 2002-182, s. 7, as amended by S.L. 2023-137; Eff. December 1, 2023; Amended Eff December 1, 2023;*~~

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

Temporary Amendment Eff. July 5, 2024

Amended Eff February 1, 2025

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 25 .0202

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, January 7, 2025 3:27 PM
To: Busch, Benjamin <bbusch@ncdoj.gov>
Cc: ncitlb@caphill.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 25 .0202

Thank you for your email and the telephone conversation in which we discussed some of the standards which may be available to you client. Specifically we discussed whether "doubt" or "conclude" would be the Board's intention. We also discussed the possibility of an extension. If I have missed anything, please let me know.

Bill

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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.

From: Busch, Benjamin <bbusch@NCDOJ.GOV>
Sent: Tuesday, January 7, 2025 1:13 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: ncitlb@caphill.com
Subject: Re: [External] RE: 21 NCAC 25 .0202

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William:

Please find attached proposed code with changes based on your comments. I have answered your comments specifically below. The one area that remains and I would like to reserve for additional consideration is the "good moral character" element. I would like to take some options back to the board for a decision. I'm aware 12 NCAC 09G .0208(11) language that recently passed as a possible resolution. Additionally, I'm considering removing the procedure and simply providing good moral character be co-extensive with Applicant's eligibility. Lastly, I'm considering the following revision I would like your comment on:

Is of good moral character presumptively established by the applicant's eligibility under 21 NCAC 25 .0302. If the Board determines there is probable cause to question an applicant's moral character, and after notice to the applicant and a hearing, the Board shall deny a license if there exists clear and convincing evidence to cause a reasonable person to doubt the applicant's honesty, or respect for the rights of others, or respect for the laws of the states and nation.

Otherwise, your comments are in italics and my responses in bold. Thank you in advance for your review.

*Page 1, Line 5, Subparagraph (a)(2): It is unclear what the effect of the words "in the format provided by the Board" is. Consider striking those words. In the alternative, change the rule to explain what is intended by those words. You should also consider referencing your application rule 21 NCAC 25 .0201. **Agreed - clause struck.***

*Page 2, Line 38, Subparagraph (b)(2): The rule establishes a presumption which can be overcome. This implies that one can meet the standards established by Rule .0302 and yet still be found to lack "good moral character." By what standard would such a determination be made? It cannot be the same as the presumption. Which is why I inquired about Rule .0301 which sets a standard. If not Rule .0301, what is the standard? **Reserved.***

*Page 2, Line 63, Paragraph (c)(4): I ask again, accredited by whom? The Board cannot rely on ambiguous statutory language. It is the job of the rulemaking body to fill in the interstitial language. **After some research and inquiry, there does not appear to be a regional or national accrediting authority for interpreting degrees. Therefore, "accredited" has been replaced with "post-secondary." The Board is satisfied that the additional requirements of (c)(4)(A)-(E) are sufficient to assure competent licensees.***

*On Page 2, Line 74, Paragraph (d): I am sorry that I did not catch this before but the rule refers to subdivisions and subsection (c) of this section. Section refers to all of the .0200 rules which does not have subsections. Accordingly, there can be no subdivisions of subsection (c). **Agree - reference to subdivision is removed and does not appear necessary in the first regard.***

*Page 3, Lines 77, 80-81: Previously I asked, "Does the coursework or workshops need to be provided by anyone in particular? Does it need to be from 'accredited' institutions?" You replied "**§ 90D-4. License required; exemptions.(b)(2) Persons providing interpreting or transliterating services in mentoring or training programs approved by the Board.**" So, by what process and using what standard does the Board approve the programs? **Agree. Reference added.***

*Page 3, Line 84: I previously asked, "'recognized' how? By what procedure? Is there a rule on this?" You replied "**Same language in our statute: § 90D-8. Provisional license(a1)(4).**" Again, it is the job of the rulemaking body to fill in the interstitial language. The Board gets to determine what credentials are*

recognized. It can do so by rule or it can establish a standard which the Board will use in making its determination. The recognition cannot be arbitrary. **Agree. Clarification added as it was intended to reference licensing boards or commissions of other states. There are about 25 states that have licensing boards for interpreters.**

On Page 3, Line 91: I believe “applies” should be “apply.” **Agree. Lines 91-92 (in prior version) are deleted.**

