

## Burgos, Alexander N

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**Subject:** FW: [External] Re: Board of Pharmacy-RRC Request for Changes-July 2026  
**Attachments:** 07\_2026-Response to Board of Pharmacy-Request for Technical Changes  
4914-1296-1463 v.1.docx; 21 NCAC .2517 with changes 4932-7254-5719 v.1.docx

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**From:** Clint Pinyan <CPINYAN@brookspierce.com>  
**Sent:** Wednesday, June 24, 2026 9:57 AM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] Re: Board of Pharmacy-RRC Request for Changes-July 2026

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Thanks for your help reviewing this. Here are some revisions and some thoughts. For a couple of your requests, I've included some of our thought process for explanation and further discussion. Let me know if you would like to see further changes.

[Clint Pinyan](#)



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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Board of Pharmacy

RULE CITATION: 21 NCAC 46 .2517

**DEADLINE FOR RECEIPT: Tuesday, July 7, 2026.**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 4, consider adding a comma after “Director” and replace “and” with “which were”. Done*

*Line 6, consider deleting “either” since it’s unnecessary. Done.*

*Line 7, what is a “CLIA-waved test for influenza”? Consider referencing the definition found G.S. 90-85.3(b2) for clarity. I’m not at all opposed to this, but let’s talk about whether it’s necessary or just adding unnecessary detail: Our definitions rule has a default that terms in the rules are used as defined in the Pharmacy Practice Act, so that we don’t have to define terms that the General Assembly defined for us. So, for example, we do not define the term “pharmacy” or “drug” in the rules because those are defined in the statute. Also, despite the fact that the General Assembly defined it, it is universally known in the health care industry what this means. Which may be why the statutory definition basically just writes out what CLIA stands for and says, “it’s waived under that.” Happy to do it, but we didn’t think it added anything here.*

*Line 9, what is a “prophylactic treatment”? Please define it or cite a definition. Again, happy to do it, but this is unnecessary for the regulated people. This is a universally known term in health care, meaning to prevent something from happening (think of the most common use of the term ‘prophylactic’). I’m told by the pharmacists at the Board that not a single health care practitioner reading this would be confused, and they would think we were odd for telling them that’s what it means. But let me know.*

*Line 9, who would be considered “certain high-risk patients”? Are there factors or criteria that will be evaluated? Please clarify.*

Travis Wiggs

Commission Counsel

Date submitted to agency: June 23, 2026

*I think this is fixed now. Some background may help explain my predicament here: These protocols came to be because the General Assembly first told the State Health Director to come up with them as standing. Then we adopted them without any substantive changes. So, the “high-risk individuals” are the ones listed in this protocol:*

*<https://www.ncbop.org/downloads/InfluenzaProphylaxisProtocol.pdf>*

*And it was just my job to describe them. I don’t know how to describe that disparate group of people otherwise, but it would certainly be clearer if I referred to the protocols. So that’s what I’ll do here.*

*Frankly, this is hard to summarize in a rule, which is why it’s in a protocol. But the General Assembly said we had to adopt a rule, so there it is. If you have other thoughts, please let me know.*

*Line 10, add the specific page on the website where the protocols are found ([www.ncbop.org/protocols.org](http://www.ncbop.org/protocols.org))*

*Done. It wasn’t set up and live until recently, so I knew we’d need to fix that.*

*Line 10, is “the pharmacist” referring to the “prescribing” pharmacist? Please clarify.*

*Do you think this is clarified by reference to line 6? The first sentence in the rule is that “a pharmacist” may do these things. It seems clear enough that we’re still talking about that same pharmacist. I wouldn’t know how to fix it other than to say “the pharmacist initiating treatment,” which I would do. But, again, there’s only one pharmacist in this rule. So let me know.*

*Line 11, “maintain” how? Does this mean digitally stored in a secure cloud location? Physical files in a filing cabinet? Or both?*

