Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 64 .1003 - Rule for September 2026 RRC Meeting
Attachments: 21 NCAC 64 .1003 (rev'd) (v3).docx

From: Catherine E. Lee <clee@hedrickgardner.com>
Sent: Thursday, September 17, 2026 2:29 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 64 .1003 - Rule for September 2026 RRC Meeting

Mr. Miller, thank you for the follow-up items. Please see the attached Rule .1003, which the Board has revised to address your comments below. Please see the Board's in-line responses to your email below.

Catherine

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21 NCAC 64 .1003 is amended with changes as published in 40:21 NCR 1663-1664 as follows:

21 NCAC 64 .1003 LICENSEE REQUIREMENTS

(a) ~~Licensees who register an Assistant must have held a current, permanent license in North Carolina for two years or equivalent qualifications from another state. Temporary license holders shall not register Assistants.~~ Licensees shall hold a current, permanent license in North Carolina or an equivalent qualification from another state for a minimum of two years, prior to registering an Assistant.

(b) ~~Licensees who register an Assistant must demonstrate understanding of the~~ basic ~~elements of the registration and supervision process (scope of practice, ethics, written protocols, record keeping), and satisfactorily complete a knowledge demonstration on the registration/supervision process.~~ Licensees who register an Assistant shall demonstrate understanding of the elements of the registration and supervision process, including scope of practice, ethics, written protocols, and record keeping, by correctly answering at least seven out of ten jurisprudence questions regarding the statutes and rules regulating supervision of Assistants.

(c) Licensees ~~must~~ shall submit the application and annual fee for registration of the Assistant to the ~~Board.~~ Board, as required in Rule .1002(e) of this Section. To register an Assistant, a licensee shall provide the following information to the Board:

(1) The name, mailing address, phone number, and email address of the Assistant;

(2) The dates on which the Assistant successfully completed the educational and examination requirements identified in Rule .1002(a) and whether the Assistant previously has been registered with the Board as an Assistant;

(2) The Licensee's name, email address, and license number;

(3) The addresses at which the Licensee will provide supervision to the Assistant and maintain documentation related to supervision;

(4) The addresses at which the Assistant will provide services;

(5) The number of Assistants currently supervised by the Licensee;

(6) Whether the Assistant will provide feeding or swallowing services;

(7) A sample written session protocol for a hypothetical patient specifying all three protocol elements in Parts (A) through (C) of Subparagraph (e)(1) of this Rule; and

(8) The Licensee's attestation that:

(A) he or she has read the supervision requirements set forth in the rules of this Section;

(B) he or she agrees to abide by the supervision requirements set forth in the rules of this Section;

(C) he or she accepts responsibility for the professional services provided by the Assistant and will be available to the Assistant while the Assistant is providing services; and

(D) the information provided in the application is correct.

(d) Licensees ~~must~~ shall ~~assure~~ ensure that patients are informed when services are being provided by an ~~Assistant.~~ Assistant through the following methods:

(1) The Assistant ~~must~~ shall wear a badge that includes the job title: "SLP-Assistant."

(2) When services are to be rendered by an Assistant, the patient or, if the patient is a minor, the patient's legal guardians ~~or family~~ ~~must~~ shall be informed in writing. This notification form ~~must~~ shall be kept on file in the patient's chart, indicating the patient's name and date notified.

(e) ~~Tasks that are within the scope of responsibilities for an Assistant are listed in Rules .1004 and .1005 of this Section.~~ The standards for all patient services provided by the Assistant ~~are~~ shall be the full responsibility of the Supervising Licensee as defined in Rule .1001(b) and ~~cannot~~ shall not be delegated. Therefore, the assignment of tasks ~~and the amount and type of supervision~~ ~~must~~ shall be determined by the Supervising Licensee to ensure quality of care considering: the skills of the Assistant, needs of the patient, the service-setting, the tasks assigned, and any other relevant factors.

(1) Before assigning ~~a~~ treatment tasks to an Assistant, the Primary Supervising Licensee ~~must have~~ shall first ~~evaluated~~ evaluate the patient, ~~written~~ prepare a general treatment plan, and ~~provided~~ provide the Assistant with a written session protocol specifying the following for patient behaviors:

(A) eliciting conditions;

(B) target behavior; and

(C) contingent response.

(2) The Primary Supervising Licensee ~~must~~ shall document the Assistant's ~~reliable and effective~~ application of the treatment protocol with each patient. Each time a new protocol is introduced, the Primary Supervising Licensee ~~must assure~~ shall ensure and document that the Assistant is utilizing ~~all three protocol elements (A, B, C) effectively.~~ all three protocol elements in Parts (A) through (C) of Subparagraph (e)(1) of this Rule.

(3) For every record created that documents a patient encounter for screening or treatment ~~(screening or treatment)~~ in which an Assistant provides service, there ~~must~~ shall be legible signatures of the Assistant and one Supervising Licensee.

(4) These signed and dated patient encounter records ~~must~~ shall be retained as part of the patient's file for the time period specified in Rule .0209 of this Chapter and may be requested by the Board.

(5) ~~The Board may do random audits of records to determine compliance with its rules.~~ Upon receipt of evidence tending to show that a violation of this Section may have occurred, the Board may issue subpoenas to audit records related to the supervision of an Assistant.

