

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 36 .0228

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Monday, November 6, 2023 9:30 AM

To: Angela Ellis <angela@ncbon.com>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>

Subject: RE: [External] RE: 21 NCAC 36 .0228

Good morning,

Respectfully, it appears to me that Paragraph (h) is missing some words or something. Perhaps "An applicant recognized by the Board..."

Page 2, Line 2, and Line 5: Would "within" be preferable to "for"?

Please respond by COB today. Thank you.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

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(984) 236-1939

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Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 36 .0228
Attachments: 10.2023 Board of Nursing Request for Changes 21 NCAC 36 .0228.docx; 21 NCAC 36 .0228 Clinical Nurse Specialist Practice.docx

From: Angela Ellis <angela@ncbon.com>
Sent: Friday, November 3, 2023 12:32 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>
Subject: [External] RE: 21 NCAC 36 .0228

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Good afternoon!

Thanks again for your assistance in answering our questions. Attached is the Request for Technical Change document along with amended 21 NCAC 36 .0228 Clinical Nurse Specialist Practice for your review.

Angela Ellis

Angela Ellis

Chief Administrative Officer

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Pronouns: She/Her/Hers



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

AGENCY: N.C. Board of Nursing

RULE CITATION: 21 NCAC 36 .0228

DEADLINE FOR RECEIPT: November 6, 2023

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:

Generally, to the rule: Throughout the rule the Board is governing itself. "The Board shall approve..." I think the Board is attempting to establish prerequisites for application or licensure. Here the Board is restricting itself. While not objectionable on this basis, this rule is oddly written.

*Page 1, Line 5: Is this regulatory scheme an approval for someone to become a clinical nurse specialist (CNS), or for a previously approved CNS to be approved to perform "advanced practice registered nursing activities"? **It is CNS focused – not everyone can do all of those – deleting "advanced practice registered nursing"***

*21 NCAC 36 .0120 (6) "Advanced Practice Registered Nurse (APRN)" means a nurse practitioner, nurse anesthetist, nurse-midwife, or clinical nurse specialist. **Addressed by deleting "advanced practice registered nursing"***

*Accordingly, any clinical nurse specialist is also an APRN. **Addressed by deleting "advanced practice registered nursing"***

*Can any APRN perform the "activities listed in Paragraph (f)" or only those that are a CNS? **Some but not all APRNs can perform these activities; however, all CNS' can perform these activities***

*Page 1, Line 8, and Page 3, Line 5: What does the Board mean by "unencumbered"? Pursuant to what statute or rule would a license be "encumbered"? **The term of encumbered is a term of art.***

Page 1, Lines 10-12: As written, a person with a previous license from another state must still have that license. Was that the Board's intention? I think what the Board intended was either that the person was not previously disciplined or at the time of the termination of the license from the other state the license was unrestricted. (Note the word "and" in Line 16 by which each requirement in subparagraph (b)(1)-(4) is required. Accordingly, someone with a spotless out-of-state CNS license who let their

William W. Peaslee
Commission Counsel

Date submitted to agency: October 23, 2023

expire could not be approved by the Board until they got the out-of-state license back.)
An RN license is separate from the CNS approval. A CNS must hold an active, unencumbered license as a RN in order to be recognized as a CNS. You can discipline the RN license without it affecting the CNS approval.

*Line 15: It appears that there should either be a comma after “accreditation”. **Inserted***

*Page 1, Lines 15-16: Why is the language “and meets the qualifications for ...” necessary when this is required in Paragraph (b)(4)? Can’t the sentence simply end at “Accreditation.”? **Deleted***

Or does the Board mean that an applicant can have a master’s degree without a certification so long as the applicant would meet the qualifications for certification by a Board-approved national credentialing body? In which case, how would the Board tell if the applicant had the qualifications in the absence of a certification?

*Page 1, Line 17-18: It add clarity is this subparagraph was written as follow. “has current certification as a clinical nurse specialist from a national credentialing body approved by the Board pursuant to Subparagraph (b)(4) of this rule;” As “national credentialing body” is a defined term it is unnecessary to cite to the definition; however, if the Board feels compelled to cite the definition do so immediately after the term. **Deleted***

Page 1, Line 20: What does the Board mean by “active”?

