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

AGENCY: NC Board of Nursing

RULE CITATION: 21 NCAC 36 .0114 (Adoption)

DEADLINE FOR RECEIPT: November 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:

Line 1: This should read as: "21 NCAC 36 .0114 is adopted as published in 41:01 NCR 39 as follows:".

Line 3: Remove the underline from this line.

(a), lines 4-5: You say "specific rules in this Chapter" here. Which specific rules are you referring to? Which ones can be waived by the Board and which ones cannot be waived? How would one know based on the text of your rule?

(a), line 5: What is "the Board's mission"? Can you be more specific?

(a), line 5: Add "is" before "authorized by law".

(a)(4): Consider changing "to support" to "giving rise to".

(a)(5): Is there some sort of notice requirement built in here? If so, who must receive notice, in what manner, and when is it provided?

(b): Doesn't this provision go beyond the scope of G.S. 90-171.49? The statute does not seem to be aligned with the rule text. Also, do these waivers consider the same factors that you've laid out in (a)?

(c), line 19: Change "rule(s)" to "rules" or "each rule", in both instances.

(c), line 20: Is supporting documentation optional? If so, consider something like, "and may include any supporting documentation".

History Note, line 22: Change "G.S.90-171.23(3)" to "G.S. 90-171.23(b)(3)".

History Note, line 22: How does your own rule, 21 NCAC 36 .0814, give you authority to adopt this rule? You should delete this from the list of authorities.

Christopher S. Miller
Commission Counsel
Date submitted to agency: November 5, 2026

History Note, line 22: This line should end with a semi-colon rather than a period.

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: November 5, 2026

21 NCAC 36 .0114 is proposed to be adopted, as published in NCR 41:01, page 39, as follows:

21 NCAC 36 .0114 WAIVER OF ENFORCEMENT

(a) The Board may waive, upon written request or on its own initiative, the enforcement of specific rules in this Chapter so long as the waiver is consistent with the Board's mission, authorized by law, and will not impair the rights of any party. Factors the Board shall use in determining whether to grant the waiver are:

(1) degree of benefit to the public;

(2) degree of disruption to the Board;

(3) cost to the Board;

(4) whether the requesting party had control over the circumstances to support a request for a waiver;

(5) notice to and opposition by the public, provided that notice would not conflict with laws prohibiting disclosure of information;

(6) need for the waiver; and

(7) previous requests for waivers submitted from the requesting party.

(b) The Board may waive any rule in this Chapter that is not statutorily required upon its own initiative during a declared state of emergency authorized by a federal, state, or local governmental authority impacting North Carolina citizens in order to increase access to care.

(c) The party requesting waiver of a rule shall submit a written request to the Board at lawsrules@ncbon.com. The written request shall include the rule(s) for which a waiver is sought and an explanation as to why the rule(s) should be waived with any supporting documentation.

History Note: *Authority G.S.90-171.23(3); 90-171.49; 90-12.5; 150B-19(6); 21 NCAC 36 .0814.*
Eff. December 1, 2026.

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

AGENCY: NC Board of Nursing

RULE CITATION: 21 NCAC 36 .0120

DEADLINE FOR RECEIPT: November 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:

Line 1: This should read as: "21 NCAC 36 .0120 is amended as published in 41:01 NCR 39-42 as follows:".

Line 4: Capitalize "chapter".

(24) and (27): Is it NCLEX™ or NCLEX®? You use two different terms. Why?

(27), line 32: Change "is" to "means" for consistency.

(27), line 34: What does "first writing" mean here? The student's first exam attempt? The first exam held in a calendar year? Something else? This is not clear.

(43), line 33: Change "non-compliance" to "noncompliance".

(44): With the proposed deletion, the definition now reads as: "… means a registered nurse that an assigned student is seeking who may serve …". "Seeking" what? This no longer makes sense. Also, what is an "assigned" student? Does this mean something special?

History Note, page 5, line 28: "December 1, 2026" should be placed first, not last.

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: November 5, 2026

21 NCAC 36 .0120 is proposed to be amended, as published in NCR 41:01, pages 39-42, as follows:

21 NCAC 36 .0120 DEFINITIONS

The following definitions apply throughout this chapter unless the context indicates otherwise:

(1) "Administrative Law Counsel" means an attorney licensed to practice in this State whom the Board has retained to serve as procedural officer for contested cases.

(2) "Academic term" means one semester of a school year.

(3) "Accountability/Responsibility" means being answerable for action or inaction of self, and of others in the context of delegation or assignment.

(4) "Accredited institution" means an institution accredited by a United States Department of Education-approved institutional accrediting body.

(5) "Active Practice" means activities that are performed, either for compensation or without compensation, consistent with the scope of practice for each level of licensure as defined in G.S. 90-171.20(4), (7), and (8).