~~(6) When patient services are being rendered by an Assistant, the [Primary] Supervising Licensee must be accessible to the Assistant in order to assure that direct observation and supervision can occur when necessary.~~

[~~(7)~~]

(f) [~~The Primary Supervising Licensee shall provide direct supervision for each patient for whom the Assistant is providing services. Every 90 days the Primary Supervising Licensee shall update and recertify the target behavior form. Every 90 days,~~] In the 90-day period following the Assistant's registration and in every 90-day period thereafter while the Assistant is registered, the Primary Supervising Licensee shall: [~~provide~~]

(1) Provide to each full-time Assistant under his or her supervision a minimum of six [~~(6)~~] hours of direct supervision and six [~~(6)~~] hours of indirect [~~supervision.~~] supervision; [~~Every 90 days, the Primary Supervising Licensee shall provide~~]

(2) Provide to each part-time Assistant under his or her supervision a minimum of three [~~(3)~~] hours of direct supervision and three [~~(3)~~] hours of indirect [~~supervision.~~] supervision; and

(3) Update and sign a written treatment plan that documents each patient's short-term goals, skilled intervention, eliciting conditions, target behaviors, and contingent responses.

(g) Activities that provide direct supervision include observing in-person or recorded therapy sessions by the Assistant, providing co-treatment with the Assistant, or modeling therapy techniques during a session with the Assistant. Activities that provide indirect supervision include reviewing therapy notes prepared by the Assistant, lesson planning for the Assistant, communicating with the Assistant about sessions by telephone or email, or providing written feedback to the Assistant about [~~session.~~] sessions. The dates and amount of supervision provided shall be documented, dated, and made available upon Board request.

[~~(8)~~]

(h) The Primary Supervising Licensee shall complete and maintain a Competency Rating Scale, entitled "Form D," [~~Scale ("Form D")~~] for each Assistant on a form prescribed by the Board that is available on the Board's website. The Primary Supervising Licensee shall record on the Form D his or her observations regarding the Assistant's skills, as set forth in this Rule. The Primary Supervising Licensee shall update the Form D through [~~routine~~] observation, feedback, and performance evaluation sessions. The Form D shall be made available for Board review upon request. The Primary Supervising Licensee shall provide written feedback to each Assistant and provide evidence of written feedback to the Board upon annual registration of the Assistant, the discontinuation of supervision of the Assistant, or upon request by the Board.

(i) A completed Form D shall contain the following:

[~~(A)~~] (1) The name and registration number of the Assistant;

[~~(B)~~] (2) The name and license number of the Primary Supervising Licensee;

[~~(C)~~] (3) The Primary Supervising Licensee's rating of the Assistant's demonstrated competencies in the following skills:

[~~(i)~~] (A) Clerical skills;

[~~(ii)~~] (B) Interpersonal skills;

[~~(iii)~~] (C) Professional conduct in the work setting;

[~~(iv)~~] (D) Technical skills; and

[~~(v)~~] (E) Other skills decided by the Primary Supervising Licensee as necessary for the work performed by the Assistant.

[~~(D)~~] (4) The Primary Supervising Licensee's plan to encourage further growth of the Assistant's skills; and

[~~(E)~~] (5) The dated signature of the Primary Supervising Licensee and the Assistant.

[~~(9)~~]

(j) The Primary Supervising Licensee shall review and approve all documentation prepared by the Assistant related to the provision of services for patients at least once every 30 days. This review shall be documented with the date of review and Primary Supervising Licensee's initials or signature. This review shall be maintained in the patient and Assistant supervision records.

~~(f)~~ (k) The Primary Supervising Licensee shall assess the Assistant's competencies during the initial 60 days of employment using the performance-based competency assessment and orientation checklist provided by the Board on the Board's website. The Primary Supervising Licensee shall submit the completed checklist ~~shall be submitted~~ to the Board within 90 days of registration. ~~A~~ Each time the Primary Supervising Licensee changes, the successor Primary Supervising Licensee shall complete and file with the Board a new ~~competency~~ checklist ~~must be completed and filed~~ within 90 days ~~each time the primary supervising Licensee changes.~~ following the change in Primary Supervising Licensee. In completing the checklist, the Primary Supervising Licensee shall provide the following assessment to the Board:

(1) whether the Assistant has completed a Board approved course of study and is currently registered with the Board;

(2) whether the Assistant has completed an employment orientation at all sites where he or she will provide services;

(3) whether the Assistant knows and understands the Board rules governing Assistants;

(4) whether the Primary Supervising Licensee has informed the Assistant of the overall scope of his or her duties and responsibilities as an employee;

(5) whether the Assistant conducts himself or herself in a professional manner with patients, families, caregivers, and staff;

(6) whether the Assistant identifies himself or herself as an Assistant to patients, families, and caregivers;

(7) whether the Assistant wears a name tag at all times that identifies himself or herself as an Assistant;

(8) whether the Assistant provides instructions or explanations of treatment to the patient that are appropriate for the patient's age, developmental level, language use, communication disorder, and level of understanding;

(9) whether the Assistant has been instructed in the proper administration of the screening instruments or tests and accurately administers these screening instruments;

(10) whether the Assistant accurately scores and reports the results of screening tests to the Primary Supervising Licensee;

(11) whether the Assistant prepares treatment or screening materials before the beginning of each treatment or screening session, as directed by the Primary Supervising Licensee, assuring that such materials are appropriate to the patient's age, developmental level, language use, communication disorder, and level of understanding;

(12) whether the Assistant starts and ends treatment sessions on time and follows the written treatment protocol developed and prescribed by the Primary Supervising Licensee;

(13) whether the Assistant utilizes universal precautions and adheres to the infection control procedures and guidelines of the employers; and

(14) whether the Assistant uses procedures for the physical management of patients/clients and injury prevention strategies consistent with the employer's policies and with state regulation.

