

Burgos, Alexander N

Subject: FW: [External] Thank you & 1 suggestion RE: Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

Attachments: Staff Opinion 18 NCAC 07E_1.doc

From: Ann Elmore <aelmore@sosnc.gov>
Sent: Monday, February 26, 2024 4:56 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Wall, Ann B <awall@sosnc.gov>
Subject: [External] Thank you & 1 suggestion RE: Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

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Good afternoon, Seth.

Thank you for the update that you anticipate recommending approval of the entire revised rule set at Wednesday's commission meeting.

Thank you also for sharing your draft staff opinion. We have no questions. The Commission surely appreciates your anticipation of and response to a possible question they might have. Only one minor suggestion & it's shown via TRACK CHANGES on the enclosure.

Our rulemaking coordinator Ann Wall has been out today for jury duty. Consequently, I am sending this pursuant to her request.

With appreciation,

AnnE

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>>> "Ascher, Seth M" <seth.ascher@oah.nc.gov> 2/26/2024 12:43 PM >>>
Good afternoon,

At this point, I have been through the final revised rules and anticipate recommending approval of the entire revised ruleset at Wednesday's commission meeting. Also, I have drafted the attached staff opinion recommending approval of five rules where I believe there is a novel issue (18 NCAC 07E .0602, .0801, .0802, .0803, and .0804).

Let me know if you have any questions.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: [External] RE: Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

Attachments: Staff Opinion 18 NCAC 07E.doc

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, February 26, 2024 12:44 PM
To: Elmore, Ann M <aelmore@sosnc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Wall, Ann B <awall@sosnc.gov>
Subject: RE: [External] RE: Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

Good afternoon,

At this point, I have been through the final revised rules and anticipate recommending approval of the entire revised ruleset at Wednesday's commission meeting. Also, I have drafted the attached staff opinion recommending approval of five rules where I believe there is a novel issue (18 NCAC 07E .0602, .0801, .0802, .0803, and .0804).

Let me know if you have any questions.

Seth Ascher

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Burgos, Alexander N

From: Ann Elmore <aelmore@sosnc.gov>
Sent: Friday, February 23, 2024 7:32 PM
To: Ascher, Seth M
Cc: Burgos, Alexander N; Wiggs, Travis C; Wall, Ann B
Subject: [External] RE: Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

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Good evening, Seth.

Thank you for confirming receipt--and for copying us on the transmission of the rules to OAH. Knowing is reassuring.

Ann

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>>> "Ascher, Seth M" <seth.ascher@oah.nc.gov> 2/23/2024 1:55 PM >>>
Ann,

Thank you for sending these materials. I have sent the rules on to be updated on the agenda, etc.

I have reviewed Ann Wall's letters responding to the technical change requests and based on that letter anticipate that you have addressed any concerns I had. I will still be going over the final updated rules and will be complete early next week. If any questions come up, I will let you know.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

From: Ann Elmore <aelmore@sosnc.gov>

Sent: Friday, February 23, 2024 12:54 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Wall, Ann B <awall@sosnc.gov>

Subject: [External] Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi, Seth.

Enclosed are the 18 NCAC 07 rules changed:

- * pursuant to your technical change requests (including the supplemental emailed at 4:06PM yesterday) and
- * as described in the two letters SOS Rulemaking Coordinator Ann B. Wall sent Wednesday, 2/21. Her first letter, covering 18 NCAC 07B, C, and D rules, was sent at 1:50PM, and the second letter, addressing 18 NCAC 07E rules, was emailed at 5:32PM.

The revised rules are provided in two separate zip files:

* 27 rules changed pursuant to TCRs. ATTACHMENT 1 of 4.

- * Fourteen 18 NCAC 07B rules. Rules .0407, .0418, and .0706 also involve an effective date change.
- * Five 18 NCAC 07C rules. Rule .0201 also involves an effective date change. Note: No change was made to Rule .0305 (The word "no" was omitted inadvertently from the reply letter.)
- * Eight 18 NCAC 07E rules. Two of them (Rules .0108 & E .0207) involve both technical changes and a change of effective date.

* 35 rules for which only nonsubstantive changes were made. ATTACHMENT 2 of 4. Notice of the nonsubstantive changes (date change) is also attached. ATTACHMENT 3 of 4.

Since a total of 58 rules are attached, a guide to help navigate which rules are solely nonsubstantive changes for which there was no separate technical change request (adding 10B-60) or on our own initiative (changing effective dates). ATTACHMENT 4 of 4.