Page 3, Lines 91-92: Explain the legality of making the provisions of this rule retroactively effective? While Session Law 2023-137 sets forth effective dates for the Session Law, this does not empower the Board to adopt retroactive rules notwithstanding their similarity to the language of the Session Law. Do you have a stronger legal argument? If not, in the absence of the Board striking Paragraph (e) I will recommend objection. **Agree. Lines 91-92 (in prior version) are deleted.**



Benjamin D. Busch

Attorney III

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114 W. Edenton St., Raleigh, NC 27603

ncdoj.gov

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Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 25 .0202

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, January 7, 2025 2:37 PM
To: Busch, Benjamin <bbusch@ncdoj.gov>
Cc: ncitlb@caphill.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 25 .0202

Ben,

Thank you for your email.

Page 2, Line 74: “subsection” should be “paragraph.”

Page 2, Line 74: “section” should be “rule.”

I will get back to you on “good moral character.”

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 25 .0202
Attachments: 21 NCAC 25 .0202 (Revised 2) bb172025.docx

From: Busch, Benjamin <bbusch@NCDOJ.GOV>
Sent: Tuesday, January 7, 2025 1:13 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: ncitlb@caphill.com
Subject: Re: [External] RE: 21 NCAC 25 .0202

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Benjamin D. Busch

Attorney III

Department of Justice

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114 W. Edenton St., Raleigh, NC 27603

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21 NCAC 25 .0202 is amended as published in NC register 39:06 **with changes** as follows::

21 NCAC 25 .0202 THE APPLICATION PACKAGE AND REQUIREMENTS FOR LICENSURE

(a) An applicant for licensure shall submit the following materials to the Board:

- (1) A completed, signed, and dated application **in the format provided by the Board;**
- (2) A clear, two-inch by two-inch, passport-style photograph of the head and shoulders of the applicant, made within two years of the date of application;
- (3) A legible, fully-completed finger print card obtained from a local law enforcement agency;
- (4) The applicant's signed, written consent to a criminal record check;
- (5) One or more cashier's checks, certified checks or money orders made payable to the North Carolina Interpreter and Transliterator Licensing Board in the amounts ~~necessary to cover the cost of~~ **charged by the Department of Public Safety for** all necessary local, State and federal criminal record checks; and
- (6) A cashier's check, certified check or money order made payable to the North Carolina Interpreter and Transliterator Licensing Board in the amount specified by Rule .0203 of this Section.

~~(b) An applicant for an initial license under S.L. 2002-182, s. 7, as amended by S.L. 2003-56, shall submit the following materials to the Board:~~

- ~~(1) Written verification that the applicant was actively engaged as an interpreter or transliterator in this State for at least 200 hours for each of the two years immediately preceding 31 October 2002. The written verification must be signed by the individual who paid or approved payment for the services or the individual who supervised the applicant when the services were rendered;~~
- ~~(2) Letters of recommendation from any two individuals who are:~~
 - ~~(A) Interpreters who hold valid National Association of the Deaf level 4 or 5 certifications; or~~
 - ~~(B) Interpreters who are nationally certified by the Registry of Interpreters for the Deaf, Inc.;~~
 - ~~or~~
 - ~~(C) Transliterators who have national certifications recognized by the National Cued Speech Association ("NCSA"); or~~
 - ~~(D) Interpreters who hold quality assurance North Carolina Interpreter Classification System ("NCICS") level A or B classifications in effect on January 1, 2000; or~~
 - ~~(E) Consumers of interpreter or transliterator services who have observed the applicant's performance as an interpreter or transliterator; or~~
 - ~~(F) The parent or legal guardian of a deaf consumer of interpreter or transliterator services who has observed the applicant's performance as an interpreter or transliterator.~~

~~(c)-(b)~~ Upon application to the Board and payment of the required fees under 21 NCAC 25 .0203(a), the Board **may** **shall** grant an Applicant a full license as an interpreter or transliterator if the applicant meets all of the following qualifications:

- (1) Is 18 years of age or older.

(2) Is of good moral character as determined by the Board presumptively established by the applicant's eligibility under 21 NCAC 25 .0302. If the Board determines there is probable cause to question an applicant's moral character, and after notice to the applicant and a hearing, the Board shall deny a license if there exists clear and convincing evidence rebutting the presumption that the applicant is of good moral character.

(3) Meets one of the following criteria:

(A) Is nationally certified by the Registry of Interpreters for the Deaf, Inc., (RID).