*Page 1, Line 21: What does the Board mean by “related field”? **Old language - deleted***

*Page 1, Line 22: Define “new graduates”. **Old language - Revised***

*Page 1, Lines 22-25: But for the applicants that meet the qualifications of Paragraph (c), don’t all applicants have all applicants have to meet the qualifications of Subchapter (b)(1) and the requirements of Part (g)(3)(A)? If true, why is this Paragraph necessary? **Deleted***

*Page 1, Line 26: Seeking approval for what? A “certified nurse specialist” is already a CNS and accordingly is already an APRN. **Revised***

Page 1, Lines 26-29: As written, a recently approved CNS would need to take a “refresher course”. Was that the Board’s intention?

*Page 1, Line 30: “Limited clinical specialist recognition” is an undefined term and concept, and is only used in the rule. It needs to be defined. **Deleted***

*Page 2, Line 19: Is the application a form provided by the Board? If so, by what rule are the contents and substantive requirements prescribed? **Revised language***

Page 2, Lines 20, 22, and 25: What does the Board mean by “evidence”? Would a snapshot of a diploma due? What about an affidavit from the applicant attesting to graduation?

William W. Peaslee
Commission Counsel

Date submitted to agency: October 23, 2023

Page 2, Line 24: How can a “registered nurse seeking approval” renew the approval if they have not received approval? If the Board wants the approval to expire after two years, this Subparagraph is not the place to require this. Any APRN applicant needs an active RN license in order to be eligible to apply or renew as an APRN, therefore, the CNS would need an active RN to be eligible to renew as a CNS

Page 2, Line 30: It appears that a word is missing prior to “at least”. Perhaps “have” or “possess”? Added “the CNS shall have”

Page 2, Lines 29-35, Parts (B) and (C): It is unclear whether the Board is requiring 75 contact hours or 150 contact hours or 225 contact hours. The differentiation between (B) and (C) is due to practice hours...if they do not have 1000 hours and 75 CEs (which includes 25 pharm hours) of practice they must have 150 CEs (which include 50 pharm hours) in place of practice hours. In summary, if they do not meet the practice hours, they need double the CE.

Page 2, Lines 29-35, Parts (B) and (C): It is unclear wither “every five years” relates to the contact hours or pharmacotherapeutic contact hours. All of the contact hours

Page 2, Line 36: Do not use the initialism “CNS” unless it is defined in this rule or in a definition rule. Revised

Page 3, Line 1: What documentation is the Board requiring? Revised

Page 3, Line 1: Five years previous to what? The time of application?

Page 3, Line 2: Consider striking “and” and replacing with “which shall be”. Revised

Page 3, Lines 3-7: As written, the Board is required to approve any national credentialing bodies so long as the body meets the criteria of Subparagraphs (1) and (2) and the Board cannot reject a body for any other reason? Is that the Board’s intention?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: October 23, 2023

1 21 NCAC 36 .0228 is amended, with changes, as published in NCR 38:01, pages 21-23 as follows:

2
3 **21 NCAC 36 .0228 CLINICAL NURSE SPECIALIST PRACTICE**

4 (a) Only a registered nurse who meets the qualifications outlined in Paragraph (b) of this Rule shall be approved by
5 the Board as a clinical nurse specialist to perform advanced practice registered nursing activities listed in Paragraph
6 ~~(f)~~ (c) of this Rule.

7 (b) The Board shall approve an applicant who:

8 (1) has an active, unencumbered license to practice as a registered nurse in North Carolina or a state
9 that has adopted the Nurse Licensure Compact;

10 (2) has an unrestricted previous approval, registration, or license as a clinical nurse specialist if
11 previously approved, registered, or licensed as a clinical nurse specialist in another state, territory,
12 or possession of the United States;

13 (3) has successfully completed a master's or higher-level degree program that is accredited by a nursing
14 accrediting body approved by the United States Secretary of Education or the Council for Higher
15 Education Accreditation Accreditation; and meets the qualifications for clinical nurse specialist
16 certification by an approved national credentialing body under Subparagraph (b)(4) of this Rule;
17 and

18 (4) has current certification as a clinical nurse specialist from a national credentialing body approved
19 by the Board, as defined in Paragraph (h) of this Rule and 21 NCAC 36 .0120(33). Board.

20 (c) An applicant certified as a clinical nurse specialist by a national credentialing body prior to January 1, 2007 who
21 has maintained that certification and certification, held an active approval, registration, or license as a clinical nurse
22 specialist practice specialist, and holds a master's or higher degree in nursing or a related field shall be approved by
23 the Board as a clinical nurse specialist.

