

Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 42B .0204 RFC

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

Sent: Thursday, December 7, 2023 2:44 PM

To: Johnny Loper <jloper@loper-law.com>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; exdir@ncoptometry.org; Janice Peterson <janice@ncoptometry.org>

Subject: RE: [External] RE: 21 NCAC 42B .0204 RFC

Thank you for your email.

It is my intention to recommend approval of the rule as revised.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 42B .0204 RFC
Attachments: 21 NCAC 42B .0204.docx

From: Johnny Loper <jloper@loper-law.com>
Sent: Thursday, November 30, 2023 3:20 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; exdir@ncoptometry.org; Janice Peterson <janice@ncoptometry.org>
Subject: [External] RE: 21 NCAC 42B .0204 RFC

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Mr. Peaslee:

In response to your Request for Changes to the above-cited rule, we submit the attached. As you can see, we agree to strike the language to which your Request for Change was addressed. Please let us know if this satisfies your request.

For the Board,

Johnny M. Loper
Loper Law, PLLC
1212 Briar Patch Lane
Raleigh, NC 27615

919-390-7749 (DD)
919-390-3342 (F)
jloper@loper-law.com

1 21 NCAC 42B .0204 is adopted with changes as published in 38:04 NCR 217-218 as follows:

2
3 **21 NCAC 42B .0204 CEASING PRACTICE**

4 (a) In the event an optometrist shall cease to practice at any practice location (primary or branch) as defined in Rules
5 .0201 and .0202 of this Section, the optometrist shall notify the Board in writing within ten days of ceasing practice,
6 indicating the reason for discontinuing practice and the disposition of patient records.

7 ~~(b) In the event that a licensee discontinues practice at a location for which a duplicate license has been issued, the
8 licensee shall return the license to the Board for cancellation within 30 days.~~

9 ~~(b)~~ (b) On ceasing practice at any location, the licensee shall notify those patients whose records he retains in
10 accordance with 21 NCAC 42E .0102(5) and (6) of the disposition or availability of such records. Such notice shall
11 be given by direct ~~mail~~ mail, email, or through a public announcement in a newspaper of general circulation in the
12 county or counties wherein the patients reside. If such notice is given by publication, such publication shall occur not
13 less than weekly for a period of not less than ninety days. Proof of the giving of such notice shall be retained by the
14 licensee.

15 ~~(c)~~ (c) Any licensee ceasing practice shall maintain control and custody of the records located at that practice location
16 until such time as such records are transferred to the patients or to the custody of another practitioner similarly licensed.

17 ~~(d) Should an optometrist pass away while in practice, the optometrist's estate shall comply with paragraph (b) above
18 and attempt to place any medical records for which no directions are received from the patient into the hands of an
19 optometrist or ophthalmologist located in proximity to the deceased optometrist's practice location as soon as possible.
20 Any records retained by the estate shall be maintained for the period of time required by 21 NCAC 42E .0102 (6).~~

21
22 *History Note: Authority G.S. 90-117.5; 90-118.2;*

23 *Eff. April 1, 1993;*

24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23,*
25 *2015.*

26 *Amended Eff. January 1, 2024*

Burgos, Alexander N

From: Peaslee, William W
Sent: Monday, November 27, 2023 2:42 PM
To: Johnny Loper
Cc: Rules, Oah; Burgos, Alexander N
Subject: 21 NCAC 42M .0105

Good afternoon,

It is my intention to recommend approval of the above captioned rule at the December RRC meeting.

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
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Peaslee, William W
Sent: Monday, November 27, 2023 12:36 PM
To: jloper@loper-law.com
Cc: Burgos, Alexander N
Subject: RE: 21 NCAC 42B .0204 RFC
Attachments: 12.2023 Request for Changes Optometry 21 NCAC 42B .0204.docx

Attached please find a correction to the previous RFC which corrects the name of the agency.

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
Bill.Peaslee@oah.nc.gov

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From: Peaslee, William W
Sent: Monday, November 27, 2023 12:32 PM
To: jloper@loper-law.com
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 21 NCAC 42B .0204 RFC

Good morning,

Attached please find Request for Changes in the above captioned rule which will be considered at the December RRC meeting.

If you have any questions, please do not hesitate to email me.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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1711 New Hope Church Road
Raleigh NC, 27609
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Bill.Peaslee@oah.nc.gov

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