Burgos, Alexander N

Subject: FW: [External] 21 NCAC 53 .0312 - September RRC Meeting-Request for Changes

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From: Barney, Meghan E <meghan.barney@oah.nc.gov>
Sent: Monday, September 21, 2026 11:37 AM
To: Whitney Waldenberg <Whitney@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>; Sherri Roycroft <sherri@brockerlawfirm.com>; File <file@brockerlawfirm.com>
Subject: Re: [External] 21 NCAC 53 .0312 - September RRC Meeting-Request for Changes

Whitney,
Thank you. The extension request is received.

Meghan

Meghan Barney
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1925
Email: meghan.barney@oah.nc.gov

From: Whitney Waldenberg <Whitney@brockerlawfirm.com>
Sent: Monday, September 21, 2026 11:30 AM
To: Barney, Meghan E <meghan.barney@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>; Sherri Roycroft <sherri@brockerlawfirm.com>; File <file@brockerlawfirm.com>
Subject: Re: [External] 21 NCAC 53 .0312 - September RRC Meeting-Request for Changes

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Meghan,

Thank you. We would like the extension until the November 24, 2026 meeting, please.

Whitney

From: Barney, Meghan E <meghan.barney@oah.nc.gov>
Sent: Monday, September 21, 2026 9:23:14 AM
To: Whitney Waldenberg <Whitney@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>; Sherri Roycroft

<sherri@brockerlawfirm.com>; File <file@brockerlawfirm.com>
Subject: Re: [External] 21 NCAC 53 .0312 - September RRC Meeting-Request for Changes

Whitney,
I appreciate you working with us on these rules. I understand your request for an extension. I just need to know if you would like the extension to last until the October 29, 2026 meeting or the November 24, 2026 meeting. Let me know what works best and we will ensure this request is presented to the Commission at the September meeting next week. Thank you!

Meghan

Meghan Barney
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1925
Email: meghan.barney@oah.nc.gov

From: Whitney Waldenberg <Whitney@brockerlawfirm.com>
Sent: Monday, September 21, 2026 11:10 AM
To: Barney, Meghan E <meghan.barney@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>; Sherri Roycroft <sherri@brockerlawfirm.com>; File <file@brockerlawfirm.com>
Subject: RE: [External] 21 NCAC 53 .0312 - September RRC Meeting-Request for Changes

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Good morning Meghan,

Thanks for taking my calls last week. As you know, I am not rulemaking coordinator, but along with Doug Brocker, serve as counsel for the Board. We are requesting an extension of time to consider the issues you have raised in your requests for technical changes.

Please let us know if there are any formal steps we need to take to request an extension of time so that we can have the rule considered at a later meeting of the Commission.

Thank you,

Whitney

THE Brocker Law Firm P.A.

Whitney Waldenberg*

Of Counsel

The Brocker Law Firm, P.A.

1135 Kildaire Farm Road, Suite 200 | Cary, NC 27511

office 919-415-2357| fax 919-516-9077

whitney@brockerlawfirm.com | www.brockerlawfirm.com

*Licensed in North Carolina, located outside of the United States

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Burgos, Alexander N

Subject: FW: [External] 21 NCAC 53 .0312 - September RRC Meeting-Request for Changes

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From: Barney, Meghan E <meghan.barney@oah.nc.gov>
Sent: Wednesday, September 16, 2026 12:14 PM
To: Doug Brocker <doug@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>; Whitney Waldenberg <Whitney@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>
Subject: Re: [External] 21 NCAC 53 .0312 - September RRC Meeting-Request for Changes

Doug,

I have reviewed the form, the response, and the technical changes proposed. I really appreciate your responsiveness to my questions and suggestions. I have actually noted a more significant concern that I need you to address as well as a couple small clean up items.

1. Authority- In taking a deeper dive into the Authority for this rule I noted serious concerns. G.S. 90-334 gives The Board significant authority including rule making power however it appears to be limited to "this Article" meaning Article 24. For example, (a) The Board shall administer and enforce the ***provisions of this Article***; (c) The Board shall examine and pass on the qualifications of all applicants for licenses ***under this Article***; (h) Subject to the provisions of Chapter 150B of the General Statutes, the Board shall have the power to adopt, amend, or repeal rules to carry out the purposes ***of this Article***.... Nothing in Article 24 was amended to include Article 24A in The Board's authority. In contrast SL 2022-52 set up a "new" Article, Article 24A. I could not find anything in 24A that ties it back to 24 for Authority to The Board. Instead, 24A focuses its rulemaking authority to The Commission in GS 90-349.11, the interstate Commission being formed by the Compact. Clearly, the Compact requires the states to take actions, GS 90-349.3 clearly states that "a member state must currently do all of the following: (1) License and regulate licensed professional counselors" however I have not been able to locate where the General Assembly has granted any rule making power to The Board under 24A for that purpose. As The Board is more familiar with the ins and outs of the Compact can you please provide me with The Board's authority to adopt this rule either under 24 or 24A?