24 ~~(d) New graduates seeking first time clinical nurse specialist approval in North Carolina shall hold a master's or
25 higher level degree or a post graduate certificate from a clinical nurse specialist program accredited by a nursing
26 accrediting body approved by the United States Secretary of Education or the Council for Higher Education
27 Accreditation and shall meet all requirements in Subparagraph (b)(1) and Part (g)(3)(A) of this Rule.~~

28 ~~(e)~~(d) A certified clinical nurse specialist An applicant seeking Board approval who has never practiced not held an
29 active approval, registration or license as a clinical nurse specialist or has not practiced in for more than two or more
30 years shall complete a clinical nurse specialist refresher course approved by the Board in accordance with 21 NCAC
31 36 .0220(o) and (p), consisting of common conditions and their management related to the clinical nurse specialist's
32 area of education and certification. A clinical nurse specialist refresher course participant shall be granted limited
33 registration as a clinical nurse specialist recognition that is specific to for the purposes of completing the clinical
34 activities taught in the refresher course.

35 ~~(f)~~(c) The scope of practice of a clinical nurse specialist shall incorporate the basic components of nursing practice
36 as defined in Rule .0224 of this Section as well as the understanding and application of nursing principles at an

1 advanced practice registered nurse level in the area of clinical nursing specialization in which the clinical nurse
2 specialist is educationally prepared and for which competency is maintained, including:

- 3 (1) assessing clients' health status, synthesizing and analyzing multiple sources of data, and identifying
4 alternative possibilities as to the nature of a healthcare problem;
- 5 (2) diagnosing and managing clients' acute and chronic health problems within the essential core
6 competencies for professional nursing education;
- 7 (3) assessing for and monitoring the usage and effect of pharmacologic agents within the essential core
8 competencies for professional nursing education;
- 9 (4) formulating strategies to promote wellness and prevent illness;
- 10 (5) prescribing and implementing therapeutic and corrective non-pharmacologic nursing interventions;
- 11 (6) planning for situations beyond the clinical nurse specialist's expertise and consulting with or
12 referring clients to other health care providers as appropriate;
- 13 (7) promoting and practicing in collegial and collaborative relationships with clients, families, other
14 health care professionals, and individuals whose decisions influence the health of individual clients,
15 families, and communities;
- 16 (8) initiating, establishing, and using measures to evaluate health care outcomes and modify nursing
17 practice decisions;
- 18 (9) assuming leadership for the application of research findings for the improvement of health care
19 outcomes; and
- 20 (10) integrating education, consultation, management, leadership, and research into the clinical nurse
21 specialist role.

22 ~~(e)(f)~~ A registered nurse seeking approval registration by the Board as a clinical nurse specialist ~~shall:~~ shall submit
23 the following:

- 24 (1) submit a completed application through the Board's website at www.ncbon.com that ~~includes the~~
25 ~~following:~~ includes:
 - 26 (A) ~~evidence of a master's or higher level degree or a post graduate certificate, as set out in~~
27 ~~Subparagraph (b)(3) or Paragraph (d) of this Rule; and~~
 - 28 (B) ~~evidence of current certification in a clinical nursing specialty from a national credentialing~~
29 ~~body, set out in Subparagraph (b)(4) of this Rule.~~
- 30 (2) ~~renew the approval every two years at the time of registered nurse renewal; and~~
- 31 (3) ~~submit evidence of the following:~~
 - 32 (A) ~~initial certification and re certification by a national credentialing body at the time such~~
33 ~~occurs in order to maintain Board recognition, consistent with Paragraphs (b) and (h) of~~
34 ~~this Rule; or~~
 - 35 (B) ~~if recognized by the Board as a clinical nurse specialist without national certification prior~~
36 ~~to April 1, 2023, at least 1,000 hours of practice and 75 contact hours of continuing~~

1 education with 25 contact hours of pharmacotherapeutics as a portion of the mandatory 75
2 contact hours every five years; or

3 (C) if recognized by the Board as a clinical nurse specialist without national certification prior
4 to April 1, 2021, 2023, 150 contact hours of continuing education with 50 contact hours of
5 pharmacotherapeutics as a portion of the 150 contact hours every five years.

6 Part (B) and (C) of this Subparagraph does not apply to first time CNS' renewing their application
7 for the first time.

8 (4) maintain documentation of clinical practice hours and continuing education for the previous five
9 years and made available upon request of the Board.

10 (A) the applicant's name, telephone number and email address;

11 (B) the applicant's primary address of residence;

12 (C) the educational degrees obtained by the applicant with the program name and completion
13 date;

14 (D) the number and expiration date of the applicant's national certification from a national
15 certifying body;

16 (E) other professional or occupational licenses with the license number and jurisdiction in
17 which the licensed was issued, if applicable; and

18 (F) the registration number shall be provided on the application if the application is for the
19 renewal or reinstatement of an existing North Carolina recognition as a certified nurse
20 specialist.