(6) "Advanced Practice Registered Nurse (APRN)" means a nurse practitioner, nurse anesthetist, nurse-midwife, or clinical nurse specialist.

(7) "Assigning" means designating responsibility for implementation of a specific activity or set of activities to an individual licensed and competent to perform such activities.

(8) "Bulletin" means the official publication of the Board.

(9) "Chief Nursing Administrator" means a senior level executive within the healthcare organization responsible for overseeing the practice of nursing to ensure consistency in practice standards and to facilitate an interdisciplinary team approach to the delivery of care.

(10) "Clinical Agency" means an agency established to administer or provide health care services in which a student provides care to clients under the supervision of faculty or a preceptor.

(11) "Clinical experience" means application of nursing knowledge demonstrating clinical judgment in a current or evolving practice setting in which a student provides care to clients under the supervision of faculty or a preceptor.

(12) "Clinical judgment" means the observed outcome of critical thinking and decision-making. It is an iterative process that uses nursing knowledge to observe and assess presenting situations, identify a prioritized client concern, and generate the best possible evidence-based solutions in order to deliver safe client care.

(13) "Competent" means having the knowledge, skills, and ability to safely perform an activity or role.

(14) "Continuing Competence" means on-going acquisition and application of knowledge and the decision-making, psychomotor, and interpersonal skills expected of the licensed nurse resulting in nursing care that contributes to the health and welfare of clients served.

(15) "Contact Hour" means 60 minutes of an organized learning experience.

(16) "Continuing Education Activity" means a planned, organized learning experience that is related to the practice of nursing or contributes to the competency of a nurse as outlined in 21 NCAC 36 .0223(a)(2).

(17) "Controlling institution" means the degree-granting organization or hospital under which a nursing education program is operating or seeking to establish a new nursing education program. The controlling institution shall hold approval or applicable licensure by the appropriate North Carolina agency, the University of North Carolina System, or North Carolina Community College System and be accredited by an accrediting body recognized by the United States Secretary of Education.

(18) "Curriculum" means an organized system of teaching and learning activities directed toward the achievement of specified learning objectives and outcomes.

(19) "Delegation" means transferring to a competent individual the authority to perform a specific nursing activity in a selected situation. The nurse retains accountability/responsibility for the delegation.

(20) "Debriefing" means an organized learning activity that follows a clinical or simulated experience and is led by a trained faculty facilitator. Students' reflective thinking is encouraged and feedback is provided regarding the students' performance during discussion of various aspects of the completed experiences.

(21) "DHSR" means Division of Health Service Regulation.

(22) "Dimensions of Practice" means aspects of nursing practice, including professional responsibility, knowledge-based practice, ethical and legal practice, and collaborating with others, consistent with G.S. 90-171.20(4), (7), and (8).

(23) "Distance education" means teaching and learning strategies used to meet the learning needs of students when the students and faculty are not in the same location.

(24) "External standardized examination" means a commercially available standardized predictive test that provides individual student scores that are linked to a probability of passing the NCLEX™ examination.

(25) "Faculty directed clinical practice" means clinical experiences provided under the accountability/responsibility and direction of program faculty.

(26) "Focused client care experience" means a clinical experience that emulates an entry-level work experience in nursing, assisting the student in transitioning to an entry-level nursing practice. Supervision may be by faculty and preceptor dyad or direct faculty supervision.

(27) "Full Approval" is the status assigned to a program following graduation by the first cohort of students, evidence of compliance with Section .0300 of this Chapter, and an NCLEX® examination pass rate that meets or exceeds 90 percent of the national pass rate for licensure level on first writing of the licensure examination for calendar years ending December 31.

(28) "Initial Approval" means the status assigned to a nursing education program following submission of a new, complete application and documented evidence of compliance with Section .0300 of this Chapter.

(29) "Interdisciplinary faculty" means faculty from professions other than nursing.

(30) "Interdisciplinary team" means all individuals involved in providing a client's care who cooperate, collaborate, communicate, and integrate care to ensure that care is continuous and reliable.

(31) "Learning resources" means materials that faculty use to assist students in meeting the expectations for learning defined by the curriculum.

(32) "Level of Licensure" means practice of nursing by either a licensed practical nurse or a registered nurse, as defined in G.S. 90-171.20(7) and (8).

(33) "Level of student" means the point in the program to which the student has progressed.

(34) "Maximum enrollment" means the total number of pre-licensure students that can be enrolled in the program at any one time. The number reflects the capacity of the program based on demonstrated resources sufficient to implement the curriculum.

(35) "Methods of Instruction" means the planned process through which teacher and student interact with selected environment and content so that the response of the student gives evidence that learning has taken place, based upon stated course objectives and outcomes for learning experiences in classroom, laboratory, simulation, and clinical settings.