~~(g) Any attempt to engage in those activities and responsibilities reserved solely for the Supervising Licensee shall be regarded as the unlicensed practice of speech-language pathology.~~

History Note: *Authority G.S. 90-298.1; 90-301A; 90-304(a)(1); 90-304(a)(3);*
Eff. July 1, 1998;
Amended Eff. December 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016.~~ 2016;
Amended Eff. ~~[September~~ October 1, 2026.

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 64 .1003 - Rule for September 2026 RRC Meeting
Attachments: 21 NCAC 64 .1003 (rev'd) (v2).docx

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Wednesday, September 16, 2026 1:32 PM
To: clee@hedrickgardner.com
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: [External] RE: 21 NCAC 64 .1003 - Rule for September 2026 RRC Meeting

Thanks, Catherine. A few follow up items for your consideration – please see below. Please provide responses and an updated rule to me **by EOD on the 22nd.**

General Formatting: Just FYI, I added highlighting/underline/strikethrough in a few places throughout the rule where changes were made but the proper markings were missing. When you go back through the attached rule, please ensure that the formatting looks good to you.

(b), line 12: The updated rule states, "… by correctly answering at least seven jurisprudence questions …". Seven out of how many total questions? Consider specifying this for clarity.

(c)(2): For my understanding, does this requirement mean that the applicant (aka the licensee) is attesting that the Assistant meets the education and testing requirements set forth in .1002(a)? Or is the applicant attesting that the Assistant has shown them the evidence as required by .1002(a)? The rule's wording is a little confusing here given that .1002(a) is phrased as an evidence requirement.

(c)(3): Add "to the Assistant" after "will provide supervision". Also, wouldn't these addresses be the same locations as (c)(4)? Or could these differ in practice?

(c)(6): Are "feeding services" or "swallowing services" defined or explained elsewhere in your rules? Do regulated persons know what all is encompassed by these different types of services?

(c)(7): This should end with "; and" rather than a period.

(c)(8)(A): Delete " .1000" at the end. It is not needed.

(c)(8)(B): For consistency, change "requirements set forth in Section .1000" to "requirements set forth in the rules of this Section".

(d), line 34: Change "assure" to "ensure".

(f), line 33: Should this just say "supervision" rather than "direct supervision" since you are breaking out the supervision requirements below in (f)(1) and (f)(2)? Or is "direct supervision" actually necessary for every single patient?

(f)(1), lines 1 and 2: Delete "(6)". It is not needed.

(f)(2), lines 4 and 5: Delete "(3)". It is not needed.

(f)(3), line 6: Change "the" to "each".

Page 4, line 5: Change "(j)" to "(k)".

(k)(6): Add a comma after "families".

(k)(7): For consistency, capitalize "assistant" at the end of this sentence.

(k)(11), line 32: Add "the" before "Assistant".

(k)(11), line 34: Is there a reason why the factors listed here on line 34 are different than those used in (k)(8)?

(k)(13), line 2: Change "employer(s)" to "employers".

Let me know if you have any questions.

Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

21 NCAC 64 .1003 is amended with changes as published in 40:21 NCR 1663-1664 as follows:

21 NCAC 64 .1003 LICENSEE REQUIREMENTS

(a) ~~Licensees who register an Assistant must have held a current, permanent license in North Carolina for two years or equivalent qualifications from another state. Temporary license holders shall not register Assistants.~~ Licensees shall hold a current, permanent license in North Carolina or an equivalent qualification from another state for a minimum of two years, prior to registering an Assistant.

(b) ~~Licensees who register an Assistant must demonstrate understanding of the~~ ~~basic~~ ~~elements of the registration and supervision process (scope of practice, ethics, written protocols, record keeping), and satisfactorily complete a knowledge demonstration on the registration/supervision process.~~ Licensees who register an Assistant shall demonstrate understanding of the elements of the registration and supervision process, including scope of practice, ethics, written protocols, and record keeping, by correctly answering at least seven jurisprudence questions regarding the statutes and rules regulating supervision of Assistants.

(c) Licensees ~~must~~ shall submit the application and annual fee for registration of the Assistant to the ~~Board.~~ Board, as required in Rule .1002(e) of this Section. To register an Assistant, a licensee shall provide the following information to the Board:

(1) The name, mailing address, phone number, and email address of the Assistant;

(2) Whether the Assistant has met the requirements of Rule .1002(a) and whether the Assistant previously has been registered with the Board as an Assistant;

(2) The Licensee's name, email address, and license number;

(3) The addresses at which the Licensee will provide supervision and maintain documentation related to supervision;

(4) The addresses at which the Assistant will provide services;

(5) The number of Assistants currently supervised by the Licensee;

(6) Whether the Assistant will provide feeding or swallowing services;

(7) A sample written session protocol for a hypothetical patient specifying all three protocol elements in Parts (A) through (C) of Subparagraph (e)(1) of this Rule.

(8) The Licensee's attestation that:

(A) he or she has read the supervision requirements set forth in the rules of this Section .1000;

(B) he or she agrees to abide by the supervision requirements set forth in Section .1000;

(C) he or she accepts responsibility for the professional services provided by the Assistant and will be available to the Assistant while the Assistant is providing services; and

(D) the information provided in the application is correct.

(d) Licensees ~~must~~ shall assure that patients are informed when services are being provided by an ~~Assistant.~~ Assistant through the following methods:

(1) The Assistant ~~must~~ shall wear a badge that includes the job title: "SLP-Assistant."

(2) When services are to be rendered by an Assistant, the patient or, if the patient is a minor, the patient's legal guardians ~~or family~~ ~~must~~ shall be informed in writing. This notification form ~~must~~ shall be kept on file in the patient's chart, indicating the patient's name and date notified.

