

Burgos, Alexander N

Subject: FW: [External] Attendance at RRC Meeting Jan 2026- - NCBLCMHC IPP Rules

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

Sent: Monday, January 26, 2026 11:30 AM

To: Doug Brocker <doug@brockerlawfirm.com>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>

Subject: RE: [External] Attendance at RRC Meeting Jan 2026- - NCBLCMHC IPP Rules

Mr. Brocker,

Thank you for the email. Yes, I will notify you if I receive any concerns regarding these rules.

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

From: Doug Brocker <doug@brockerlawfirm.com>

Sent: Monday, January 26, 2026 11:19 AM

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

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>

Subject: [External] Attendance at RRC Meeting Jan 2026- - NCBLCMHC IPP Rules

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Travis:

I am planning to attend the RRC meeting about these proposed rules on the agenda. If you receive any concerns from the Commission members in advance of the meeting, I would appreciate the opportunity to address it before the meeting if feasible. If you do, I may decide to attend the meeting in person. If not, I may attend virtually but will be available to address any issues that may arise at the meeting. I think Ms. Davis plans to attend virtually.

Doug

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Burgos, Alexander N

Subject: FW: [External] RRC Meeting Jan 2026-Request for Technical Changes - NCBLCMHC
Response re: IPP Rules

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Monday, January 12, 2026 10:17 AM
To: Doug Brocker <doug@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: [External] RRC Meeting Jan 2026-Request for Technical Changes - NCBLCMHC Response re: IPP Rules

Good morning and thank you for the changes/responses.

These revised rules are final for review at January's RRC meeting.

Thanks,

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

Burgos, Alexander N

Subject: FW: [External] RRC Meeting Jan 2026-Request for Technical Changes - NCBLCMHC Response re: IPP Rules

Attachments: 2026-01-06 Responses to Requests for Technical Changes.docx; 21 NCAC 53 .1001.docx; 21 NCAC 53 .1002.docx; 21 NCAC 53 .1005.docx

From: Doug Brocker <doug@brockerlawfirm.com>
Sent: Saturday, January 10, 2026 11:49 AM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Sherri Roycroft <sherri@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>; Melonie Davis - Executive Director (davis@ncblcmhc.org) <davis@ncblcmhc.org>
Subject: [External] RRC Meeting Jan 2026-Request for Technical Changes - NCBLCMHC Response re: IPP Rules

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Travis:

Attached is our response to your requests and the corresponding rules with requested changes included. We have not submitted these to OAH until you've had a chance to review them. We will wait for your response and direction about when we should submit them to OAH. Please confirm receipt. Thank you.

Doug

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Burgos, Alexander N

Subject: FW: [External] RRC Meeting Jan 2026-Request for Technical Changes - NCBLCMHC Response re: IPP Rules

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Subject: [External] RRC Meeting Jan 2026-Request for Technical Changes - NCBLCMHC Response re: IPP Rules

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Attached is our response to your requests and the corresponding rules with requested changes included. We have not submitted these to OAH until you've had a chance to review them. We will wait for your response and direction about when we should submit them to OAH. Please confirm receipt. Thank you.

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1 21 NCAC 53 .1001 is adopted with changes as published in 40:06 NCR 578-79 as follows:

3 **SECTION .1000—IMPAIRED PROFESSIONALS PROGRAMS**

5 **21 NCAC 53 .1001 DEFINITIONS**

6 (a) The following definitions apply to this Section:

7 (1) "Applicant" means a person who has submitted an application to the Board, paid the application fee,
8 and received confirmation of receipt of the application from the Board.

9 (2) "Board" means the North Carolina Board of Licensed Mental Health Counselors as defined in G.S.
10 90-330(1a).

11 (3) "Former Licensee" means a person who formerly held a license issued by the Board and whose
12 license was not permanently surrendered, revoked, or suspended.

13 (4) "Impairment" means a condition or disorder caused by substance use, burnout, compassion fatigue,
14 or other mental health issue that hinders professional competence or the ability to provide or
15 supervise clinical mental health counseling ~~services, services with reasonable skill and safety, or~~
16 ~~may lead to conduct constituting grounds for discipline as set forth in G.S. 90-340, in accordance~~
17 ~~with G.S. 90-340(11).~~

18 (5) "Imminent danger" means any condition, disorder, conduct, or practice that poses a risk of death or
19 serious physical, mental, or emotional harm if not abated.

20 (6) "Independent Provider" means a mental health or medical provider that the Program has
21 recommended as a service provider to a Participant or a Potential Participant but is not employed
22 by or affiliated with the Program.

23 (7) "Licensee" means a person holding an active license issued by the Board.