If we can establish the rule making Authority, there are only two other smaller items I noted in the Rule:

2. (a)(17) Page 2, Line 5 the word "and" is located between form and authorizing. I think it may have inadvertently migrated from Line 7 where it used to come after the semicolon. It needs to move back to line 5 and be struck through along with investigation and the semicolon ~~investigation; and~~

3. (a)(17) The Forms. I looked at the website address you noted for the forms. The forms listed on the website look to be the forms required for applicants out of state. Are applicants in state required to use the Live Scan system or is it just preferred? The Rule references only the Live Scan forms, if they are the only forms listed in the rule, they will be a requirement. The Live Scan forms are not available on the website. Based on the website they seem to be in an application portal, but I can't access that. Are they the same forms listed on the website, just located in the portal? If so, those are not forms created or controlled by the Board of Licensed Clinical Mental Health Counselors rather they are required by the FBI and SBI for agencies to request background checks and those agencies control what information is required. In that case you do not need to list the contents in the rule. You just need to name the agency and form. For example for the forms on the website you could say, "(17) A signed Federal Bureau of Investigation form

FD-258 and a signed North Carolina State Bureau of Investigation form Authority for Release for Criminal Background Check."

I really appreciate you all working on this matter. Please get your responses back to me by 9am on Tuesday September 22nd. Thank you.

Meghan Barney
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1925
Email: meghan.barney@oah.nc.gov

Burgos, Alexander N

Subject: FW: [External] 21 NCAC 53 .0312 - September RRC Meeting-Request for Changes
Attachments: Revised Form 400 21 NCAC 53 .0312.pdf; 2026-09-15 Response to Request for Changes - Clinical Mental Health Counselors 21 NCAC 53 .0312.docx; 2026-09-15 21 NCAC 53 .0312 tech changes.docx

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From: Doug Brocker <doug@brockerlawfirm.com>
Sent: Tuesday, September 15, 2026 9:02 AM
To: Barney, Meghan E <meghan.barney@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>; Whitney Waldenberg <Whitney@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>
Subject: [External] 21 NCAC 53 .0312 - September RRC Meeting-Request for Changes

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Meghan:

The revised form, our response, and the technical changes for proposed Rule 21 NCAC 53 .0312 are attached. Please confirm receipt and let us know whether these are ready for submission or we need to discuss further. Thank you.

Doug

This transmission is intended by the sender and proper recipient to be confidential, intended only for the proper recipient and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you are not the intended recipient, you are notified that the dissemination, distribution or copying of this message is strictly prohibited. If you receive this message in error, or are not the proper recipient, please notify the sender at either the e-mail address or telephone number above and delete this e-mail from your computer. Receipt by anyone other than the proper recipient is not a waiver of any attorney-client, work product, or other applicable privilege. Thank you.

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: North Carolina Board of Licensed Clinical Mental Health Counselors

2. Rule citation & name (name not required for repeal):
21 NCAC 53 .0312 LICENSURE BY VIRTUAL OF PRIVILEGE AND CHANGE OF RESIDENCY UNDER PROFESSIONAL CO

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: 4/15/26
Link to Agency notice: www.ncblcmhc.org
Hearing on: no hearing requested
☑ **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: 7/30/26
☐ **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: 3/20/26
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: 2021 N.C. HB 791
☐ **Petition for rule-making**
☐ **Other:**

9B. Explain:

This Rule implements a specific pathway for licensure under the Professional Counseling Licensure Compact based on the privilege-holder's change of residency to North Carolina.

10. Rulemaking Coordinator:
Douglas J. Brocker
Phone: 919-415-2357
E-Mail:
doug@brockerlawfirm.com
Additional agency contact, if any:

Phone:
E-Mail:

11. Signature of Agency Head* or Rule-making Coordinator:
Douglas J. Brocker

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: Douglas J. Brocker
Title: 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:

Doc ID: 3c752f021c8ad1bfeeaa4176e40decb54837e3fd

21 NCAC 53 .0312 is adopted with changes as published in 40:20 NCR 1621-22 as follows:

21 NCAC 53 .0312 LICENSURE BY VIRTUE OF PRIVILEGE AND CHANGE OF RESIDENCY UNDER PROFESSIONAL COUNSELING LICENSURE COMPACT