This is being sent to you pursuant to the request of Ann B. Wall, our Rulemaking Coordinator.

Please let us know if you have any questions about our responses to your technical change requests--or indeed any of the changes.

Meanwhile, thank you for your attention to detail and speedy communication.

With appreciation,
AnnE

Ann McNellis Elmore, Agency Legal Consultant

NC Department of the Secretary of State

PO Box 29622

Raleigh, NC 27626-0622

Telephone: [\(919\) 814-5521](tel:9198145521)

Fax: 919 814-5596

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[https://www.sosnc.gov/divisions/securities/for_investors.](https://www.sosnc.gov/divisions/securities/for_investors))

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>>> Ann Wall 2/22/2024 4:09 PM >>>

Thanks for letting us know. We'll get the change made and get it back to you. Elmo: you're on!

Ann B. Wall

General Counsel

Department of the Secretary of State

awall@sosnc.gov

Phone (919) 814-5310

Fax 919-814-5391

Please be aware that communications with the Secretary of State's office may be public records.

>>> "Ascher, Seth M" <seth.ascher@oah.nc.gov> 2/22/2024 4:06 PM >>> Re: *Time Sensitive* RE: [External] Response to technical correction requests for 18 NCAC 07B, 07C, and 07D for 2/28/24 RRC meeting (note 2nd email and letter coming momentarily)
Ann,

In reviewing your responses, we discovered an error that I accidentally introduced. I wanted to bring that to your attention ASAP, so it could be correct in the final rules.

In rule 18 NCAC 07B .0501, on line 19 (and p. 4 of your letter), the charge is "driving while impaired", see G.S. 20-138.1. I inadvertently misled you when I suggested intoxicated. Luckily our resident former prosecutor (Travis) caught this and corrected me.

To be clear, I recommend "driving while impaired" on line 19 of 18 NCAC 07B .0501.

Apologies for any confusion.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

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From: Ann Wall <awall@sosnc.gov>
Sent: Wednesday, February 21, 2024 1:51 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>
Subject: [External] Response to technical correction requests for 18 NCAC 07B, 07C, and 07D for 2/28/24 RRC meeting (note 2nd email and letter coming momentarily)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi, Seth. Attached please find a letter containing all of our responses regarding your technical change requests for:

18 NCAC 07B

18 NCAC 07C

18 NCAC 07D.

We are proofreading the final rules and will send them as soon as we can. Responses to your technical change requests for 18 NCAC 07E will take priority over that proofreading, but we should be able to have everything to you on Friday.

Please let me know if you have any questions regarding our responses to your technical change requests.

Thanks again for your suggestions and attention to detail.

Regards, Ann

Ann B. Wall
General Counsel
Department of the Secretary of State
awall@sosnc.gov
Phone (919) 814-5310
Fax 919-814-5391

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Burgos, Alexander N

Subject: FW: [External] Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

From: Ann Wall <awall@sosnc.gov>

Sent: Friday, February 23, 2024 2:07 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Subject: RE: [External] Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

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Thanks. Hopefully I'll be able to see you all next week rather than being in the courthouse on jury duty.

Ann

Ann B. Wall

General Counsel

Department of the Secretary of State

awall@sosnc.gov

Phone (919) 814-5310

Fax 919-814-5391

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Burgos, Alexander N

Subject: FW: [External] Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Friday, February 23, 2024 1:55 PM

To: Elmore, Ann M <aelmore@sosnc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Wall, Ann B <awall@sosnc.gov>

Subject: RE: [External] Rules Changed in Response to Technical Change Requests & NonSubstantive Changes for 18 NCAC07B,C, & E before the RRC on 2/28/24

Ann,

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I have reviewed Ann Wall's letters responding to the technical change requests and based on that letter anticipate that you have addressed any concerns I had. I will still be going over the final updated rules and will be complete early next week. If any questions come up, I will let you know.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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*State of North Carolina
Department of the Secretary of State*

ELAINE F. MARSHALL
SECRETARY OF STATE

ANN B. WALL
General Counsel

February 23, 2024

By email

Seth Ascher, RRC Counsel
seth.ascher@oah.nc.gov

Re: Notice of Changes Pursuant to 26 NCAC 05 .0107(b)

Dear Seth:

I have sent a previous letter providing notice of nonsubstantive changes. This letter provides you with a list of additional nonsubstantive changes to the 18 NCAC 07B, 07C, 07D, and 07E rules that will be before the Commission on February 28, 2024. This letter is to provide the notice required pursuant to 26 NCAC 05 .0107(b)(2). We also are including the listed rules with corrections.