(e) ~~Tasks that are within the scope of responsibilities for an Assistant are listed in Rules .1004 and .1005 of this Section.~~ The standards for all patient services provided by the Assistant ~~are~~ shall be the full responsibility of the Supervising Licensee as defined in Rule .1001(b) and ~~cannot~~ shall not be delegated. Therefore, the assignment of tasks ~~and the amount and type of supervision~~ ~~must~~ shall be determined by the Supervising Licensee to ensure quality of care considering: the skills of the Assistant, needs of the patient, the service-setting, the tasks assigned, and any other relevant factors.

(1) Before assigning ~~a~~ treatment tasks to an Assistant, the Primary Supervising Licensee ~~must have~~ shall first ~~evaluated~~ evaluate the patient, ~~written~~ prepare a general treatment plan, and ~~provided~~ provide the Assistant with a written session protocol specifying the following for patient behaviors:

(A) eliciting conditions;

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(2) The Primary Supervising Licensee ~~must~~ shall document the Assistant's ~~reliable and effective~~ application of the treatment protocol with each patient. Each time a new protocol is introduced, the Primary Supervising Licensee ~~must assure~~ shall ensure and document that the Assistant is utilizing ~~all three protocol elements (A, B, C) effectively.~~ all three protocol elements in Parts (A) through (C) of Subparagraph (e)(1) of this Rule.

(3) For every record created that documents a patient encounter for screening or treatment ~~(screening or treatment)~~ in which an Assistant provides service, there ~~must~~ shall be legible signatures of the Assistant and one Supervising Licensee.

(4) These signed and dated patient encounter records ~~must~~ shall be retained as part of the patient's file for the time period specified in Rule .0209 of this Chapter and may be requested by the Board.

(5) ~~The Board may do random audits of records to determine compliance with its rules.~~ Upon receipt of evidence tending to show that a violation of this Section may have occurred, the Board may issue subpoenas to audit records related to the supervision of an Assistant.

~~(6)~~ ~~When patient services are being rendered by an Assistant, the~~ [~~Primary~~] ~~Supervising Licensee must be accessible to the Assistant in order to assure that direct observation and supervision can occur when necessary.~~

[~~(7)~~]

(f) The Primary Supervising Licensee shall provide direct supervision for each patient for whom the Assistant is providing services. [~~Every 90 days the Primary Supervising Licensee shall update and recertify the target behavior form. Every 90 days,~~] In the 90-day period following the Assistant's registration and in every 90-day period thereafter while the Assistant is registered, the Primary Supervising Licensee shall: [~~provide~~]

(1) Provide to each full-time Assistant under his or her supervision a minimum of six (6) hours of direct supervision and six (6) hours of indirect [~~supervision.~~] supervision; [~~Every 90 days, the Primary Supervising Licensee shall provide~~]

(2) Provide to each part-time Assistant under his or her supervision a minimum of three (3) hours of direct supervision and three (3) hours of indirect [~~supervision.~~] supervision; and

(3) Update and sign a written treatment plan that documents the patient's short-term goals, skilled intervention, eliciting conditions, target behaviors, and contingent responses.

(g) Activities that provide direct supervision include observing in-person or recorded therapy sessions by the Assistant, providing co-treatment with the Assistant, or modeling therapy techniques during a session with the Assistant. Activities that provide indirect supervision include reviewing therapy notes prepared by the Assistant, lesson planning for the Assistant, communicating with the Assistant about sessions by telephone or email, or providing written feedback to the Assistant about [~~session.~~] sessions. The dates and amount of supervision provided shall be documented, dated, and made available upon Board request.

[~~(8)~~]

(h) The Primary Supervising Licensee shall complete and maintain a Competency Rating Scale, entitled "Form D," [~~Scale ("Form D")~~] for each Assistant on a form prescribed by the Board that is available on the Board's website. The Primary Supervising Licensee shall record on the Form D his or her observations regarding the Assistant's skills, as set forth in this Rule. The Primary Supervising Licensee shall update the Form D through [~~routine~~] observation, feedback, and performance evaluation sessions. The Form D shall be made available for Board review upon request. The Primary Supervising Licensee shall provide written feedback to each Assistant and provide evidence of written feedback to the Board upon annual registration of the Assistant, the discontinuation of supervision of the Assistant, or upon request by the Board.

(i) A completed Form D shall contain the following:

[~~(A)~~] (1) The name and registration number of the Assistant;

[~~(B)~~] (2) The name and license number of the Primary Supervising Licensee;

[~~(C)~~] (3) The Primary Supervising Licensee's rating of the Assistant's demonstrated competencies in the following skills:

[~~(i)~~] (A) Clerical skills;

[~~(ii)~~] (B) Interpersonal skills;

[~~(iii)~~] (C) Professional conduct in the work setting;

[~~(iv)~~] (D) Technical skills; and

[~~(v)~~] (E) Other skills decided by the Primary Supervising Licensee as necessary for the work performed by the Assistant.

[~~(D)~~] (4) The Primary Supervising Licensee's plan to encourage further growth of the Assistant's skills; [~~and~~]

[~~(E)~~] (5) The dated signature of the Primary Supervising Licensee and the [~~Assistant.~~] Assistant; and

(6) the site location at which supervision is provided.

[~~(9)~~]

(j) The Primary Supervising Licensee shall review and approve all documentation prepared by the Assistant related to the provision of services for patients at least once every 30 days. This review shall be documented with the date of review and Primary Supervising Licensee's initials or signature. This review shall be maintained in the patient and Assistant supervision records.