(36) "National Credentialing Body" means a credentialing body that offers certification or re-certification in the licensed nurse's or Advanced Practice Registered Nurse's specialty area of practice.

(37) "NCLEX-PN™" means the National Council Licensure Examinations for Practical Nurses.

(38) "NCLEX-RN™" means the National Council Licensure Examinations for Registered Nurses.

(39) "Nursing Accreditation body" means a national nursing accrediting body that is recognized by the United States Department of Education.

(40) "Program faculty" means individuals employed full or part-time by an academic institution responsible for developing, implementing, evaluating, and updating nursing curricula.

(41) "Nursing project" means a project or research study of a topic related to nursing practice that includes a problem statement, objectives, methodology, and summary of findings.

(42) "Participating in" means to have a part in or contribute to the elements of the nursing process. As defined by the legal scope of practice, the licensed practical nurse role for participating in the nursing process is dependent upon the assignment and supervision by the registered nurse, physician, dentist, or other person authorized by State law to provide the supervision.

(43) "Pattern of noncompliance" means episodes of recurring non-compliance with one or more Rules in Section .0300.

(44) "Preceptor" means a registered nurse ~~at or above the level of licensure~~ that an assigned student is seeking who may serve as a teacher, mentor, role model, and supervisor for the student in a faculty-directed clinical experience.

(45) "Prescribing Authority" means the legal permission granted by the Board of Nursing and Medical Board for the nurse practitioner and nurse midwife to procure and prescribe legend and controlled pharmacological agents and devices to a client in compliance with Board rules and other applicable federal and State law, regulations, and rules.

(46) "Program Closure" means to cease operation of a program.

(47) "Program Description Report" means a written assessment of a program designed to detail program features and operations which support Board evaluation of compliance with established regulations as set forth in Section .0300 of this Chapter.

(48) "Program" means a course of study that prepares an individual to function as an entry-level practitioner of nursing. The four types of programs are:

(a) Bachelor of Science Degree in Nursing (BSN) - Curriculum components for the BSN provide for the attainment of knowledge and skill sets in the current practice in nursing, nursing theory, nursing research, community and public health, health care policy, health care delivery and finance, communications, therapeutic interventions, and current trends in health care. For this program type, the client is the individual, family, group, and community;

(b) Associate Degree in Nursing (ADN) – Curriculum components for the ADN provide for the attainment of knowledge and skill sets in the current practice in nursing, community concepts, health care delivery, communications, therapeutic interventions, and current trends in health care. For this program type, client is the individual, group of individuals, and family;

(c) Practical Nurse Diploma (PN) - Curriculum components for the PN diploma prepare for providing direct nursing care under the supervision of a registered nurse or other health care provider as defined by the Nursing Practice Act. Curriculum components provide for the attainment of knowledge and skill sets in the current practice of practical nursing, communications, therapeutic interventions, including pharmacology, growth and development, and current trends in health care. For this program type client is the individual or group of individuals; and

(d) Direct Master's Entry (DME) – Curriculum components for a DME provide for the attainment of knowledge and skill sets in the current practice in nursing, nursing theory, nursing research, community and public health, health care policy, health care delivery and finance, communications, therapeutic interventions, and current trends in health care. For this program type, the client is the individual, family, group, and community. The DME will provide additional education for strengthened competencies in organizational and systems thinking, quality improvement and safety, care coordination, interprofessional communication, and team-based care and leadership for students with a non-nursing baccalaureate degree.

(49) "Review" means collecting and analyzing information to assess compliance with Section .0300 of this Chapter. Information may be collected by multiple methods, including review of written reports and materials, on-site observations, review of documents, and in-person or telephone interviews and conferences.

(50) "Self-Assessment" means the process whereby an individual reviews their own nursing practice and identifies the knowledge and skills possessed as well as those skills to be strengthened or acquired.

(51) "Simulation" means a technique, not a technology, to replace or amplify clinical experiences with guided experiences that evoke or replicate substantial aspects of the real world of nursing practice in a fully interactive manner.

(52) "Specialty" means a broad, population-based focus of study encompassing the common health-related problems of a particular group of patients and the likely co-morbidities, interventions, and responses to those problems.

(53) "Supervision" means the provision of guidance or direction, evaluation, and follow-up by a licensed nurse to accomplish an assigned or delegated nursing activity or set of activities.

(54) "Survey" means an on-site visit for the purpose of gathering data in relation to reviewing a program's compliance with Section .0300 of this Chapter.

(55) "Traditional clinical experience" means a clinical experience where the student provides in-person care to patients/clients under the guidance of an instructor or preceptor.

(56) "Warning Status" means the status assigned to a nursing education program found to be noncompliant with any provision in Section .0300 of this Chapter.