Notice Pursuant to 26 NCAC 05 .0107(b)(2) of Changes to Rule Effective Dates

Time and resources will not permit implementation of the rules listed below on the effective date originally set out in the adopted rules. The change will limit confusion in the regulated community and enable us to achieve optimal implementation in connection with finalization of the Phase 3 rules and their approval by RRC.

The effective date in the history notes for the following rules is changed from July 1, 2024, to March 1, 2025.

18 NCAC 07B .0407*
18 NCAC 07B .0412
18 NCAC 07B .0413
18 NCAC 07B .0414
18 NCAC 07B .0416
18 NCAC 07B .0418*
18 NCAC 07B .0701
18 NCAC 07B .0702
18 NCAC 07B .0703
18 NCAC 07B .0704
18 NCAC 07B .0705
18 NCAC 07B .0706*
18 NCAC 07B .0707

Key

* An **asterisk** at right indicates a rule that also was changed pursuant to technical change request.

A **hashmark** at right indicates a rule included in the Notice of Changes pursuant to 26 NCAC 05 .0107(b) emailed to you at 1:58PM, 2/21/2024.

18 NCAC 07C .0201*
18 NCAC 07C .0206
18 NCAC 07C .0207#
18 NCAC 07C .0208#
18 NCAC 07C .0209#
18 NCAC 07C .0210#
18 NCAC 07C .0401
18 NCAC 07C .0402
18 NCAC 07C .0403
18 NCAC 07C .0404

18 NCAC 07D .0304
18 NCAC 07D .0305
18 NCAC 07D .0306
18 NCAC 07D .0307
18 NCAC 07D .0308

18 NCAC 07E .0105
18 NCAC 07E .0108*
18 NCAC 07E .0205
18 NCAC 07E .0206
18 NCAC 07E .0207*
18 NCAC 07E .0209
18 NCAC 07E .0402
18 NCAC 07E .1102

Key

* An **asterisk** at right indicates a rule that also was changed pursuant to technical change request.

A **hashmark** at right indicates a rule included in the Notice of Changes pursuant to 26 NCAC 05 .0107(b) emailed to you at 1:58PM, 2/21/2024.

Please let us know if you have any questions about the nonsubstantive changes listed above.

Regards,



Ann B. Wall
General Counsel and Rulemaking Coordinator

cc: Ashley Snyder, Codifier of Rules
ashley.snyder@oah.nc.gov















Dana McGhee, Publications Coordinator
dana.McGhee@oah.nc.gov

Totals

- 27 rules modified pursuant to TCRs (some also have non-substantial changes)
- 35 rules with non-substantial changes only

B Rules = 29 modified

14 Changed Pursuant to TCRs (See our responses sent via email 2/21/24 at 1:50PM), to wit:

 18 NCAC 07B .0101.docx	2/23/2024 9:17 AM	Microsoft Word Doc...	21 KB
 18 NCAC 07B .0102.docx	2/22/2024 5:23 PM	Microsoft Word Doc...	31 KB
 18 NCAC 07B .0108.docx	2/21/2024 9:30 AM	Microsoft Word Doc...	30 KB
 18 NCAC 07B .0407.docx	2/22/2024 4:36 PM	Microsoft Word Doc...	21 KB
 18 NCAC 07B .0409.docx	2/21/2024 9:30 AM	Microsoft Word Doc...	30 KB
 18 NCAC 07B .0410.docx	2/21/2024 9:30 AM	Microsoft Word Doc...	31 KB
 18 NCAC 07B .0411.docx	2/21/2024 9:30 AM	Microsoft Word Doc...	33 KB
 18 NCAC 07B .0418.docx	2/22/2024 5:32 PM	Microsoft Word Doc...	21 KB
 18 NCAC 07B .0501.docx	2/22/2024 5:35 PM	Microsoft Word Doc...	21 KB
 18 NCAC 07B .0502.docx	2/20/2024 7:24 PM	Microsoft Word Doc...	20 KB
 18 NCAC 07B .0603.docx	2/21/2024 1:33 PM	Microsoft Word Doc...	22 KB
 18 NCAC 07B .0604.docx	2/20/2024 7:31 PM	Microsoft Word Doc...	21 KB
 18 NCAC 07B .0607.docx	2/22/2024 5:46 PM	Microsoft Word Doc...	21 KB
 18 NCAC 07B .0706.docx	2/22/2024 5:53 PM	Microsoft Word Doc...	20 KB

