

Burgos, Alexander N

Subject: FW: August RRC Meeting-Request for Technical Changes

From: Seavers, Dennis <dennis.seavers@nc.gov>
Sent: Friday, July 24, 2026 3:44 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: August RRC Meeting-Request for Technical Changes

Hi, Travis,

Thanks for the follow-up questions.

Yes, there was only one comment. (Multiple individuals participated in the public hearing and submitted comments or questions collectively, but they offered one comment together.)

I don't believe that the additional language produces an effect that could not have been reasonably expected based on proposed text. There were three phrases added, none of which really change the meaning of the rule.

1. "Present": to my mind, I don't know what the difference is between "physically in the same establishment" and "physically present in the same establishment." The only reason we agreed to make it was because we didn't believe it changed the meaning of the rule. For someone to argue that it was a substantive change, that person would have establish what the addition of "present" does to the meaning of the rule, and I don't see how they could do that.
2. "though not necessarily in the same room": we added this language because it simply is a phrase of emphasis and not substance. If we were to omit the language, the meaning of the rule wouldn't change. Suppose the language were removed, and the rule said "physically present in the same establishment as the holder of the temporary license..." Suppose further that the licensed electrologist were in the same establishment but down the hall while the temporary-license holder were practicing electrology. Clearly that circumstance would meet the requirements of the rule. Adding "though not necessarily in the same room" doesn't change anything except make it even clearer that it's perfectly fine for the electrologist to be down the hall while electrology services occur.
3. "when electrology services occur": this phrase appears in the context of a rule-specific definition of the word "supervision." That word is used earlier in the Paragraph when discussing the restriction on when a temporary-license holder may "practice" (i.e., practice electrology). The "practice" of electrology and "electrology services occur[ring]" are indistinguishable, so this new language doesn't introduce a restriction or change that a reader of the published text couldn't have reasonably expected. As with "present" in (1) above, we agreed to this change because we didn't believe it substantively affected the meaning of the rule. We simply added the language to satisfy the public commentor that we only meant that the supervising licensed electrologist only needed to be physically present in the establishment during the practice of electrology — that is, when electrology services were occurring — and not, for example, when the temporary-license holder was booking appointments or stocking supplies.

As you probably know, there are a number of reasons why an agency might agree to proposed changes during the public-comments period. Apart from errors or unintended consequences that we may not have anticipated, agencies also may agree with comments because they aren't substantive. Perhaps to the public, the new language is simply clearer or agreeable in some other way. In these cases, agencies may simply want to be responsive to the public comments, even though in the agency's view the changes have no real effect on the rule's meaning.

If this response doesn't address your concerns, please let me know!

Dennis

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Friday, July 24, 2026 2:52 PM
To: Seavers, Dennis <dennis.seavers@nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: August RRC Meeting-Request for Technical Changes

Good afternoon,

Thank you for the changes and responses.

In reference to the request below, did your agency only receive one comment? Also, how does this post-publication change not "produce an effect that could not reasonably have been expected based on the proposed text of the rule"?

Lines 6-7, "present", "though not necessarily in the same room", and "when electrology services occur" were not included in the Register. Why was this language added after publication? Why does this not constitute a substantial change under G.S. 150B-21.2(g)?

Thanks,

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1929

Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: August RRC Meeting-Request for Technical Changes
Attachments: 21 NCAC 06U .0105-RRC TCs.docx

From: Seavers, Dennis <dennis.seavers@nc.gov>
Sent: Wednesday, July 22, 2026 11:22 AM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: August RRC Meeting-Request for Technical Changes

Good morning,

Please see the attached revised rule. Below are responses to your change requests:

Line 16, which “address” is being referred to in 21 NCAC 06A .0102? I assume “mailing address”, but it’s not clear to me if that’s the only way requests can be submitted.

I clarified that any address in that rule could be used.

Line 22, consider replacing “the” with “that” if you’re referring to the same “licensed electrologist”.

I made the suggested change.

Line 23, consider adding “for” before “one”.

The suggested change would create a nonparallel construction, since “for” precedes “either.” (That is, it would basically read as “effective for either (1) six months from issuance or (2) for one month past...”.) If you believe the change is necessary, then I’ll need to move “either” before “for six months” and then add another “for” before “one month.” In my opinion this change is unnecessary and wordier, but I don’t feel strongly about it, since I see them as two ways to say the same thing.