History Note: *Authority G.S. 90-171.23; 90-171.38;*
Eff. April 1, 2003;
Amended Eff. June 1, 2017; December 1, 2016; July 1, 2012; November 1, 2008; May 1, 2006; December 1, 2005; August 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2024; January 1, ~~2019.~~ 2019; December 1, 2026.

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

AGENCY: NC Board of Nursing

RULE CITATION: 21 NCAC 36 .0318

DEADLINE FOR RECEIPT: November 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:

Line 1: This should read as: "21 NCAC 36 .0318 is amended as published in 41:01 NCR 42-43 as follows:".

(a): What does this provision mean? What does the "policy" cover? Do the two policies need to be identical in order to be "consistent"? There's not really a clear standard here as to what is required.

(c)(1): The lead into this paragraph states, "Nurses licensed pursuant to this Chapter …", while this provision states, "hold an active unencumbered license or multistate licensure privilege to practice …". This language is conflicting.

(c)(2): Based on the edits in (3) and (4), who does this requirement apply to? All teaching faculty other than didactic faculty and clinical faculty? If so, who would that entail? Or does this cover something else? The organization of this rule makes this quite confusing. ***It may make more sense to separate (3) and (4) into their own paragraphs.***

(c)(2), line 11: Add "degree" after "baccalaureate".

(c)(3): The use of "either" does not make sense here.

(c)(4), line 15: "Clinical" should not be capitalized.

(c)(4), line 15: Delete the first instance of "at least".

(c)(4), line 15: Change "2" to "two".

(c)(4), line 17: Delete "necessary". Or rework this entire paragraph. The wording seems to be off.

Christopher S. Miller
Commission Counsel
Date submitted to agency: November 5, 2026

(c)(5): Would this be an additional two years beyond what is required in (c)(4)? Again, the wording and organization here is confusing.

(c)(5), line 19: Delete "employed by the program".

(c)(6), line 21: What is the intent of striking "full-time" here?

History Note, Authority, line 13: G.S. 90-171.83 does not exist.

History Note, page 2, line 18: "December 1, 2026" should be placed first, not last.

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: November 5, 2026

21 NCAC 36 .0318 is proposed to be amended, as published in NCR 41:01, pages 42-43, as follows:

21 NCAC 36 .0318 FACULTY

(a) The program shall develop policies for program faculty members consistent with those for other faculty of the controlling institution, with variations as needed due to the nature of the nursing curriculum.

(b) Fifty percent or more of the nursing faculty per program shall hold a graduate degree.

(c) Nurses licensed pursuant to this Chapter who are ~~full-time and part-time~~ faculty and who teach in a program as a nurse shall:

(1) hold an active unencumbered license or multistate licensure privilege to practice as a registered nurse in North Carolina;

(2) hold either a ~~baccalaureate in nursing or a~~ graduate degree in ~~nursing~~ nursing, a baccalaureate in nursing, or an associate degree in nursing from an accredited institution;

(3) didactic faculty shall hold either a baccalaureate in nursing, a graduate degree in nursing, or active enrollment in a graduate degree nursing program from an accredited institution;

(4) Clinical faculty shall have at least an associate's degree in nursing and at least 2 years of clinical experience necessary to function effectively and safely in the clinical nurse faculty's area of responsibility necessary for practical nurse and associate degree programs;

~~(3)~~(5) have two calendar years or the equivalent of full-time experience as a registered nurse. A full-time registered nurse is a registered nurse employed by the program who is regularly assigned to work at least 40 hours each week in a position;

~~(4)~~(6) ~~full-time~~ faculty shall hold a graduate degree from an accredited institution or obtain a graduate degree in nursing from an accredited institution within five years of initial full-time employment;

~~(5)~~(7) prior to or within the first three years of employment, have education in teaching and learning principles for adult education, including curriculum development, implementation, and evaluation, appropriate to faculty assignment. Once completed, this education need not be repeated if the employing organization is changed. This education may be demonstrated by one of the following:

(A) completion of 45 contact hours of Board-approved continuing education courses;

(B) completion of a certificate program in nursing education;

(C) nine semester hours of graduate course work in adult learning and learning principles;

(D) national certification in nursing education;

(E) documentation of completion of structured, individualized development activities of at least 45 contact hours approved by the Board. Criteria for approval shall include content in the faculty role in the curriculum implementation, curricular objectives to be met and evaluated, review of strategies for identified student population, and expectations of student and faculty performance; or

(F) individuals with prior teaching experience in an academic setting seeking a faculty position shall be evaluated by the Program Director to assess each individual's prior teaching

experience commensurate with formal education in teaching and learning principles for adult education including curriculum development, implementation, and evaluation, appropriate to faculty assignment.

~~(6)~~(8) maintain competence pursuant to Rule .0232 of this Chapter in the areas of assigned responsibility.