5 Changed by Adding 10B-60 to the History Note (See our notice sent via email 2/21/24 at 1:58PM), to wit:

18 NCAC 07B .0602.docx	2/21/2024 12:40 PM	Microsoft Word Doc...	22 KB
18 NCAC 07B .0603.docx	2/23/2024 10:21 AM	Microsoft Word Doc...	22 KB
18 NCAC 07B .0605.docx	2/20/2024 7:32 PM	Microsoft Word Doc...	21 KB
18 NCAC 07B .0606.docx	2/20/2024 7:33 PM	Microsoft Word Doc...	21 KB
18 NCAC 07B .0608.docx	2/20/2024 7:34 PM	Microsoft Word Doc...	20 KB

10 Changed by Moving the Effective Date from 7/1/24 to 3/1/25 (Notice provided today (2/23/24), to wit:

18 NCAC 07B .0412.docx	2/22/2024 5:02 PM	Microsoft Word Doc...	28 KB
18 NCAC 07B .0413.docx	2/22/2024 5:02 PM	Microsoft Word Doc...	30 KB
18 NCAC 07B .0414.docx	2/22/2024 5:02 PM	Microsoft Word Doc...	33 KB
18 NCAC 07B .0416.docx	2/22/2024 5:02 PM	Microsoft Word Doc...	31 KB
18 NCAC 07B .0701.docx	2/23/2024 10:43 AM	Microsoft Word Doc...	22 KB
18 NCAC 07B .0702.docx	2/23/2024 10:44 AM	Microsoft Word Doc...	21 KB
18 NCAC 07B .0703.docx	2/23/2024 10:45 AM	Microsoft Word Doc...	21 KB
18 NCAC 07B .0704.docx	2/23/2024 10:51 AM	Microsoft Word Doc...	20 KB
18 NCAC 07B .0705.docx	2/23/2024 10:53 AM	Microsoft Word Doc...	20 KB
18 NCAC 07B .0707.docx	2/23/2024 10:54 AM	Microsoft Word Doc...	21 KB

C Rules = 14 modified; 2 withdrawn

5 Changed Pursuant to TCRs (See our responses sent via email 2/21/24 at 1:50PM), to wit:

18 NCAC 07C .0201.docx	2/22/2024 4:19 PM	Microsoft Word Doc...	21 KB
18 NCAC 07C .0407.docx	2/21/2024 12:45 PM	Microsoft Word Doc...	20 KB
18 NCAC 07C .0409.docx	2/21/2024 12:55 PM	Microsoft Word Doc...	21 KB
18 NCAC 07C .0505.docx	2/20/2024 5:01 PM	Microsoft Word Doc...	21 KB
18 NCAC 07C .0603.docx	2/22/2024 4:28 PM	Microsoft Word Doc...	21 KB

2 Withdrawn Pursuant to TCRs (See our TCR responses sent via email 2/21/24 at 1:50PM & notice sent via email 2/21/24 at 1:58PM)

18 NCAC 07C .0502

18 NCAC 07C .0507

9 Changed by Moving the Effective Date from 7/1/24 to 3/1/25 (See our partial notice sent via email 2/21/24 at 1:58PM, as well as today's (2/23/24)), to wit:

18 NCAC 07C .0206.docx	2/23/2024 8:47 AM	Microsoft Word Doc...	20 KB
18 NCAC 07C .0207.docx	2/20/2024 4:26 PM	Microsoft Word Doc...	21 KB
18 NCAC 07C .0208.docx	2/20/2024 4:27 PM	Microsoft Word Doc...	21 KB
18 NCAC 07C .0209.docx	2/20/2024 4:29 PM	Microsoft Word Doc...	20 KB
18 NCAC 07C .0210.docx	2/20/2024 4:29 PM	Microsoft Word Doc...	20 KB
18 NCAC 07C .0401.docx	2/23/2024 8:39 AM	Microsoft Word Doc...	21 KB
18 NCAC 07C .0402.docx	2/23/2024 8:37 AM	Microsoft Word Doc...	20 KB
18 NCAC 07C .0403.docx	2/23/2024 8:38 AM	Microsoft Word Doc...	20 KB
18 NCAC 07C .0404.docx	2/23/2024 8:37 AM	Microsoft Word Doc...	21 KB