24 (8) "Monitoring" means oversight by Program staff, volunteers, and Independent Providers of
25 Participant's compliance with a Recovery Plan, the purpose of which is to support the Participant's
26 well-being, recovery from Impairment, and ability to practice clinical mental health counseling with
27 reasonable skill and safety in accordance with G.S. ~~90-340-90-340(11).~~

28 (9) "Participant" means a Licensee, Former Licensee, Potential Applicant, or an Applicant who has
29 executed a Participation Agreement.

30 (10) "Participation Agreement" means a written assessment, treatment, or monitoring contract or
31 agreement between the Program and a Participant.

32 (11) "Potential Applicant" means a person who has completed a qualifying graduate training program as
33 defined in Rule .0701 of this Chapter and provides an attestation of their intention to apply for
34 licensure by the Board within two years. The attestation form is available on the Board's website at
35 <https://www.ncblcmhc.org/Licensure/Applying>.

36 (12) "Potential Participant" means a Licensee, Former Licensee, Potential Applicant, or an Applicant
37 about whom information concerning suspected impairment has been provided to the Board or the

Program, including an individual the Board has referred to the Program, or an individual who has self-referred to the Program.

(13) "Program" means an impaired professionals program established by the Board or with whom the Board has an agreement or otherwise made arrangements to provide Screening and Monitoring to Potential Participants or Participants who have or may have an Impairment.

(14) "Recovery Plan" means a comprehensive strategy to address a Participant's Impairment, including Monitoring and Recovery Services.

(15) "Recovery Services" mean services provided to Participants or Potential Participants from Independent Providers, including assessment, substance testing, referrals, treatment, and follow-up care.

(16) "Screening" means to meet with a Potential Participant, conduct an investigation of a Potential Participant, gather pertinent personal, professional, physical, and mental health information, and interview collateral sources, when necessary, to determine if a potential Impairment exists and, if so, provide recommendations for a Recovery Plan.

History Note: Authority G.S. 90-334(l); G.S. 90-340;

Eff. February 1, 2026.

1 21 NCAC 53 .1002 is adopted with changes as published in 40:06 NCR 579 as follows:

2

3 **21 NCAC 53 .1002 BOARD AGREEMENTS WITH PROGRAMS**

4 (a) The Board may enter into agreements with Programs pursuant to G.S. 90-334. 90-334(l).

5 (b) To meet the Board's requirements to enter into an agreement, a Program shall have staff, volunteers, policies,
6 procedures, and other resources to provide the following services:

7 (1) Performing Screening of Potential Participants and Monitoring of Participants;

8 (2) Formulating and Implementing Recovery Plans for Participants;

9 (3) Conducting evaluations and recommendations of Independent Providers of Recovery Services;

10 (4) Maintaining the confidentiality of information, documentation, and records received concerning
11 Potential Participants and Participants in accordance with Rule .1005 of this Section;

12 (5) Submitting reports and information to the Board consistent with Rules .1004 and .1005 of this
13 Section; and

14 (6) Providing a process by which Participants and Potential Participants may challenge or appeal a
15 determination by the Program regarding the Participant or Potential Participant.

16 (c) The Board shall conduct an annual review of the operations of any Program under an agreement to receive
17 referrals of Potential Participants and Participants to determine the Program's compliance with the requirements in
18 Paragraph (b) of this Rule and the Program's agreement with the Board.

19 (d) In connection with the annual review, the Program shall provide the Board with a report of an annual financial
20 audit for the preceding year.

21

22 *History Note: Authority G.S. 90-334(l); 90-340*

23 *Eff. February 1, 2026.*

24

1 21 NCAC 53 .1005 is adopted with changes as published in 40:06 NCR 580 as follows:

2

3 **21 NCAC 53 .1005 CONFIDENTIALITY**

4 (a) The Program shall maintain records on all Potential Participants and Participants, and the records, including those
5 obtained from Independent Providers, treating professionals, and other third parties concerning Potential Participants
6 or Participants, shall remain confidential in accordance with G.S. 90-340(f).

7 (b) Information and documentation received by the Program regarding a Potential Participant or Participant shall
8 remain confidential and shall not be released to the Board, except as set forth in Rule .1004 of this Section, unless the
9 Program determines that the Potential Participant or Participant:

10 (1) constitutes an Imminent Danger to client care, the public, or himself or herself for any reason;
11 (2) is unable to practice clinical mental health counseling with reasonable skill and safety consistent
12 with G.S. 90-340(a)(11); or
13 (3) refuses to cooperate with the Program, including failing to submit to assessment or treatment
14 recommended by the Program or failing to comply with the terms of a Participation Agreement.