(d) Interdisciplinary faculty who teach in program courses shall be licensed or certified in the content area in which they are teaching.

(e) Clinical preceptors shall hold an active unencumbered license to practice as a registered nurse in North ~~Carolina.~~ Carolina or a multistate licensure privilege to practice.

(f) The program shall provide workshops and presentations devoted to faculty development.

(g) The faculty-student ratio for faculty-directed preceptor clinical experiences shall be no greater than 1:15. The faculty-student ratio for all other clinical experiences shall be no greater than 1:10.

History Note: *Authority G.S. 90-171.23(b)(8); 90-171.38; 90-171.83;*
Eff. February 1, 1976;
Amended Eff. December 1, 2016; January 1, 2015; August 1, 2011; November 1, 2008; July 1, 2006;
July 1, 2000; January 1, 1996; June 1, 1992; January 1, 1989; January 1, 1984;
Readopted Eff. January 1, 2019;
Amended Eff. March 1, 2024; September 1, ~~2021~~.2021; December 1, 2026.

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

AGENCY: NC Board of Nursing

RULE CITATION: 21 NCAC 36 .0403

DEADLINE FOR RECEIPT: November 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:

Line 1: This should read as: "21 NCAC 36 .0403 is amended as published in 41:01 NCR 43 as follows:".

(a), (a)(1), and (b)(1): You mention "equivalent" courses and programs. How is "equivalency" determined? Is there a standard? Do you have a rule(s) that explains this? If so, cross-reference it.

(a), line 4: Consider adding "only" before "after".

(a), line 8: Remove the commas around "as identified in Rule .0401(a) of this Section".

(a)(2), lines 15-17: For clarity, consider rewriting the first sentence as, "the employing agency or facility has verified that the individual is enrolled in a State-approved nurse aide I training and competency evaluation program. The individual must successfully complete the program within four months of employment start date."

(a)(2), line 17: Consider adding "start" in between "employment" and "date".

(a)(2), lines 17-19: Shouldn't this say, "Until the program has been successfully completed, the individual shall …" rather than, "During the four month period, …"? Couldn't a person fulfill the requirements in less than four months?

(a)(2), line 19: Who is providing the "supervision"?

(b), line 21: Consider adding "only" before "after".

(b)(2), line 30: Change "and/or" to "or".

Christopher S. Miller
Commission Counsel
Date submitted to agency: November 5, 2026

(b)(3): The wording here is quite awkward. Consider something like, "the employing facility or agency has verified with the Board that the individual is listed on the Board's Nurse Aide II Registry.".

History Note, Authority, line 8: Please fix the formatting for "G.S. 90 171.20(2)(4)(7)d.,e.,g.".

History Note, Authority, line 8: Is G.S. 90-171.56 still relevant to this rule?

History Note, Authority, line 9: The federal citation should be "42 U.S.C. 1395i-3".

History Note, line 13: This should end with a semi-colon rather than a period.

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: November 5, 2026

21 NCAC 36 .0403 is proposed to be amended, as published in NCR 41:01, page 43, as follows:

21 NCAC 36 .0403 QUALIFICATIONS OF NURSE AIDE

(a) A nurse aide I shall perform basic nursing skills and personal care activities after successfully completing an approved nurse aide I training and competency evaluation or equivalent as approved by the Division of Health Service Regulation (DHSR). A licensed nurse shall delegate these activities only after considering the variables defined in Rule .0401(b) and (c) of this Section. Pursuant to G.S. 90-171.55, no individual may function as a nurse aide I, regardless of title, providing nursing care activities, as identified in Rule .0401(a) of this Section, to clients or residents unless:

(1) the individual has successfully completed, in addition to an orientation program specific to the employing facility, a State-approved nurse aide I training and competency evaluation program or its equivalent; or a State-approved competency evaluation program and the employing facility or agency has verified listing on the Division of Health Service Regulation Nurse Aide Registry (DHSR Nurse Aide Registry); or

(2) the employing agency or facility has assured that the individual is enrolled in a State-approved nurse aide I training and competency evaluation program that the individual will successfully complete within four months of employment date. During the four month period, the individual shall be assigned only tasks for which they have demonstrated competence and that they perform under supervision.

(b) A nurse aide II shall perform more complex nursing skills with emphasis on sterile technique in elimination, oxygenation, and nutrition after successful completion of a Board-approved nurse aide II training and competency evaluation program. A licensed nurse shall delegate these activities to the nurse aide II only after consideration of the variables described in Rule .0401(b) and (c) of this Section. Pursuant to G.S. 90-171.55, no individual may function as a nurse aide II unless:

(1) the individual has successfully completed, in addition to an orientation program specific to the employing agency, a Board-approved nurse aide II course according to these Rules or its equivalent as identified by the Board;

(2) the individual is listed as a nurse aide I on the DHSR Nurse Aide Registry with no substantiated findings of abuse, neglect, exploitation, mistreatment, diversion of drugs, fraud, or misappropriation of client or employing facility property listed on the DHSR Nurse Aide Registry and/or on the NC Health Care Personnel Registry; and

(3) the employing facility or agency has inquired of the Board as to information in the Board of Nursing Nurse Aide II Registry concerning the individual and confirms with the Board that the individual is listed on the Board Nurse Aide II Registry as a nurse aide II.