D Rule = 5 modified

0 Change Pursuant to TCR (See our responses sent via email 2/21/24 at 1:50PM)

5 Changed by Moving the Effective Date from 7/1/24 to 3/1/25 (Notice provided today (2.23.24)), to wit:

18 NCAC 07D .0304.docx	2/23/2024 8:21 AM	Microsoft Word Doc...	27 KB
18 NCAC 07D .0305.docx	2/23/2024 12:43 PM	Microsoft Word Doc...	20 KB
18 NCAC 07D .0306.docx	2/23/2024 12:44 PM	Microsoft Word Doc...	20 KB
18 NCAC 07D .0307.docx	2/23/2024 12:44 PM	Microsoft Word Doc...	20 KB
18 NCAC 07D .0308.docx	2/23/2024 12:45 PM	Microsoft Word Doc...	20 KB

E Rules = 14 modified

8 Changed Pursuant to TCRs (See our responses sent via email 2/21/24 at 5:32PM)

18 NCAC 07E .0108.docx	2/22/2024 1:32 PM	Microsoft Word Doc...	23 KB
18 NCAC 07E .0207.docx	2/22/2024 1:32 PM	Microsoft Word Doc...	27 KB
18 NCAC 07E .0602.docx	2/23/2024 7:48 AM	Microsoft Word Doc...	20 KB
18 NCAC 07E .0801.docx	2/21/2024 5:37 PM	Microsoft Word Doc...	20 KB
18 NCAC 07E .0802.docx	2/21/2024 5:39 PM	Microsoft Word Doc...	20 KB
18 NCAC 07E .0803.docx	2/21/2024 5:29 PM	Microsoft Word Doc...	20 KB
18 NCAC 07E .0804.docx	2/21/2024 5:38 PM	Microsoft Word Doc...	20 KB
18 NCAC 07E .1101.docx	2/21/2024 5:26 PM	Microsoft Word Doc...	21 KB

6 Changed by Moving the Effective Date from 7/1/24 to 3/1/25 (Notice provided today (2.23.24)), to wit:

18 NCAC 07E .0105.docx	2/22/2024 1:32 PM	Microsoft Word Doc...	37 KB
18 NCAC 07E .0205.docx	2/22/2024 1:32 PM	Microsoft Word Doc...	26 KB
18 NCAC 07E .0206.docx	2/22/2024 1:32 PM	Microsoft Word Doc...	21 KB
18 NCAC 07E .0209.docx	2/22/2024 6:49 PM	Microsoft Word Doc...	21 KB
18 NCAC 07E .0402.docx	2/22/2024 1:32 PM	Microsoft Word Doc...	26 KB
18 NCAC 07E .1102.docx	2/22/2024 6:51 PM	Microsoft Word Doc...	21 KB

1 18 NCAC 07B .0101 is amended with changes as published in 38:09 NCR 550 as follows:

2
3 **18 NCAC 07B .0101 SCOPE**

4 The rules in this Subchapter implement Chapter 10B of the General Statutes, the Notary Public and Electronic Notary
5 ~~Aets, Statutes.~~ The rules ~~govern~~ govern:

- 6 (1) the qualification, commissioning, notarial acts, ~~conduct~~ conduct, and discipline of notaries public
7 as Constitutional public officers of the ~~State~~ State;
8 (2) the qualification, certification, and discipline of certified notary instructors; and
9 (3) the qualification, approval or licensing, conduct, and discipline of technology providers.

10
11 *History Note: Authority G.S. ~~10B-2~~; 10B-4; 10B-14(f); ~~10B-102~~; 10B-106; 10B-125(b); 10B-126; 10B-134.15;*
12 *10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;*
13 *Eff. April 1, 2007;*
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
15 *6, ~~2016~~, 2016;*
16 *Amended Eff. July 1, 2024.*

18 NCAC 07B .0102 is amended with changes as published in 38:09 NCR 550-553 as follows:

18 NCAC 07B .0102 DEFINITIONS

(a) The ~~[In addition to the]~~ definitions in G.S. 10B-3 ~~[10B-3, 10B-101, and 10B-134.1, and]~~ apply to this Subchapter.