(B) Holds a valid Testing, Evaluation and Certification Unit, Inc. (TECUnit) national certification in cued language transliteration.

(C) Holds a current Cued Language Transliterator State Level Assessment (CLTSLA) level 3 or above classification.

(D) Holds a Board for Evaluation of Interpreters (BEI) assessment of Advanced or above.

(E) A Deaf Interpreter who holds a Board for Evaluation of Interpreters (BEI) intermediary certificate level IV or above.

~~(d)~~ (c) Upon application to the Board and payment of the required fees under 21 NCAC 25 .0203(a), the Board may shall grant an Applicant a one-time provisional license as an interpreter or transliterator if the applicant meets all of the following qualifications:

(1) Is 18 years of age or older.

(2) Is of good moral character as determined by the Board presumptively established by the applicant's eligibility under 21 NCAC 25 .0302. If the Board determines there is probable cause to question an applicant's moral character, and after notice to the applicant and a hearing, the Board shall deny a license if there exists clear and convincing evidence rebutting the presumption that the applicant is of good moral character.

(3) Completes two continuing education units approved by the Board. These units must be completed for each renewable year.

(4) Holds at least a two-year associate degree in interpreting from an accredited a post-secondary institution and satisfies one the following:

(A) Holds a quality assurance North Carolina Interpreter Classification System (NCICS) level C classification.

(B) Holds a valid National Association of the Deaf (NAD) level 2 or 3 certification.

(C) Holds a current Educational Interpreter Performance Assessment (EIPA) level 3.5 or above classification.

(D) Holds a Board for Evaluation of Interpreters (BEI) assessment of Basic.

(E) A Deaf Interpreter who holds a Board for Evaluation of Interpreters (BEI) intermediary certificate level III.

~~((e)~~ (d) Upon application to the Board, payment of the required fees under 21 NCAC 25 .0203(a), and meeting the requirements for a provisional license under subdivisions (1) and (2) of subsection (c) of this section, is 18 years of

~~age or older, and is of good moral character as determined by the Board, the Board may~~ shall also issue a provisional license to any of the following categories of persons seeking a one-time provisional license:

- (1) A deaf interpreter who completes 16 hours of training in interpreting coursework or workshops provided by the North Carolina Division of Services for the Deaf and Hard of Hearing, including role and function or ethics, and 20 hours in the 12 months immediately preceding the date of application in the provision of interpreting services.
- (2) An oral interpreter who completes a total of 40 hours of training in interpreting coursework or workshops related to oral interpreting.
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- (5) An interpreter or transliterator who has accumulated at least 200 hours per year in the provision of interpreting or transliterating services, in this State or another state, totaling at least 400 hours for the two years immediately preceding the date of the application. An applicant must provide documentation of hours when applying for a provisional license under this category, subject to verification by the Board.

~~(f) (e) Subparagraphs subsections (c) (e) (b) (d) applies to licenses and provisional licenses issued or renewed by the North Carolina Interpreter and Transliterator Licensing Board on or after October December 1, 2023.~~

History Note: Authority G.S. 90D-6; 90D-7; 90D-10; S.L. 2002-182, s. 7, as amended by S.L. 2003-56; Eff. March 21, 2005;

~~*Authority G.S. 90D-7, 90D-8; S.L. 2002-182, s. 7, as amended by S.L. 2023-137; Eff. December 1, 2023; Amended Eff December 1, 2023;*~~

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017.

Temporary Amendment Eff. July 5, 2024

Amended Eff February 1, 2025

Burgos, Alexander N

From: Peaslee, William W
Sent: Thursday, January 2, 2025 3:51 PM
To: Busch, Benjamin
Cc: ncitlb@caphill.com; Burgos, Alexander N
Subject: RE: [External] RE: 21 NCAC 25 .0202

Thank you for the call. To memorialize our conversation, we discussed the points raised in the RFC and my subsequent email. If I have missed anything please let me know.

Also you may want to review 12 NCAC 09G .0208(b)(11) regarding defining good moral character.

Yes, I will wait until January 9 before I begin drafting any recommendations for objection.

As always if you have any questions or concerns please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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From: Busch, Benjamin <bbusch@NCDOJ.GOV>
Sent: Thursday, January 2, 2025 3:38 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: ncitlb@caphill.com; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: [External] RE: 21 NCAC 25 .0202

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Bill:

I appreciate you taking the time to speak with me this afternoon.