(a) The terminology used in this Rule conforms to the definitions set forth in G.S. 90-349.2. In accordance with G.S. 90-349.15, Rules .0205, .0206, and .0304 of this Chapter shall not apply to applicants under this Rule. Pursuant to G.S. 90-349.5, ~~and notwithstanding the requirements of Rules .0205, .0206, and .0304 of this Chapter,~~ an individual licensed by another member state of the Professional Counseling Licensure Compact, and who holds ~~an active~~ a privilege to practice in this State, may apply for licensure as a Licensed Clinical Mental Health Counselor by virtue of the privilege if North Carolina has become the individual's ~~primary residence.~~ home state. The privilege holder seeking licensure based on change of ~~primary residency~~ home state shall submit an application on the form furnished by the Board at www.ncblcmhc.org. The ~~following~~ application form shall contain the following information and documentation: ~~documentation must be provided with the application form:~~

(1) ~~Complete~~ Full legal name;

(2) Date of birth;

(3) Social Security Number;

(4) National Practitioner Identifier;

(5) Any other name by which the applicant was known in the past, accompanied by a certified copy of a court order of name change, if applicable;

(6) Home phone number;

(7) Work phone number;

(8) Cell phone number;

(9) Email address;

(10) Primary residential address, dates of residency at that address, and any other primary residential addresses in the 12 consecutive months prior to submitting the application;

(11) Proof of applicant's primary residency in North Carolina, including any of the following documentation for the applicant:

(A) ____filed North Carolina state income tax return for the most recent year;

(B) ____deed demonstrating ownership of property in North Carolina where the applicant resides;

(C)_____unexpired North Carolina driver's license;

(D)_____ active registration to vote in North Carolina; or

(E) ____active registration in North Carolina of a vehicle owned by applicant;

(12) Identification of current home state, home state license number, current license status, any prior disciplinary or administrative action, and expiration date of home state license;

(13) North Carolina privilege number;

(14) A statement regarding any existing or prior encumbrance or restriction on any state-issued license or privilege and the dates of such encumbrance or restriction;

(15) A statement regarding any adverse action, including disciplinary action, taken against the applicant's license or privilege in any state;

(16) The applicant's Professional Disclosure Statement meeting the requirements of Rule .0204 of this Chapter;

(17) A ~~completed fingerprint record card and~~ signed release of information form and authorizing the Board to request and receive a fingerprint-based criminal history record check from the Federal Bureau of Investigation and the North Carolina State Bureau of ~~Investigation;~~ Investigation. The form shall set forth the applicant's legal name, social security number, date of birth, gender and race. The applicant shall also complete a Live Scan fingerprint application for obtaining fingerprints used to conduct the criminal background check. The form shall set forth the applicant's name, date of birth, residential address, aliases, sex, race, height, weight, eye color and hair color. The release of information form and Live Scan fingerprint application form are available on the Board's website, https://ncblcmhc.org/Licensure/Applying/CBC; and

(18) Documentation of successful completion of the jurisprudence exam published on the Board's website, completed within six months prior to seeking licensure.

(b) Pursuant to G.S. 90-349.5(b), the applicant for licensure ~~must~~ shall pay the application fee set forth in Rule .0501 of this Chapter.

(c) Once a privilege is converted to a home state license, applicant shall notify their former home state that North Carolina is their new home state under the Compact.

History Note: *Authority G.S. 90-334; 90-349.3; 90-349.4; 90-349.5; 90-349.15;*
Eff. October 1, 2026.

Burgos, Alexander N

From: Doug Brocker <doug@brockerlawfirm.com>
Sent: Wednesday, September 2, 2026 2:43 PM
To: Barney, Meghan E
Cc: Burgos, Alexander N; Sherri Roycroft
Subject: [External] RE: September RRC Meeting-Request for Changes

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Meghan:

Received. We will review and send you a response before the deadline.

Doug

Douglas J. Brocker
The Brocker Law Firm, P.A.
1135 Kildaire Farm Road, Suite 200 | Cary, NC 27511

direct 919.854.2460 | *office* 919.415.2357 | *e-fax* 919.516.9077
doug@brockerlawfirm.com | The Brocker Law Firm website

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From: Barney, Meghan E <meghan.barney@oah.nc.gov>
Sent: Wednesday, September 2, 2026 2:25 PM
To: Doug Brocker <doug@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: September RRC Meeting-Request for Changes

Good afternoon,

I'm the attorney who reviewed the rule submitted by the North Carolina Board of Licensed Clinical Mental Health Counselors for the September 2026 RRC meeting. The RRC will formally review this rule at its meeting on Tuesday, September 29, 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 September 16, 2026. Let me know if you have any questions.

Thanks,
Meghan

Meghan Barney
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1925
Email: meghan.barney@oah.nc.gov

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