

## Burgos, Alexander N

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**Subject:** FW: [External] RE: 21 NCAC 46 .2504 - August 2024 RRC

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**From:** Clint Pinyan <CPINYAN@brookspierce.com>

**Sent:** Thursday, July 25, 2024 3:23 PM

**To:** Liebman, Brian R <brian.liebman@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Subject:** RE: [External] RE: 21 NCAC 46 .2504 - August 2024 RRC

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Gracias. Get your pool noodle out.

[Clint Pinyan](#)



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f: 336.232.9157

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Greensboro, NC 27401  
P.O. Box 26000 (27420)

## Burgos, Alexander N

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**Subject:**

FW: [External] RE: 21 NCAC 46 .2504 - August 2024 RRC

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**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>

**Sent:** Thursday, July 25, 2024 3:08 PM

**To:** Clint Pinyan <CPINYAN@brookspierce.com>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Subject:** RE: [External] RE: 21 NCAC 46 .2504 - August 2024 RRC

Nope, everything looks good, and I can recommend approval. That is, if I don't drown in the parking lot on the way out today.

Unless you have an objection, I'll send this latest version over to oah.rules for filing.

Look forward to seeing you!

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984)236-1948

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Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, August 2, 2024.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

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## Burgos, Alexander N

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**From:** Liebman, Brian R  
**Sent:** Wednesday, July 24, 2024 4:32 PM  
**To:** Clint Pinyan  
**Cc:** Burgos, Alexander N  
**Subject:** RE: [External] RE: 21 NCAC 46 .2504 - August 2024 RRC

Hi Clint,

Thanks for getting this back so fast. Here's two minor follow ups. Otherwise, I think we're looking good.

*In (b)(1), p.2, line 20, to be clear, both a pharmacy technician and a pharmacy intern must be supervised by the pharmacist? That's how it reads to me.*

*That's a fact. See if I made it clearer.*

*That works quite nicely, but I'd break it off into a list under (b)(1) for formatting's sake.*

*In (b)(2), line 22, is "person-in-charge" defined elsewhere?*

*The person-in-charge is, as the name suggests, the person who is in charge of a device or medical equipment permit. In 21 NCAC 46 .1608(b), the person-in-charge is the person to whom the permit is issued. Those folks' names are on the permits, so there is no confusion among the regulated people who that person is. It's the equivalent of a pharmacist manager for a non-pharmacy DME facility.*

*Could you do a cross-reference to Rule 1608(b) so that it's clear that's the same person?*

Thanks!

Brian

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**From:** Clint Pinyan <CPINYAN@brookspierce.com>  
**Sent:** Friday, July 19, 2024 1:17 PM  
**To:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: 21 NCAC 46 .2504 - August 2024 RRC

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See if these answer your questions. Thanks for the help.

[Clint Pinyan](#)



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**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Friday, July 19, 2024 12:35 PM  
**To:** Clint Pinyan <[CPINYAN@brookspierce.com](mailto:CPINYAN@brookspierce.com)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] RE: 21 NCAC 46 .2504 - August 2024 RRC

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Yeah, I understand that when it comes to interactions with the feds, sometimes you need something obvious, like a cite in the History Note, to show them that the rule is linked to the federal statute. I'm just asking if that's the case here, and if so, I'm not gonna go to war with you over it.

Brian

Brian Liebman  
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**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
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Received. I'll take a look.

On the authority question, you can tell me whether the federal statute needs to be listed: Federal law requires that each state have a patient counseling rule in order to receive federal Medicaid funding. So, does that statute authorize us to adopt that rule, if state law otherwise did not? No. But it effectively requires us to have that rule, or else everybody over at Medicaid would freak out and the governor would chew our butts.

We might have even added that in at some point after the periodic rule review came around, in case there were any question that the rule is necessary.

[Clint Pinyan](#)



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**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
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Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Board for the August 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, August 28, 2024, 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 closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, August 2, 2024.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
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