May we have until January 9, 2025 to respond with a revised permanent rule before you provide a recommendation to the RRC? Thank you in advance for your considerations.



Benjamin D. Busch

Attorney III

Department of Justice

(919) 716-0079

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114 W. Edenton St., Raleigh, NC 27603

ncdoj.gov

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From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Thursday, January 2, 2025 11:16 AM

To: Busch, Benjamin <bbusch@NCDOJ.GOV>

Cc: ncitlb@caphill.com <ncitlb@caphill.com>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] RE: 21 NCAC 25 .0202

2:45 works.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

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From: Busch, Benjamin <bbusch@NCDOJ.GOV>
Sent: Thursday, January 2, 2025 11:11 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: ncitlb@caphill.com
Subject: Re: [External] RE: 21 NCAC 25 .0202

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Bill:

Thanks. We are welcoming the new AG by a virtual meeting today at 2:00 PM. Would you be available at 2:45?



Benjamin D. Busch

Attorney III

Department of Justice

(919) 716-0079

bbusch@ncdoj.gov

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ncdoj.gov

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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Thursday, January 2, 2025 11:06 AM
To: Busch, Benjamin <bbusch@NCDOJ.GOV>
Cc: ncitlb@caphill.com <ncitlb@caphill.com>
Subject: RE: [External] RE: 21 NCAC 25 .0202

Greetings.

While I am happy to speak with you, I do not know that I have more to add then what has been stated the request for changes and the subsequent email. How about 2:00pm?

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Sent: Thursday, January 2, 2025 10:51 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>

Cc: ncitlb@caphill.com

Subject: [External] RE: 21 NCAC 25 .0202

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Bill:

I represent the NCITLB and Caitlin forwarded the below email to my attention. Will you have a moment today to discuss your concerns about the permanent rule? I think the Board will be able to address your concerns, but it may be easier to discuss briefly rather than email suggestions back and forth.

This is a tight timeline for this session, and NCITLB may request a brief extension.

Benjamin D. Busch

Attorney III

Department of Justice

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114 W. Edenton St., Raleigh, NC 27603

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Caitlin,

As a follow up to the Request for Changes, please see the following in which I may suggest the agency “consider” an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency’s consideration which the agency may find preferable and clarifying.

Page 1, Line 5, Subparagraph (a)(2): It is unclear what the effect of the words “in the format provided by the Board” is. Consider striking those words. In the alternative, change the rule to explain what is intended by those words. You should also consider referencing your application rule 21 NCAC 25 .0201.

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Page 2, Line 63, Paragraph (c)(4): I ask again, accredited by whom? The Board cannot rely on ambiguous statutory language. It is the job of the rulemaking body to fill in the interstitial language.

On Page 2, Line 74, Paragraph (d): I am sorry that I did not catch this before but the rule refers to subdivisions and subsection (c) of this section. Section refers to all of the .0200 rules which does not have subsections. Accordingly, there can be no subdivisions of subsection (c).

Page 3, Lines 77, 80-81: Previously I asked, “Does the coursework or workshops need to be provided by anyone in particular? Does it need to be from ‘accredited’ institutions?” You replied “§ 90D-4. License required; exemptions.(b)(2) Persons providing interpreting or transliterating services in mentoring or training programs approved by the Board.” So, by what process and using what standard does the Board approve the programs?

Page 3, Line 84: I previously asked, “recognized’ how? By what procedure? Is there a rule on this?” You replied “Same language in our statute: § 90D-8. Provisional license(a1)(4).” Again, it is the job of the rulemaking body to fill in the interstitial language. The Board gets to determine what credentials are

recognized. It can do so by rule or it can establish a standard which the Board will use in making its determination. The recognition cannot be arbitrary.

On Page 3, Line 91: I believe “applies” should be “apply.”

Page 3, Lines 91-92: Explain the legality of making the provisions of this rule retroactively effective? While Session Law 2023-137 sets forth effective dates for the Session Law, this does not empower the Board to adopt retroactive rules notwithstanding their similarity to the language of the Session Law. Do you have a stronger legal argument? If not, in the absence of the Board striking Paragraph (e) I will recommend objection.

Please reply on or before January 3, 2025. You should consider consulting legal counsel before your reply.

As always if you have any questions, please feel free to contact me.

Thank you.

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