(c) Listing on a Nurse Aide Registry is not required if the care is performed by clients themselves, their families or significant others, or by caretakers who provide personal care to individuals whose health care needs are incidental to the personal care required.

~~(d) Pursuant to G.S. 131E-114.2 and G.S. 131E-270, a medication aide shall be limited to performing technical aspects of medication administration, consistent with Rule .0401(b) and (c) of this Section, Rule .0221 of this Chapter, and only after:~~

~~(1) successful completion of a Board-approved medication aide training program;~~

~~(2) successful completion of a State-approved competency evaluation program; and~~

~~(3) listing on the Medication Aide Registry.~~

History Note: *Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.; 90-171.43(4); 90-171.55; 90-171.56; ~~131E-114.2; 131E-270;~~ 42U.S.C.S. 1395i-3 (1987);*
Eff. March 1, 1989;
Temporary Amendment Eff. October 11, 1989 For a Period of 180 Days to Expire on April 6, 1990;
Amended Eff. September 1, 2006; December 1, 1995; March 1, 1990;
Readopted Eff. January 1, 2019.
Amended Eff. December 1, 2026.

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

AGENCY: NC Board of Nursing

RULE CITATION: 21 NCAC 36 .0406

DEADLINE FOR RECEIPT: November 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:

Statutory Authority: G.S. 90-171.56(1) directs the Board to establish standards for faculty and applicant requirements. (2) directs the Board to provide ongoing review/evaluation and recommend changes for faculty and medication-aide training requirements. Separately, G.S. 131E-270(a) requires completion of a medication-aide training program "approved by" the Board before registry listing, while G.S. 131E-114.2(b) directs the Medical Care Commission to adopt rules addressing training and competency evaluation, registry requirements, and supervision. Your rule appears to be providing many program-wide operational standards that go beyond faculty and applicant qualifications. Please explain why you believe you have authority to impose (a) and (g)-(r). How does the rule not conflict with the Medical Care Commission's authority?

Fiscal Note: Why was no fiscal note needed for this rule?

Line 1: This should read as: ": "21 NCAC 36 .0406 is amended with changes as published in 41:01 NCR 43-45 as follows:".

General Formatting Comment: When mentioning form names, you should put the document title in quotation marks. Please incorporate this throughout the rule.

Line 20: "(a)" should be underlined.

(a)(1): Delete "approved".

(a)(2): "Licensed Care facility" is not a defined term in the statute you reference.

(b): Where is the Board's statutory authority to require that all entities create a position for a Registered Nurse Instructor? This seems to be more than a standard for faculty.

(b), line 25: Capitalize "rule".

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(b), lines 25-27: What is the second provision in this sentence doing? The wording is hard to understand. Is the authority and responsibility designated by the entity to the Registered Nurse Instructor? Can "in the" be replaced with "regarding"? Consider reworking this.

(c)(2): Add "of" before "employment". Also, does it need to be "full-time" experience? This rule is less specific than some of your others.

(d): Consider adding "employing" before "entity" on line 34.

(d), line 35: Your rule does not provide any criteria that the Board uses to approve or deny a application.

(e), line 37: Can you provide a more direct link to the application? Also, please remove the underlying hyperlink from the rule text.

(e)(2): Add "nursing" before "license".

(e)(3): Change "nurse(s)" to "nurses".

(e)(5): Same comment as above – can you provide a more direct link to the Form?

(e)(8)(D): Change "nurse" to "nurses".

(e)(8)(F): Is this requirement for the Registered Nurse Instructor, or does it apply to any nurse that is partaking in instruction of the training?

(f), line 21: Change "the learner" to "each learner".

(f)(1), line 25: Struck through "and" should also be highlighted.

(f)(2), line 27: Also delete "in a nursing". As written, the sentence no longer makes sense.

(f)(2), line 27: The semi-colon should be placed before "and".

(f)(2) and (3): Why does this not qualify as a "substantial change" from the published rule, pursuant to § 150B-21.2(g)?

(f)(3): You need a word in between "high school" and "equivalency".

(g): Where does 10A NCAC 13O .0201(c) say that the Exam is administered by Credentia Nurse, LLC? The wording here is confusing. 10A NCAC 13O .0201(c) also states that the competency exam includes course requirements specified in the Board-approved training program under Rules .0403 and .0406. The wording here is circular.