(b) ~~For~~ ~~[for]~~ purposes of ~~Chapter 10B of the General Statutes and~~ Subchapters 07B and 07C of this Chapter:

(1) "Applicant" means an individual who seeks appointment or reappointment to the office of notary public;

(2) "Appoint" or "Appointment" means the naming of an individual to the office of notary public after determination that the individual has complied with Chapter 10B of the General Statutes and Subchapter ~~07B~~ 07C of this Chapter. For the purposes of ~~these Rules, the~~ ~~[Rules]~~ rules in this Chapter, the terms "appoint", "reappoint", "appointment", "reappointment", "commission", "recommission", "commissioning", "appoint," "reappoint," "appointment," "reappointment," "commission," "recommission," "commissioning," and "recommissioning" all refer to the term "commission" as defined in G.S. 10B-3(4) or to the process of acquiring or maintaining ~~such the~~ commission; commission.

~~(3)~~(2) "Appointee" means an individual who has been appointed or reappointed to the office of notary public but has not yet taken the oath of office to be ~~commissioned;~~ commissioned.

(3) "Authorization" means a notary commission, an electronic notary registration, an instructor certification, an approval, or a license issued by the Department pursuant to Chapter 10B of the General Statutes.

(4) "Authorize" means the Department's action to issue an authorization.

~~(4)~~(5) ~~Commissioning~~ "Commission date" means the beginning date of commissioning or recommissioning as entered on a commission ~~certificate;~~ certificate.

(6) "Court" means a tribunal of a locality, state, the Armed Forces of the United States, a federally recognized tribe, or any nation.

~~(5)~~(7) "Crime" ~~means a crime or:~~ means:

(a) an offense designated by law as a felony or misdemeanor;

~~(A)~~(b) ~~Attempt~~ an attempt to commit ~~a crime;~~ an offense;

~~(B)~~(c) ~~Accessory~~ an accessory to commission of ~~a crime;~~ an offense;

~~(C)~~(d) ~~Aiding~~ aiding and abetting of ~~a crime;~~ an offense;

~~(D)~~(e) ~~Conspiracy~~ conspiracy to commit ~~a crime;~~ an offense; ~~or~~

~~(E)~~(f) ~~Solicitation~~ solicitation to commit ~~a crime.~~ an offense; or

(g) threat to commit an offense.

An infraction as defined in G.S. 14-3.1 is not a crime.

(6) "Division" means the Notary Public Section of the North Carolina Department of the Secretary of State.

(8) "Crime involving dishonesty" means a ~~[criminal offense]~~ crime that ~~[implicates untruthfulness or]~~ involves untruthfulness, deceit, fraud, false dealing, cheating or stealing.

- 1 (9) “Criminal convictions” means the following dispositions of criminal ~~charges:~~ ~~[charges entered or~~
2 ~~accepted by a court:]~~
3 (a) adjudications of ~~[guilt by a court:]~~ ~~guilt:~~
4 (b) pleas of nolo contendere;
5 (c) pleas of ~~[admission:]~~ ~~guilty:~~
6 (d) Alford pleas;
7 (e) conditional discharges;
8 (f) prayers for judgment continued; and
9 (g) dispositions denominated differently but equivalent to Sub-Items (a)-(f) in this ~~[Item~~
10 ~~entered by a court:]~~ ~~Item.~~
- 11 (10) “Denial” with regard to public office means an individualized action:
12 (a) to disqualify an individual from:
13 (i) being a candidate for an elected public office; or
14 (ii) holding or filling a public office; and
15 (b) that is taken by:
16 (i) a governmental agency, a legislative body, or a member of the executive branch
17 of any locality, state, federally recognized tribe, or nation; or
18 (ii) a court.
- 19 (11) “Disciplinary action” means an official action by a ~~court,~~ legislative body, governmental ~~[agency]~~
20 ~~agency, board, or commission~~ of any locality, state, federally recognized tribe, or ~~[nation, or court]~~
21 ~~nation~~ resulting in:
22 (a) a disciplinary order;
23 (b) a censure;
24 (c) a reprimand;
25 (d) an admonition;
26 (e) a resignation in lieu of termination or revocation;
27 (f) a denial;
28 (g) a written warning; or
29 (h) actions denominated differently but equivalent to Sub-Items (a)–(g) in this Item.
- 30 (12) “Disciplinary order” means a directive or its equivalent that:
31 (a) is directed to a ~~holder of a~~ professional ~~[licensee]~~ ~~license~~ or a commissioned notary public;
32 (b) prohibits or conditions an individual ~~[professional licensee or commissioned notary public]~~
33 ~~from engaging in the practice of the~~ ~~[licensee’s]~~ profession or ~~acting~~ as a notary public for
34 any amount of time;
35 (c) is issued by a court or government ~~[agency]~~ ~~agency, board, or commission~~ of any locality,
36 state, federally recognized tribe, or nation with authority to discipline or sanction the
37 ~~[professional licensee]~~ ~~individual~~ or ~~[commissioned]~~ notary public; and

(d) is not stayed, rescinded, reversed, or expunged.