~~(f)~~ (j) The Primary Supervising Licensee shall assess the Assistant's competencies during the initial 60 days of employment using the performance-based competency assessment and orientation checklist provided by the Board on the Board's website. The Primary Supervising Licensee shall submit the completed checklist ~~shall be submitted~~ to the Board within 90 days of registration. ~~A~~ Each time the Primary Supervising Licensee changes, the successor Primary Supervising Licensee shall complete and file with the Board a new ~~competency~~ checklist ~~must be completed and filed~~ within 90 days ~~each time the primary supervising Licensee changes.~~ following the change in Primary Supervising Licensee. In completing the checklist, the Primary Supervising Licensee shall provide the following assessment to the Board:

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(4) whether the Primary Supervising Licensee has informed the Assistant of the overall scope of his or her duties and responsibilities as an employee;

(5) whether the Assistant conducts himself or herself in a professional manner with patients, families, caregivers, and staff;

(6) whether the Assistant identifies himself or herself as an Assistant to patients, families and caregivers;

(7) whether the Assistant wears a name tag at all times that identifies himself or herself as an assistant;

(8) whether the Assistant provides instructions or explanations of treatment to the patient that are appropriate for the patient's developmental level, language use, communication disorder, and level of understanding;

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(12) whether the Assistant starts and ends treatment sessions on time and follows the written treatment protocol developed and prescribed by the Primary Supervising Licensee;

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~~(g) Any attempt to engage in those activities and responsibilities reserved solely for the Supervising Licensee shall be regarded as the unlicensed practice of speech-language pathology.~~

History Note: *Authority G.S. 90-298.1; 90-301A; 90-304(a)(1); 90-304(a)(3);*
Eff. July 1, 1998;
Amended Eff. December 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016.~~ 2016;
Amended Eff. ~~[September~~ October 1, 2026.

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 64 .1003 - Rule for September 2026 RRC Meeting
Attachments: Response to Request for Changes - 21 NCAC 64 .1003 - 09 2026.docx; 21 NCAC 64 .1003 (rev'd).docx

From: Catherine E. Lee <clee@hedrickgardner.com>
Sent: Tuesday, September 15, 2026 1:34 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: 21 NCAC 64 .1003 - Rule for September 2026 RRC Meeting

Mr. Miller,

Good afternoon. On behalf of the Board of Examiners for Speech-Language Pathologists and Audiologists, please see the attached responses to the Request for Changes and the revised Rule .1003.

Thank you.

Catherine E. Lee | Partner
Hedrick Gardner Kincheloe & Garofalo LLP.
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Phone: 919-341-2639 | Fax: +19193412639
clee@hedrickgardner.com | www.hedrickgardner.com

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(c) Licensees ~~must~~ shall submit the application and annual fee for registration of the Assistant to the ~~Board.~~ Board, as required in Rule .1002(e) of this Section. To register an Assistant, a licensee shall provide the following information to the Board:

(1) The name, mailing address, phone number, and email address of the Assistant;

(2) Whether the Assistant has met the requirements of Rule .1002(a) and whether the Assistant previously has been registered with the Board as an Assistant;

(2) The Licensee's name, email address, and license number;

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(5) The number of Assistants currently supervised by the Licensee;

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(7) A sample written session protocol for a hypothetical patient specifying all three protocol elements in Parts (A) through (C) of Subparagraph (e)(1) of this Rule.

(8) The Licensee's attestation that:

(A) he or she has read the supervision requirements set forth in the rules of this Section .1000;

(B) he or she agrees to abide by the supervision requirements set forth in Section .1000;

(C) he or she accepts responsibility for the professional services provided by the Assistant and will be available to the Assistant while the Assistant is providing services; and

(D) the information provided in the application is correct.

(d) Licensees ~~must~~ shall assure that patients are informed when services are being provided by an ~~Assistant.~~ Assistant through the following methods:

(1) The Assistant ~~must~~ shall wear a badge that includes the job title: "SLP-Assistant."

(2) When services are to be rendered by an Assistant, the patient or, if the patient is a minor, the patient's legal guardians ~~or family~~ ~~must~~ shall be informed in writing. This notification form ~~must~~ shall be kept on file in the patient's chart, indicating the patient's name and date notified.

(e) ~~Tasks that are within the scope of responsibilities for an Assistant are listed in Rules .1004 and .1005 of this Section.~~ The standards for all patient services provided by the Assistant ~~are~~ shall be the full responsibility of the Supervising Licensee as defined in Rule .1001(b) and ~~cannot~~ shall not be delegated. Therefore, the assignment of tasks ~~and the amount and type of supervision~~ ~~must~~ shall be determined by the Supervising Licensee to ensure quality of care considering: the skills of the Assistant, needs of the patient, the service-setting, the tasks assigned, and any other relevant factors.

(1) Before assigning ~~a~~ treatment tasks to an Assistant, the Primary Supervising Licensee ~~must have~~ shall first ~~evaluated~~ evaluate the patient, ~~written~~ prepare a general treatment plan, and ~~provided~~ provide the Assistant with a written session protocol specifying the following for patient behaviors:

(A) eliciting conditions;

(B) target behavior; and

(C) contingent response.

(2) The Primary Supervising Licensee ~~must~~ shall document the Assistant's ~~reliable and effective~~ application of the treatment protocol with each patient. Each time a new protocol is introduced, the Primary Supervising Licensee ~~must assure~~ shall ensure and document that the Assistant is utilizing ~~all three protocol elements (A, B, C) effectively.~~ all three protocol elements in Parts (A) through (C) of Subparagraph (e)(1) of this Rule.