Line 28, replace “(d)” with “(e)”.

I made the change but didn’t mark it with highlighting because it was correctly published in the Register. I believe we caught the error after filing but before publication, but I neglected to incorporate the change made before publication.

Line 28, “first” was not included in the Register. Why was this language added after publication? Why does this not constitute a substantial change under G.S. 150B-21.2(g)?

We added the language to avoid any confusion by a reader of the rule of which practical exam we meant. However, the change is not substantial because of the phrase “Notwithstanding Paragraph

(d) of this Rule...” Paragraph (d) only refers to the first practical exam, and Paragraph (e) is listing the circumstances under which the restriction and requirement in Paragraph (d) would not apply. If there were any other exam that “practical exam” on line 28 might refer to, then the phrase “Notwithstanding Paragraph (d)” would be out of place.

Page 2, line 4, replace “(e)” with “(f)”.

I made the change but didn’t mark it with highlighting because it was correctly published in the Register.

Lines 6-7, “present”, “though not necessarily in the same room”, and “when electrology services occur” were not included in the Register. Why was this language added after publication? Why does this not constitute a substantial change under G.S. 150B-21.2(g)?

We made the change in response to a public comment. The commenter was unclear whether the electrologist needed to be in the same room, and whether that presence had a nexus with the provision of electrology services. In our view, the change is simply clarifying the rule in response to the public comment and doesn’t change any substantive restrictions on practice by the holder of a temporary license.

Dennis Seavers

Executive Director

NORTH CAROLINA BOARD OF BARBER AND ELECTROLYSIS EXAMINERS

21 NCAC 06U .0105 is amended with changes as published in 40:15 NCAC 1250-1251 as follows:

21 NCAC 06U .0105 TEMPORARY LICENSE FOR ELECTROLOGY APPLICANTS

(a) An applicant for an electrologist license who is required to take the Board's examination and has complied with Rule .0102 of this Section may request a temporary license. ~~The request may be made with the initial application for an electrologist license or at any time thereafter. The applicant shall submit with the request a written statement by a licensed electrologist or electrology instructor that the applicant will be practicing in this individual's office and that this individual has agreed to supervise the applicant's practice. On receiving a request for a temporary license that complies with this Paragraph, the Board will issue the applicant a temporary license subject to the time limits in Paragraph (b) of this Rule.~~

~~(b) A temporary license is valid only during the dates stated in the license. Consistent with G.S. 88A-10.1, a temporary license cannot be valid for more than six months. The Board shall begin issuing temporary licenses no sooner than five months before the date of the next scheduled examination. The Board shall stop issuing temporary licenses 30 days before that examination. All temporary licenses shall expire one month after the date of that examination.~~

~~(c) Except as provided in Paragraph (d) of this Rule, a temporary license may not be renewed.~~

(b) The applicant shall submit the request for a temporary license to [the] an address set forth in 21 NCAC 06A .0102. The request shall include the following:

- (1) The applicant's name, email address, mailing address, and phone number;
- (2) The name of the electrology facility where the applicant plans to work under the temporary permit;
- (3) The name and license number of the electrologist who will supervise the applicant; and
- (4) A written statement by a North Carolina licensed electrologist indicating that the applicant will work under [the] that electrologist's direct supervision.

(c) A temporary permit shall be effective for either six months from issuance or one month past the practical exam date, whichever date is sooner.

(d) Applicants who fail the first practical exam may request one additional temporary permit if they pay the exam retake fee set forth in 21 NCAC 06U .0101(e)(1). Applicants shall submit the request as set forth in Paragraph (b) of this Rule.

~~(d)(e)~~ Notwithstanding Paragraph (d) of this Rule, applicants who fail to appear for their first practical [exams] exam may request an additional temporary permit as set forth in Paragraph (b) of this Rule only if they The holder of a temporary license who did not take the examination for which the holder was scheduled may apply to have the temporary license renewed. The applicant shall:

- (1) apply to retake the examination on the next occasion it is offered;
- (2) provide a written recommendation from the applicant's supervisor that the Board renew the applicant's temporary license;
- (3) show to the satisfaction of the Board that the applicant was they were unable to appear and take the examination for which the applicant was previously they were scheduled due to causes beyond the applicant's their control.