NOTE: Suspensions, restrictions, and revocations of commissions or licenses are examples of disciplinary orders.

(13) “Family member” means an individual related by blood, marriage, or adoption.

(14) “Finding” means a decision, conclusion, or opinion by a court, legislative body, or governmental ~~agency~~ agency, board, or commission of any locality, state, federally recognized tribe, or nation that is based upon a review of evidence in an investigation. ~~quasi-judicial,~~ a quasi-judicial proceeding, or a judicial proceeding resulting in a determination that:

(a) a fact has been proved according to the applicable legal standard; or

(b) a law applies to the specific facts in a matter.

(15) “Harm” means:

(a) loss or damage to a person affecting:

(i) liberty;

(ii) child custody, parental rights, child support, or visitation;

(iii) reputation;

(iv) money;

(v) property;

(vi) time; or

(vii) a contract or transaction; or

(b) an act that undermines public confidence in the reliability of notarial acts or notarial instructor certification.

(16) “Issuance” with regard to public office means an action:

(a) to certify the results of an election signifying that an individual has been elected to the public office; or

(b) to appoint an individual to fill a public office; and

(c) that is taken by:

(i) a governmental agency, board, or commission, a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation;
or

(ii) a court.

(17) “Licensed member of the North Carolina State Bar” means an active member as defined in 27 NCAC 01A .0201(b).

(18) “Name for use on a notary public commission” ~~means:~~ or “commission name” means the name chosen by a commission applicant as the applicant’s commission name and consisting of:

(a) the full legal name of the commission applicant; or

(b) a combination of the applicant’s surname and:

(i) full first or middle name; or

(ii) full first or middle name and one or more ~~initials.~~ initials derived from the applicant's full legal name.

NOTE: Full legal names, full first names, and full middle names shall not include nicknames.

(19) "Notarial act" means, in addition to those acts listed in G.S. 10B-3(11), ~~an act~~ acts authorized ~~by~~ to be performed by a notary public pursuant to:

(a) G.S. 163-231(a); and

(b) G.S. 53C-6-13(a).

(20) "Notary course" means a course taught by a certified notary instructor for purposes of:

(a) commissioning or recommissioning a notary public; or

(b) registering or reregistering an electronic notary public.

(21) "Probation" with regard to criminal convictions means active supervision by a governmental agency or its legally authorized designee in lieu of jail or prison.

(22) "Professional license" means an issuance that involves a grant of authority by a governmental ~~agency~~ agency, board, or commission of any locality, state, federally recognized tribe, or nation, to an individual to act in a fiduciary capacity, or in a capacity that affects the public interest or public trust, and that regards an occupation requiring training and formal qualification. Professional licenses are:

(a) attorney;

(b) appraiser;

(c) architect;

(d) boiler inspector;

(e) building, electrical, fire, mechanical, or plumbing inspector;

(f) certified nursing assistant;

(g) certified public accountant;

(h) code enforcement official;

(i) electrical contractor;

(j) engineer;

(k) general contractor;

(l) geologist;

(m) insurance agent;

(n) insurance company adjuster;

(o) interpreter or transliterator;

(p) investment advisor;

(q) locksmith;

(r) motor vehicle damage appraiser;

(s) on-site wastewater contractor inspector;

(t) pharmacist;

- (u) physician;
(v) physician assistant;
(w) plumbing, heating, and fire sprinkler contractor;
(x) private investigator;
(y) professional bondsman;
(z) real estate broker;
(aa) registered nurse, licensed practical nurse, nurse practitioner;
(bb) securities broker, dealer, salesman;
(cc) self-employed insurance adjuster;
(dd) surety bondsman;
(ee) sworn law enforcement officer; and
(ff) teacher.

(23) "Public office" means a position position:

- (a) created by law to which an individual has been elected or appointed, and that involves
appointed;
(b) involving a delegation to the individual of some of the functions of government to be
exercised by the individual for the benefit of the public public; and
(c) that are with authority that is not solely advisory.