(g): If you want to incorporate the content requirements published by Credentia, you need to follow the requirements in § 150B-21.6 and provide a direct link to the webpage.

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(g), line 30: Change "their" to "its".

(i), line 34: "hours of clinical experience." should not be highlighted.

(j)(1): Move "at all times" to follow after "supervision".

(j)(3): Please provide a more direct link and specify the skills checklists. Otherwise, it is difficult to understand what it being required. Also, if this is to be binding, you need to either spell out the skills/competencies or incorporate the checklists into your rule.

(j)(4), line 4: Change "Subparagraph" to "Paragraph".

(j)(4), line 4: Capitalize "rule".

(k): Your rule provides no standard for Board approval or denial for these requests.

(l)(2) and (3): Is it "students" or "learners"? You use learners throughout the rule.

(l)(4): Change "nurse(s)" to "nurses".

(l)(5) and (6): Please correct the spacing to align with the rest of the list.

(l)(6): Capitalize "rule".

(m), line 17: Capitalize "rule".

(n)-(p): Please explain how this process complies with the notice and hearing requirements of the APA. For example, under (p), why is the party not provided notice and an opportunity to rebut?

(n), first sentence: Is this in response to a notice of non-compliance? You should specify this in the first sentence of this paragraph.

(n), lines 20 and 21: Change "non-compliance" to "noncompliance".

(n), lines 21 and 22: What is approval and denial based off? What is the Board considering? You provide no standard.

(n), line 22: Change "will" to "shall".

(o), line 29: What does "at the next meeting of the Board for which notice can be provided" mean?

(o), line 29: Add "the" before "hearing".

(o), lines 29-30: Again, how is the Board making this determination? You have not provided any standard for final decisions.

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(p): Is the entity or the training deemed to be closed? Your wording here is not clear. Consider: "An entity where no training has been offered, or no learners have completed training, for a period of two consecutive years shall be deemed closed by the Board."

(q), line 34: Add "state" or "specify" before "how learner records will be stored."

(r), line 36: Please provide a more direct link to the list. Also remove the underlying hyperlink from the rule text.

History Note, line 4: This should end with a semi-colon rather than a period.

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

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21 NCAC 36 .0406 is proposed to be amended as published in NCR 41:01, pages 43 -45, with changes, as follows:

21 NCAC 36 .0406 TRAINING FOR MEDICATION ~~AIDE TRAINING REQUIREMENTS~~ AIDES IN A NURSING HOME

~~(a) Faculty for the medication aide training program shall:~~

~~(1) have an active, unencumbered license to practice as a registered nurse in North Carolina;~~

~~(2) have had at least two years of practice experience as a registered nurse that includes medication administration;~~

~~(3) have successfully completed an instructor training program approved by the Board according to these Rules; and~~

~~(4) maintain Board certification as a medication aide instructor.~~

~~(b) A medication aide instructor certification shall be renewed every two years provided the following requirements are met:~~

~~(1) the individual has taught at least one medication aide training program within the preceding two years; and~~

~~(2) the individual has reviewed program changes approved by the Board and posted on the Board's website at www.ncbon.com.~~

~~(c) An applicant for a medication aide training program approved by the Board shall have a high school diploma or High School Equivalency.~~

(a) An entity seeking Board approval to offer a training for medication aides in a nursing home shall be one of the following:

(1) a state-licensed proprietary school approved as defined in G.S. 115D-87;

(2) a licensed care facility as defined in G.S. 131E-116(2); or

(3) a state or private educational institution as defined in G.S. 127A-192.

(b) The entity shall employ a Registered Nurse Instructor qualified pursuant to this rule and designate authority and responsibility for maintaining compliance with the rules in this Chapter in the training for medication aides in a nursing home.

(c) To qualify as a Registered Nurse Instructor for a training for medication aides in nursing homes, a registered nurse shall:

(1) hold an active, unencumbered license or privilege to practice as a registered nurse in North Carolina; and

(2) have a minimum of two years employment as a registered nurse.

(d) The Registered Nurse Instructor shall submit an Application for Training for Medication Aides in Nursing Homes at least 60 days prior to the proposed training start date. The entity shall not solicit students until the training for medication aides in nursing homes has been approved by the Board.