21 (2) official copy of the transcript from master's or higher-level degree program or a post-graduate
22 certificate program; as set out in Subparagraph (b)(3) of this Rule; and

23 (3) current certification in a clinical nursing specialty from a national credentialing body, set out in
24 Subparagraph (b)(4) of this Rule.

25 (h) The Board shall approve those national credentialing bodies offering certification and recertification in a clinical
26 nursing specialty that have established the following minimum requirements for applicants:

27 (1) active unencumbered licensure as a registered nurse; and

28 (2) certification as a clinical nurse specialist that is limited to applicant prepared with a master's or
29 higher level degree or a post graduate certificate.

30 (g) The clinical nurse specialist shall submit a renewal application every two years at the time of registered nurse
31 renewal.

32 (h) If recognized by the Board as a clinical nurse specialist without national certification prior to April 1, 2023 who
33 seeks to maintain this recognition shall:

34 (1) not allow the Board's recognition status to expire;

35 (2) submit an application as set out in Subparagraph (g)(1); and

36 (3) submit certificates of completion consistent with the following:

1 (A) at least 75 contact hours of continuing education which includes 25 contact hours of
2 pharmacotherapeutics as a portion of the mandatory 75 contact hours for the previous five
3 years and attest to 1,000 hours of practice; or

4 (B) at least 150 hours of continuing education which includes 50 contact hours of
5 pharmacotherapeutics as a portion of the 150 contact hours for the previous five years.

6 (i) All clinical nurse specialists shall maintain documentation of clinical practice hours and continuing education
7 for the previous five years which shall be made available upon request of the Board.

8
9 *History Note: Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21(d)(4); 90-171.23(b); 90-171.42(b);*
10 *Eff. April 1, 1996;*
11 *Amended Eff. January 1, 2015; April 1, 2008; January 1, 2007; November 1, 2005; August 1, 2005;*
12 *April 1, 2003;*
13 *Readopted Eff. January 1, 2019;*
14 *Amended Eff. December 1, 2023; April 1, 2023; November 1, 2020.*

Burgos, Alexander N

Subject: FW: [External] CNS Rule question following technical changes

From: Meredith Parris <mparris@ncbon.com>
Sent: Thursday, November 2, 2023 11:47 AM
To: Angela Ellis <angela@ncbon.com>; Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] CNS Rule question following technical changes

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Thanks, Bill.

I really appreciate the phone call and your availability. As Angela said, we are working to get it to you tomorrow.

Best,
Meredith

Meredith Parris JD

Director, Legal

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Burgos, Alexander N

Subject: FW: [External] CNS Rule question following technical changes

From: Angela Ellis <angela@ncbon.com>

Sent: Thursday, November 2, 2023 9:18 AM

To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>

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

Subject: RE: [External] CNS Rule question following technical changes

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Thank you! We are continuing our work on the Rule and plan to submit tomorrow for your review.

Angela Ellis

Angela Ellis

Chief Administrative Officer

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Burgos, Alexander N

Subject: FW: [External] CNS Rule question following technical changes

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Wednesday, November 1, 2023 6:01 PM

To: Meredith Parris <mparris@ncbon.com>

Cc: Angela Ellis <angela@ncbon.com>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] CNS Rule question following technical changes

Meredith,

Thank you for our telephone conference today.

Upon reflection, “active unencumbered license” does not need to be further defined.

As always, if you have any questions please feel free to contact me.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

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Burgos, Alexander N

From: Angela Ellis <angela@ncbon.com>
Sent: Monday, October 23, 2023 2:17 PM
To: Peaslee, William W
Cc: Burgos, Alexander N; Meredith Parris
Subject: [External] RE: 21 NCAC 36 .0228

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This is to acknowledge receipt of the Request for Change. We will review and respond by the deadline of November 6th. Thanks!

Angela Ellis

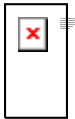
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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, October 23, 2023 1:21 PM
To: Angela Ellis <angela@ncbon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 21 NCAC 36 .0228

Good afternoon,

The above captioned rule was assigned to me for review. Attached please find a request for changes (RFC).

I have asked many questions in the RFC. Generally, the answers to the questions need to be placed in the rule revision and not simply answered in the RFC response.

As always if you have any questions please feel free to contact me.

Thank you.

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