1 ~~If the Board determines that the applicant has met the requirements of this Paragraph, the Board shall renew the~~
2 ~~applicant's temporary license. The renewed temporary license shall expire six months after the date it is renewed or~~
3 ~~30 days after the date of the next scheduled examination, whichever is shorter, and it may not be renewed again.~~

4 ~~(e)(f) The holder of a temporary license shall practice only under the supervision of another a licensed electrologist~~
5 ~~or electrology instructor. electrologist. As used in this Rule, "supervision of another" "supervision" means that the~~
6 ~~other licensed electrologist is physically present in the same establishment establishment, though not necessarily in~~
7 ~~the same room, as the holder of the temporary license when electrology services occur and that the acts done by the~~
8 ~~holder of the temporary license are done pursuant to the other's licensed electrologist's order, control, and approval.~~
9 ~~The holder of a temporary license shall notify the Board within five business days of any change of supervisor and~~
10 ~~shall submit to the Board within 10 business days a written statement by the new supervisor that the holder of the~~
11 ~~temporary license will be practicing in the new supervisor's establishment and that the new supervisor has agreed to~~
12 ~~supervise his or her practice.~~

13 ~~(f) Notwithstanding any other provision of this Rule, the Board shall not issue a temporary license to anyone who has~~
14 ~~failed the examination for licensure as an electrologist, to anyone who has previously been issued a temporary license,~~
15 ~~or to anyone whose temporary license was revoked pursuant to G.S. 88A-21.~~

16
17 *History Note: Authority G.S. 88A-6; 88A-10.1; 86B-54;*

18 *Eff. December 1, 1995;*

19 *Recodified from 21 NCAC 19.0204 Eff. September 1, 2010;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1,*
21 *2018;*

22 *Recodified from 21 NCAC 19.0205 Eff. January 1, 2023- 2023;*

23 *Amended Eff. September 1, 2026.*

Burgos, Alexander N

From: Wiggs, Travis C
Sent: Wednesday, July 22, 2026 10:24 AM
To: Seavers, Dennis
Cc: Burgos, Alexander N
Subject: August RRC Meeting-Request for Technical Changes
Attachments: 08_2026-Barber and Electrolysis Examiners-Request for Technical Changes.docx

Good morning,

I'm the attorney who reviewed the rule submitted by the Board of Barber and Electrolysis Examiners for the August 2026 RRC meeting. The RRC will formally review this rule at its meeting on Thursday, August 27, 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 rules to me via email, no later than 5 p.m. on August 5, 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

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.

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

AGENCY: North Carolina Board of Barber and Electrolysis Examiners

RULE CITATION: 21 NCAC 06U .0101

DEADLINE FOR RECEIPT: Wednesday, August 5, 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 16, which “address” is being referred to in 21 NCAC 06A .0102? I assume “mailing address”, but it’s not clear to me if that’s the only way requests can be submitted.

Line 22, consider replacing “the” with “that” if you’re referring to the same “licensed electrologist”.

Line 23, consider adding “for” before “one”.

Line 28, replace “(d)” with “(e)”.

Line 28, “first” was not included in the Register. Why was this language added after publication? Why does this not constitute a substantial change under G.S. 150B-21.2(g)?

Page 2, line 4, replace “(e)” with “(f)”.

Lines 6-7, “present”, “though not necessarily in the same room”, and “when electrology services occur” were not included in the Register. Why was this language added after publication? Why does this not constitute a substantial change under G.S. 150B-21.2(g)?

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: July 22, 2026

Burgos, Alexander N

Subject: FW: 21 NCAC 06U .0105

Attachments: 21 NCAC 06U .0105-Form 0400-corrected original.pdf; 21 NCAC 06U .0105-Form 0400-corrected.pdf