(3) For every record created that documents a patient encounter for screening or treatment ~~(screening or treatment)~~ in which an Assistant provides service, there ~~must~~ shall be legible signatures of the Assistant and one Supervising Licensee.

(4) These signed and dated patient encounter records ~~must~~ shall be retained as part of the patient's file for the time period specified in Rule .0209 of this Chapter and may be requested by the Board.

(5) ~~The Board may do random audits of records to determine compliance with its rules.~~ Upon receipt of evidence tending to show that a violation of this Section may have occurred, the Board may issue subpoenas to audit records related to the supervision of an Assistant.

~~(6)~~ ~~When patient services are being rendered by an Assistant, the~~ [Primary] ~~Supervising Licensee must be accessible to the Assistant in order to assure that direct observation and supervision can occur when necessary.~~

[(7)]

(f) The Primary Supervising Licensee shall provide direct supervision for each patient for whom the Assistant is providing services. [Every 90 days the Primary Supervising Licensee shall update and recertify the target behavior form. Every 90 days,] In the 90-day period following the Assistant's registration and in every 90-day period thereafter while the Assistant is registered, the Primary Supervising Licensee shall [provide]

(1) Provide to each full-time Assistant under his or her supervision a minimum of six (6) hours of direct supervision and six (6) hours of indirect [supervision.] supervision;

[Every 90 days, the Primary Supervising Licensee shall provide to]

(2) Provide to each part-time Assistant under his or her supervision a minimum of three (3) hours of direct supervision and three (3) hours of indirect [supervision.] supervision; and

(3) Update and sign a written treatment plan that documents the patient's short-term goals, skilled intervention, eliciting conditions, target behaviors, and contingent responses.

(g) Activities that provide direct supervision include observing in-person or recorded therapy sessions by the Assistant, providing co-treatment with the Assistant, or modeling therapy techniques during a session with the Assistant. Activities that provide indirect supervision include reviewing therapy notes prepared by the Assistant, lesson planning for the Assistant, communicating with the Assistant about sessions by telephone or email, or providing written feedback to the Assistant about [session.] sessions. The dates and amount of supervision provided shall be documented, dated, and made available upon Board request.

[(8)]

(h) The Primary Supervising Licensee shall complete and maintain a Competency Rating Scale, entitled Form D, [Scale ("Form D")] for each Assistant on a form prescribed by the Board that is available on the Board's website. The Primary Supervising Licensee shall record on the Form D his or her observations regarding the Assistant's skills, as set forth in this Rule. The Primary Supervising Licensee shall update the Form D through [routine] observation, feedback, and performance evaluation sessions. The Form D shall be made available for Board review upon request. The Primary Supervising Licensee shall provide written feedback to each Assistant and provide evidence of written feedback to the Board upon annual registration of the Assistant, the discontinuation of supervision of the Assistant, or upon request by the Board.

(i) A completed Form D shall contain the following:

[(A)] (1) The name and registration number of the Assistant;

[(B)] (2) The name and license number of the Primary Supervising Licensee;

[(C)] (3) The Primary Supervising Licensee's rating of the Assistant's demonstrated competencies in the following skills:

[(i)] (A) Clerical skills;

[(ii)] (B) Interpersonal skills;

[(iii)] (C) Professional conduct in the work setting;

[(iv)] (D) Technical skills; and

[(v)] (E) Other skills decided by the Primary Supervising Licensee as necessary for the work performed by the Assistant.

[(D)] (4) The Primary Supervising Licensee's plan to encourage further growth of the Assistant's skills; [and]

[(E)] (5) The dated signature of the Primary Supervising Licensee and the [Assistant.] Assistant; and

(6) the site location at which supervision is provided.

[(9)]

(j) The Primary Supervising Licensee shall review and approve all documentation prepared by the Assistant related to the provision of services for patients at least once every 30 days. This review shall be documented with the date of review and Primary Supervising Licensee's initials or signature. This review shall be maintained in the patient and Assistant supervision records.

~~(f)~~ (j) The Primary Supervising Licensee shall assess the Assistant's competencies during the initial 60 days of employment using the performance-based competency assessment and orientation checklist provided by the Board on the Board's website. The Primary Supervising Licensee shall submit the completed checklist ~~shall be submitted~~ to the Board within 90 days of registration. ~~A~~ Each time the Primary Supervising Licensee changes, the successor Primary Supervising Licensee shall complete and file with the Board a new ~~competency~~ checklist ~~must be completed and filed~~ within 90 days ~~each time the primary supervising Licensee changes.~~ following the change in Primary Supervising Licensee. In completing the checklist, the Primary Supervising Licensee shall provide the following assessment to the Board:

(1) whether the Assistant has completed a Board approved course of study and is currently registered with the Board;

(2) whether the Assistant has completed an employment orientation at all sites where he or she will provide services;

(3) whether the Assistant knows and understands the Board rules governing Assistants;

(4) whether the Primary Supervising Licensee has informed the Assistant of the overall scope of his or her duties and responsibilities as an employee;

(5) whether the Assistant conducts himself or herself in a professional manner with patients, families, caregivers, and staff;

(6) whether the Assistant identifies himself or herself as an Assistant to patients, families and caregivers;

(7) whether the Assistant wears a name tag at all times that identifies himself or herself as an assistant;

(8) whether the Assistant provides instructions or explanations of treatment to the patient that are appropriate for the patient's developmental level, language use, communication disorder, and level of understanding;

(9) whether the Assistant has been instructed in the proper administration of the screening instruments or tests and accurately administers these screening instruments;

(10) whether the Assistant accurately scores and reports the results of screening tests to the Primary Supervising Licensee;

(11) whether Assistant prepares treatment or screening materials before the beginning of each treatment or screening session, as directed by the Primary Supervising Licensee, assuring that such materials are appropriate to the patient's age, developmental level, culture, and communication disorder;

(12) whether the Assistant starts and ends treatment sessions on time and follows the written treatment protocol developed and prescribed by the Primary Supervising Licensee;

(13) whether the Assistant utilizes universal precautions and adheres to the infection control procedures and guidelines of the employer(s); and

(14) whether the Assistant uses procedures for the physical management of patients/clients and injury prevention strategies consistent with the employer's policies and with state regulation.