15 (c) If the Program determines that Information and documentation about a Participant who meets any of the criteria
16 of Subparagraphs (b)(1) through (b)(3) of this Rule, shall be provided without delay to the Program shall submit
17 a report to the Board along with all information, documentation, and any other evidence of the events leading to the
18 report, report no later than 72 hours after making the determination.

19 (d) Becoming a Participant or consenting to Screening by the Program shall not create a clinical or treatment
20 relationship between the Program and Participants or Potential Participants.

22 *History Note: Authority G.S. 90-334(l); G.S. 90-340*

23 *Eff. February 1, 2026.*

24

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

AGENCY: Board of Licensed Clinical Mental Health Counselors

RULE CITATION: 21 NCAC 53 .1001

DEADLINE FOR RECEIPT: Monday, January 12, 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:

In (4), lines 15-16, thank you for the change in response to pre-review feedback. Unfortunately, “may lead to conduct constituting grounds for discipline as set forth in G.S. 90-340” is unclear and ambiguous. The language of “hinders” through “services” seems to already encompass the “grounds for discipline” described in G.S. 90-340(a)(9)-(12).

Please delete the unclear language or consider using, “that causes conduct constituting grounds for discipline as set forth in G.S. 90-340.” However, I’m not sure if “that causes conduct” provides a clear nexus to the “Impairment.” You may want to consider referencing 21 NCAC 53 .1003-.1004 that speaks to the “investigation” or “Screening” of an “Impairment”.

We have deleted the language you identified as unclear and made other revisions as follows:

“Impairment” means a condition or disorder caused by substance use, burnout, compassion fatigue, or other mental health issue that hinders professional competence or the ability to provide or supervise clinical mental health counseling services, services with reasonable skill and safety, ~~or may lead to conduct constituting grounds for discipline as set forth in G.S. 90-340.~~ in accordance with G.S. 90-340(11).

In (8), line 26, add “(11)” after “90-340”.

We have made the requested change.

Travis C. Wiggs
RRC Commission Counsel
Submitted to Agency: December 23, 2025

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

Travis C. Wiggs
RRC Commission Counsel
Submitted to Agency: December 23, 2025

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

AGENCY: Board of Licensed Clinical Mental Health Counselors

RULE CITATION: 21 NCAC 53 .1002

DEADLINE FOR RECEIPT: Monday, January 12, 2026.

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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:

Thank you for the changes in response to my pre-review feedback.

On line 4, add "(l)" after "G.S. 90-334".

We have made the requested change.

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

Travis C. Wiggs
RRC Commission Counsel
Submitted to Agency: December 23, 2025

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

AGENCY: Board of Licensed Clinical Mental Health Counselors

RULE CITATION: 21 NCAC 53 .1005

DEADLINE FOR RECEIPT: Monday, January 12, 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:

In (c), line 16, "without delay" is ambiguous. Please be more specific.

We have revised the rule as follows to provide a more concrete time period for reporting (and also restructured the sentence):

(c) If the Program determines that Information and documentation about a Participant who meets any of the criteria of Subparagraphs (b)(1) through (b)(3) of this Rule, shall be provided without delay to the Program shall submit a report to the Board along with all information, documentation, and any other evidence of the events leading to the report. report no later than 72 hours after making the determination.

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

Travis C. Wiggs
RRC Commission Counsel
Submitted to Agency: December 23, 2025

Burgos, Alexander N

From: Wiggs, Travis C
Sent: Tuesday, December 23, 2025 2:00 PM
To: Doug Brocker
Cc: Burgos, Alexander N; Sherri Roycroft
Subject: RE: [External] RE: RRC Meeting Jan 2026-Request for Technical Changes

Follow Up Flag: Follow up
Flag Status: Completed

Happy Holidays to you all!

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

From: Doug Brocker <doug@brockerlawfirm.com>
Sent: Tuesday, December 23, 2025 1:38 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Sherri Roycroft <sherri@brockerlawfirm.com>
Subject: [External] RE: RRC Meeting Jan 2026-Request for Technical Changes

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Thanks, Travis. We will review and get back to you by the deadline. Happy holidays.

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Sent: Tuesday, December 23, 2025 1:19 PM
To: Doug Brocker <doug@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RRC Meeting Jan 2026-Request for Technical Changes

Good afternoon,

I'm the attorney who reviewed the rules submitted by the Board of Licensed Clinical Mental Health Counselors for the January 2026 RRC meeting. The RRC will formally review these rules at its meeting on Thursday, January 29,

2026, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised rules to me via email, no later than 5 p.m. on January 12, 2026. Let me know if you have any questions.

Thanks,

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

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.