(e) The Application for Training for Medication Aides in Nursing Homes shall be posted on the Board's website at www.ncbon.com and shall contain the following:

(1) the entity name, address, county, and location of the training;

(2) the Registered Nurse Instructor's name, license number, phone number, and email address;

(3) name and license number of all registered nurse(s) providing instruction in the training;

(4) the proposed training start date;

(5) a Clinical Site Form signed by the Registered Nurse Instructor and an authorized representative of the clinical agency. The Clinical Site Form shall be posted on the Board's website at www.ncbon.com;

(6) admission requirements for learners in the training;

(7) maximum projected learner enrollment per training; and

(8) the training syllabus which includes:

(A) objectives pertaining to the knowledge, skills, and abilities expected for learner performance;

(B) course content outline in the sequence of instruction;

(C) source references for content;

(D) allocation of time for didactic content, laboratory experience, and clinical experience, including the name of the registered nurse providing training instruction;

(E) a proposed schedule for the training which indicates the frequency and duration of instruction; and

(F) a plan for evaluation of learner performance by the registered nurse providing instruction in the training which includes evaluation tools used in the training.

(f) The Registered Nurse Instructor shall verify that the learner is eligible for admission to the training for medication aides in a nursing home. To be eligible for admission to a Board-approved training for medication aides in a nursing home, the learner shall meet the following [~~minimum~~] requirements:

(1) be listed as a Nurse Aide I on the DHSR Nurse Aide I Registry in accordance with 10A NCAC 13O .0301; [~~and~~]

(2) have a minimum of [~~1,000~~] 500 hours of [~~continuous~~] cumulative work experience as a Nurse Aide I in a nursing [~~home.~~] and;

(3) have a high school diploma or high school equivalency.

(g) The curriculum for the training for medication aides in a nursing home shall include the content provided in the Medication Aide Certification Exam (MACE) Content Outline as administered by Credentia Nurse, LLC and their successors according to 10A NCAC 13O .0201(c) and located at www.credentia.com.

(h) The maximum number of learners shall be 10 per class.

(i) The training for medication aides in a nursing home shall include a minimum of 40 hours of didactic content and [~~20~~] 16 hours of clinical experience.

(j) The clinical experience shall:

(1) require onsite supervision by a registered nurse providing training instruction at all times;

(2) not exceed a registered nurse-to-learner ratio of [~~1:2,~~] 1:4;

(3) require the learner to demonstrate the administration of medications consistent with Board-approved competency skills checklists located at www.ncbon.com; and

(4) support the curriculum of the training for medication aides in a nursing home as outlined in Subparagraph (g) of this rule.

(k) Requests for changes to the Board-approved training for medication aides in nursing homes shall be submitted by the Registered Nurse Instructor in writing for Board approval. Requests for changes in the curriculum shall be submitted at least 60 days prior to the proposed implementation date of the changes. The entity shall notify the Board in writing of any change of the Registered Nurse Instructor at least 5 business days prior to the change.

(l) The Registered Nurse Instructor shall submit an annual report for the training for medication aides in nursing homes on behalf of the entity to the Board via email by March 31 of each year. The annual report shall include the following:

(1) the name, address, county, and location of the training;

(2) the number of students enrolled in the training;

(3) the number of students who completed the training;

(4) the name and license number of the registered nurse(s) providing training instruction;

(5) the name and location of all clinical agencies used by the training; and

(6) attestation by the Registered Nurse Instructor to the training's compliance with this rule.

(m) If the Board finds that the entity is not compliant with this rule, the Board shall give written notice by certified mail to the Registered Nurse Instructor identifying the areas of noncompliance.

(n) The Registered Nurse Instructor shall submit a request for change to the Board within 10 days from the date of receipt of the certified mailing. The request for change shall acknowledge the areas of non-compliance and how the Registered Nurse Instructor will remedy the non-compliance. The Board shall either approve the request for change and no further action against the entity will be taken or the Board shall deny the request for change. If the Board denies the request for change, the Board shall withdraw approval of the training for medication aides in nursing homes. The entity shall no longer be permitted to offer the training, and the Registered Nurse Instructor shall immediately cease operation of the training and provide notification to the Board of the plan for closure for learners enrolled in the training.

(o) If the entity contests the denial of the request for change, the Registered Nurse Instructor shall submit a request for hearing before the Board within 10 days of the issuance of the denial of the request for change and be provided with a hearing at the next meeting of the Board for which notice can be provided. The Board shall determine at hearing whether to grant the request for change or cease operation of the training for medication aides in nursing homes.

(p) An entity offering the training for medication aides in nursing homes where learners have not completed the training for a period of two consecutive years shall be deemed closed by the Board.

(q) When a Board-approved training for medication aides in nursing homes closes, the Registered Nurse Instructor shall notify the Board in writing within 30 days of the closing and how learner records will be stored.

(r) A list of Board-approved trainings for medication aides in nursing homes shall be posted on the Board's website at www.ncbon.com and include the name of the entity and Registered Nurse Instructor, physical address, and email address.

History Note: *Authority G.S. 90-171.56; 115D-87; 127A-192; 131E-114.2; 131E-116(2); 131E-270;*
Eff. September 1, 2006;
Amended Eff. April 1, 2008;
Readopted Eff. January 1, 2019.
Amended Eff. December 1, 2026.