From: Seavers, Dennis <dennis.seavers@nc.gov>

Sent: Wednesday, July 22, 2026 10:20 AM

To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: Re: 21 NCAC 06U .0105

Good morning -

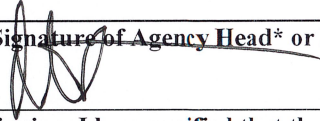
Please see the attached form

Dennis Seavers

Executive Director

NORTH CAROLINA BOARD OF BARBER AND ELECTROLYSIS EXAMINERS

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Board of Barber and Electrolysis Examiners	
2. Rule citation & name (name not required for repeal): 21 NCAC 06U .0105 - Temporary License for Electrology Applicants	
3. Action: ☐ ADOPTION ☒ AMENDMENT ☐ REPEAL ☐ READOPTION ☐ REPEAL through READOPTION	
4. Rule exempt from RRC review? ☐ Yes. Cite authority: ☒ No	5. Rule automatically subject to legislative review? ☐ Yes. Cite authority: ☒ No
6. Notice for Proposed Rule: ☒ Notice Required Notice of Text published on: February 2, 2026 Link to Agency notice: https://www.bbee.nc.gov/news/rulemaking Hearing on: February 18, 2026 ☒ The requirements listed in G.S. 150B-19.1(c)(1)-(5) were posted on the agency's Web site no later than the publication date of the notice of text in the N.C. Register. Adoption by Agency on: June 23, 2026 ☐ Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) ☐ Yes Agency submitted request for consultation on: Consultation not required. Cite authority: ☒ No	8. Fiscal impact. Check all that apply. ☐ This Rule was part of a combined analysis. ☐ State funds affected ☐ Local funds affected ☐ Substantial economic impact ($\geq \$1,000,000$) ☐ Approved by OSBM ☒ No fiscal note required
9. REASON FOR ACTION 9A. What prompted this action? Check all that apply: ☒ Agency ☐ Court order / cite: ☐ Federal statute / cite: ☐ Federal regulation / cite: ☐ Legislation enacted by the General Assembly Cite Session Law: ☐ Petition for rule-making ☐ Other: 9B. Explain: The board wished to make it easier for electrology applicants to receive temporary permits while attempting to pass the practical exam.	
10. Rulemaking Coordinator: Dennis Seavers Phone: 919-814-0641 E-Mail: dennis.seavers@nc.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator:  By signing, I have verified that the information contained on this form is true and accurate to the best of my knowledge. *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Dennis Seavers Title: Executive Director and Rulemaking Coordinator
RRC AND OAH USE ONLY	
Action taken: ☐ RRC extended period of review: ☐ RRC determined substantial changes: ☐ Withdrawn by agency ☐ Subject to Legislative Review ☐ Other:	

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency:	
2. Rule citation & name (name not required for repeal):	
3. Action: ☐ ADOPTION ☐ AMENDMENT ☐ REPEAL ☐ READOPTION ☐ REPEAL through READOPTION	
4. Rule exempt from RRC review? ☐ Yes. Cite authority: ☐ No	5. Rule automatically subject to legislative review? ☐ Yes. Cite authority: ☐ No
6. Notice for Proposed Rule: ☐ Notice Required Notice of Text published on: Link to Agency notice: Hearing on: ☐ The requirements listed in G.S. 150B-19.1(c)(1)-(5) were posted on the agency's Web site no later than the publication date of the notice of text in the N.C. Register. Adoption by Agency on: ☐ Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) ☐ Yes Agency submitted request for consultation on: Consultation not required. Cite authority: ☐ No	8. Fiscal impact. Check all that apply. ☐ This Rule was part of a combined analysis. ☐ State funds affected ☐ Local funds affected ☐ Substantial economic impact (≥\$1,000,000) ☐ Approved by OSBM ☐ No fiscal note required
9. REASON FOR ACTION 9A. What prompted this action? Check all that apply: ☐ Agency ☐ Court order / cite: ☐ Federal statute / cite: ☐ Federal regulation / cite: ☐ Legislation enacted by the General Assembly Cite Session Law: ☐ Petition for rule-making ☐ Other: 9B. Explain: 	
10. Rulemaking Coordinator: Phone: E-Mail: Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: By signing, I have verified that the information contained on this form is true and accurate to the best of my knowledge. *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Title:
RRC AND OAH USE ONLY	
Action taken: ☐ RRC extended period of review: ☐ RRC determined substantial changes: ☐ Withdrawn by agency ☐ Subject to Legislative Review ☐ Other:	

Burgos, Alexander N

From: Wiggs, Travis C
Sent: Wednesday, July 22, 2026 9:43 AM
To: Seavers, Dennis
Cc: Burgos, Alexander N
Subject: 21 NCAC 06U .0105

Mr. Seavers,

I've been assigned to review the above rule submitted to the RRC. Permanent Rule Form 0400 is incomplete (see 6.). Please complete the form and resend it to me as soon as possible.

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@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.