~~(g) Any attempt to engage in those activities and responsibilities reserved solely for the Supervising Licensee shall be regarded as the unlicensed practice of speech-language pathology.~~

History Note: *Authority G.S. 90-298.1; 90-301A; 90-304(a)(1); 90-304(a)(3);*
Eff. July 1, 1998;
Amended Eff. December 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, ~~2016.~~ 2016;
Amended Eff. [~~September~~]October 1, 2026.

Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear, and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff 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.

To properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov and copy RRC Counsel. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
    - Wrong: "~~a~~Association"
    - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
    - Wrong: "day~~,~~; and"
    - Right: "~~day,~~ day; and"
7. Formatting instructions and examples may be found at: www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

Christopher S. Miller
Commission Counsel
Date submitted to agency: September 3, 2026

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

AGENCY: Board of Examiners for Speech-Language Pathologists and Audiologists

RULE CITATION: 21 NCAC 64 .1003

DEADLINE FOR RECEIPT: September 16, 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:

(a), lines 4-5: For clarity and proper grammar, consider revising this to read as, "Licensees shall hold a current, permanent license in North Carolina or an equivalent qualification from another state for a minimum of two years, prior to registering an Assistant."

Done

(a), line 4: Change "must" to "shall".

Use of word "must" removed.

(b): For clarity, consider rewriting this to state, "Licensees who register an Assistant shall demonstrate understanding of the elements of the registration and supervision process, including scope of practice, ethics, written protocols, and record keeping, by satisfactorily completing a knowledge demonstration."

Done

(b), line 6: Change "must" to "shall".

Use of word "must" removed.

(b), line 8: What is a "knowledge demonstration" and what do you consider to be "satisfactory"? Your rule does not provide a clear standard. Is it a written test? Something else? Is there a specific passing score? Be clear and specific.

Revised to clarify that licensees who register an Assistant must answer correctly at least seven jurisprudence questions regarding the statutes and rules regulating supervision of Assistants.

(c), line 9: Change "must" to "shall".

Christopher S. Miller
Commission Counsel
Date submitted to agency: September 3, 2026

Done

(c), line 9: You mention an "application" here. Is that application form already prescribed in your rules or statutes? If so, cross-reference it here. If none exists, place the required fields and substantive requirements in rule. See our form guidance at https://www.oah.nc.gov/rrc-final-guidance-forms/open.

Revised to include the information that must be provided to register an Assistant.

(d), line 11: Replace "must assure" with "shall ensure".

Done

(d)(1): Replace "must" with "shall".

Done

(d)(2): Replace "must" with "shall" on lines 14 and 15.

Done

(d)(2), line 14: Does "family" notification only apply if the patient is a minor? Or does family notification suffice in all circumstances?

Clarified to provide that written notification must be given to the patient or, if the patient is a minor, the patient's legal guardians.

(e), lines 17-18: Why is the first sentence of this paragraph needed? It doesn't seem to do anything that isn't already covered by those two rules. Consider deleting this.

Done

(e), lines 18 and 19: Change "are" to "shall be" and "cannot" to "shall not".

Done

(e), lines 19-21, final sentence: Is this sentence still relevant now that you've set forth specific times and standards for supervision in (e)(7)? You may want to delete this or edit to avoid any confusion.

Revised to remove reference to "the amount and type of supervision"

(e)(1), line 22: Delete "a" before "treatment tasks" and change "must" to "shall".

Done. We also changed the verb tense for clarity.

Christopher S. Miller
Commission Counsel
Date submitted to agency: September 3, 2026

(e)(2), line 28: Replace "must" with "shall".

Done

(e)(2), line 28: Consider deleting "reliable and effective". These adjectives create an unclear standard and do not seem to be necessary here.

Done

(e)(2), line 29: Add "Primary" before "Supervising Licensee" if that is your intent.

Done

(e)(2), line 30: Replace "must assure" with "shall ensure".

Done

(e)(2), lines 30-31. This cross-reference is not precise. Revise to say, "… all three protocol elements in Parts (A) through (C) of Subparagraph (e)(1) of this Rule."

Done

(e)(2), line 31: What does "effectively" mean in this context? This may be seen as a vague standard.

Removed the word "effectively"

(e)(3): What exactly is required to be signed? Your rule is not clear. Also, change "must" to "shall" on line 33.

Revised to clarify that every record created that documents a patient encounter in which the Assistant provides services must be signed.

(e)(4), line 34: Replace "must" with "shall".

Done

(e)(5): What statute(s) give the Board authority to conduct "random audits" for licensee compliance?

Revised to clarify that audit only are done when investigating evidence tending to show non-compliance with Section .1000 of Chapter 64 of the NCAC.

(e)(6), line 1: Change "must" to "shall".

Done

(e)(6), line 2: What does "accessible" mean in this context? In the same room? Available by phone? Your rule is not clear.