*Good point. We have rules about how to maintain records, so I’ve referred to those. These just get kept the same way that pharmacies keep any records, since these are effectively the same as any other drugs that they dispense.*

*Line 11, “three years” from what date?*

*As with the line 10 thing, I wonder if this is clear enough already. The rule allows for initiating treatment of someone for the flu (either someone with the flu or a high-risk person exposed to the flu). That’s the event referenced in the rule. It seemed clear to me that three years means three years from the event. Plus, as stated in the last item, the rule is now going to refer to Section .2300, which also contains a “three year”*

Travis Wiggs  
Commission Counsel

Date submitted to agency: June 23, 2026

*rule, so they should know to keep them the same as any other records of any other drug that they have dispensed. I could add “from the initiation of treatment,” but ponder whether that’s overkill.*

*Line 13, add G.S. 90-85.3(b2) if it’s used to define the phrase in line 7.*

*Done.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs  
Commission Counsel  
Date submitted to agency: June 23, 2026

1 21 NCAC 46 .2517 is adopted **with changes** as published in 40:17 NCR 1351:

2

3 **21 NCAC 46 .2517 INFLUENZA TEST AND TREAT**

4 In accordance with the protocols issued by the State Health **Director and Director, which were** adopted by the Medical  
5 Board and the Board of Pharmacy pursuant to S.L. 2025-37, s. 5.3.(b), including any amendments adopted by the  
6 Medical Board and the Board of Pharmacy, a pharmacist **may: may either:**

7 (a) Order and perform a CLIA-waved test for influenza and initiate treatment pursuant to the results of the CLIA-  
8 waived test; or

9 (b) Initiate prophylactic treatment for **certain** high-risk patients who have been exposed to ~~influenza.~~ **influenza, as set**  
10 **forth in the protocols.**

11 These protocols are available at the Board of Pharmacy's office and on its website (**www.ncbop.org/protocols**).  
12 (~~www.ncbop.org~~) The pharmacist shall maintain records of compliance with the protocols for three **years, pursuant**  
13 **to Section .2300 of this Chapter. years.**

14

15 *History Note: Authority G.S. **90-85.3(b2)**; 90-85.3A(e); 90-85.6; 90-85.32; 90-85.36; S.L. 2025-37, s. 5.3;*  
16 *Eff. August 1, 2026.*

## Burgos, Alexander N

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**From:** Clint Pinyan <CPINYAN@brookspierce.com>  
**Sent:** Tuesday, June 23, 2026 3:26 PM  
**To:** Wiggs, Travis C  
**Cc:** Burgos, Alexander N  
**Subject:** Re: [External] Re: Board of Pharmacy-RRC Request for Changes-July 2026

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I had forgotten. They don't have to be. Just thought it might make the explanations easier. I'll deal with it as is.

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Sent:** Tuesday, 23 June 2026 15:15:35  
**To:** Clint Pinyan <CPINYAN@brookspierce.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** Re: [External] Re: Board of Pharmacy-RRC Request for Changes-July 2026

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The protocols were not incorporated by reference. If that was your intent, then I have more requests for changes.

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings

Telephone: 984-236-1929  
Email: travis.wiggs@oah.nc.gov

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**From:** Clint Pinyan <CPINYAN@brookspierce.com>  
**Sent:** Tuesday, June 23, 2026 3:03 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
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Thanks. I think several of these questions are answered in the protocol that is incorporated by reference, which you wouldn't know since I didn't include it. I'll get back to you by tomorrow.

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Sent:** Tuesday, 23 June 2026 14:59:16  
**To:** Clint Pinyan <CPINYAN@brookspierce.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** Board of Pharmacy-RRC Request for Changes-July 2026

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Good afternoon,

I'm the attorney who reviewed the Rule submitted by the Board of Pharmacy for the July 2026 RRC meeting. The RRC will formally review this Rule at its meeting on Thursday, July 30, 2026, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised Rule to me via email, no later than 5 p.m. on July 7, 2026. Let me know if you have any questions.

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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