Revised to clarify that the Primary Supervising Licensee shall provide direct observation and supervision deemed necessary by either the Assistant or the Primary Supervising Licensee.

(e)(7), general comment: The length and organization of this paragraph makes it hard to parse. Consider breaking this out into sub-requirements for Supervisors to improve readability. Also, it may make more sense to designate this as paragraph (f) rather than subparagraph (7).

Reorganized into Paragraph (f) rather than subparagraph (e)(7)

(e)(7), first sentence: Doesn't this first sentence go beyond the requirement of (e)(6)? Is (e)(6) still needed? "Direct supervision" seems to be a higher requirement than "accessible". Please consider and revise as needed.

Paragraph (e)(6) has been removed.

(e)(7), line 6: What does it mean to "rectify" a form?

The term "recertify" has been removed.

(e)(7), line 6: What is a "target behavior form"? Is this something that the Board creates and requires licensees to use? If so, is the form and its required contents set forth somewhere in your rules or statutes? See our form guidance document at https://www.oah.nc.gov/rrc-final-guidance-forms/open.

The target behavior form is not created by the Board or one that it requires its licensees to use. However, the minimum required substance expected on the form has been added to the rule.

(e)(7), sentences 2-4, lines 5-10: The language used here is redundant. Consider breaking this up to say:

"Every 90 days, the Primary Supervising Licensee shall:
(A) update and recertify the target behavior form;
(B) provide to each full-time Assistant under his or her supervision a minimum of six hours of direct supervision and six hours of indirect supervision; and
(C) provide to each part-time Assistant under his or her supervision a minimum of three hours of direct supervision and three hours of indirect supervision."

Done

(e)(7), sentences 2-4, lines 5-10: When does the first 90-day period begin? Once the first task is assigned? Upon registration? Be specific in your rule.

Christopher S. Miller
Commission Counsel
Date submitted to agency: September 3, 2026

Revised to clarify that the 90 day period begins after the Assistant's registration.

(e)(7), line 15: Change "session" to "sessions".

Done

(e)(7), line 16: Add "made" before "available".

Done

(e)(8), general comment: The length and organization of this paragraph makes it hard to parse. Consider breaking this out into sub-requirements for ratings/documentation for Supervisors to improve readability. Also, it may make more sense to designate this as paragraph (g) rather than subparagraph (8).

Done

(e)(8), lines 17-18: Remove the parentheses around "("Form D")" and add "entitled" before the form name. It would then read as "… Scale, entitled "Form D", for each …"

Done

(e)(8), line 21: What is considered to be "routine"? Specify a frequency.

Removed the word "routine"

(e)(8), line 22: Add "made" before "available".

Done

*(e)(8)(A-E): Please confirm whether your rule captures **all** required information in the Form D. The rule should match the form.*

Revised to add requirement that location of supervision be provided.

(e)(8)(C)(i-v), lines 30-35: Subparts at this level are not allowed in current rules. The listed competencies will need to stay at the Part level in (C). Please revise.

Revised accordingly.

(e)(9): If you make some of the organizational changes suggested above, consider designating this as paragraph (h) rather than subparagraph (9).

Revised accordingly.

Christopher S. Miller
Commission Counsel
Date submitted to agency: September 3, 2026

(e)(9), line 2: What is encompassed within "all documentation"? Do HR documents qualify? Only documents created in conjunction with performing services on patients? Be more specific.

Revised accordingly.

(f), general comment: Is this requirement in addition to the Skills Assessment provided on a Form D? Or is this the same thing?

The checklist is completed once within 60 days following initial registration of an Assistant. The Form D is for the annual review of the Assistant.

(f), line 8: If you are requiring Supervisors to complete and submit this form/information to you, you need to spell it out in your rule. Please describe the form contents here. For additional information, please see our form guidance at https://www.oah.nc.gov/rrc-final-guidance-forms/open.

Revised accordingly.

(f), line 10: Is it an "orientation checklist" or a "competency checklist"? You use inconsistent terminology throughout this paragraph.

The "performance-based competency assessment and orientation checklist" is one document. We have revised to refer to it as the checklist.

(g), line 13: "Any attempt" by whom? Who does this apply to? Be specific.

This subparagraph has been removed.

(g), line 13: What are "activities and responsibilities reserved solely for the Supervising Licensee"? Is this set forth in your rules? If so, cross-reference them here.

This subparagraph has been removed.

History Note, Authority: Consider adding G.S. 90-301A.

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

Christopher S. Miller
Commission Counsel
Date submitted to agency: September 3, 2026

Burgos, Alexander N

From: Catherine E. Lee <clee@hedrickgardner.com>
Sent: Thursday, September 3, 2026 2:33 PM
To: Miller, Christopher S
Cc: Burgos, Alexander N
Subject: [External] RE: 21 NCAC 64 .1003 - Rule for September 2026 RRC Meeting

Thank you, Mr. Miller. I am confirming receipt and the Board will respond before September 16.

We appreciate your very helpful review of this rule.

Catherine

Catherine E. Lee | Partner
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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Thursday, September 3, 2026 10:21 AM
To: Catherine E. Lee <clee@hedrickgardner.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: 21 NCAC 64 .1003 - Rule for September 2026 RRC Meeting

Good morning, Catherine.

I'm the staff attorney who reviewed the rule submitted by the Board of Examiners for Speech-Language Pathologists and Audiologists 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 my Request for Changes pursuant to G.S. 150B-21.10. Please submit the responses and revised rule to me via email, no later than **5 p.m. on September 16, 2026.**

Let me know if you have any questions.

Thanks!

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
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