(24) "Restriction" with regard to public office means an individualized action:

- (a) to restrain an individual from serving in public office; and
(b) that is taken by:
(i) a governmental agency, board, or commission, a legislative body, or a member of
the executive branch of any locality, state, federally recognized tribe, or nation;
or
(ii) a court.

(25) "Release from prison, probation or parole" means:

- (a) completion of all terms of a sentence or judgement judgment entered as part of a
disposition of a criminal charge;
(b) a certificate or order related to a criminal charge evidencing the individual's unconditional
discharge and specifying the restoration of the individual's rights of citizenship pursuant
to G.S. 13-2; discharge;
(c) a certificate of relief pursuant to G.S. 15A-173.4;
(d) an endorsement from the Governor after satisfaction of conditions of a conditional pardon
pursuant to G.S. 13-4;
(e) an unconditional pardon pursuant to G.S. 13-3;
(f) an order that a conviction is vacated; or and
(g) the individual's citizenship has been restored pursuant to G.S. 13-1;

- 1 (h) an action that is equivalent to Sub-Items (a)-(f) of this Item entered by a court, or an official
2 or body of a state, federally recognized tribe, or nation with the authority to grant pardons.
- 3 (26) “Residence address” [or “residential address”] means a physical location with a street name, and a
4 number designating the building in which an individual resides, including an apartment or unit
5 number if applicable, the city, state, zip code, and nation if not the United States.
- 6 (27) “Revocation” with regard to an individual’s capacity to serve in a public office means an
7 individualized action:
8 (a) to void or cancel a certification of election to office; or
9 (b) to remove an individual from a public office; and
10 (c) that is taken by:
11 (i) a governmental agency, board, or commission, a legislative body, or a member of
12 the executive branch of any locality, state, federally recognized tribe, or nation;
13 or
14 (ii) a court.
- 15 (28) “Suspension” with regard to a public office means an individualized action:
16 (a) to prohibit, for a finite period of time, an individual’s authority to serve in a public office;
17 and
18 (b) that is taken by:
19 (i) a governmental agency, board, or commission, legislative body, or a member of
20 the executive branch of any locality, state, federally recognized tribe, or nation;
21 or
22 (ii) a court.

24 *History Note: Authority G.S. 10B-4; 10B-14(f); 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-*
25 *134.19; 10B-134.21; 10B-134.23;*
26 *Eff. April 1, 2007;*
27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
28 *6, ~~2016~~. 2016;*
29 *Amended Eff. July 1, 2024.*

1 18 NCAC 07B .0108 is adopted with changes as published in 38:09 NCR 554 as follows:

2
3 **18 NCAC 07B .0108 FACTORS USED IN CONSIDERING WAIVER REQUESTS**

4 Factors to be considered when the Department considers a waiver request are:

- 5 (1) information about the requestor and the request, including the requestor's:
- 6 (a) explanation of the reasons for the request;
- 7 (b) control over the circumstances leading to the request;
- 8 (c) experience with the Notary Act and the ~~Rules~~ rules in this Chapter;
- 9 (d) record of timeliness, completeness, and accuracy of filings with the Department;
- 10 (e) history of waiver requests, if any; and
- 11 (f) impact of granting or denying the request on the requestor; and
- 12 (2) impact on the public by granting or denying the request, including:
- 13 (a) harm or benefit to the public;
- 14 (b) consistency of implementation and enforcement of Chapter 10B of the General Statutes
- 15 and the ~~Rules~~ rules in this Chapter; and
- 16 (c) any ~~the~~ harm to the Department if a waiver is ~~granted~~. granted or denied.
- 17

18 *History Note: Authority G.S. 10B-4;*
19 *Eff. July 1, 2024.*

1 18 NCAC 07B .0407 is adopted with changes as published in 38:09 NCR 554-555 as follows:

2
3 **18 NCAC 07B .0407 INITIAL APPLICATION FOR NOTARY COMMISSION FORM**

4 The initial application for notary commission form requires:

- 5 (1) the information required by G.S. 10B-5, 10B-6, and 10B-7;
- 6 (2) from the commission applicant:
- 7 (a) whether the applicant is a licensed member of the North Carolina State Bar;
- 8 (b) a ~~personal-cell~~ residential phone number, ~~if the applicant uses that number as the~~
9 ~~applicant's residential telephone number; which may be a cell phone number;~~
- 10 (c) the ~~most recent~~ North Carolina notary commission number, if one was ~~issued;~~ issued, and
11 more than 12 months have elapsed since expiration;
- 12 (d) occupation;
- 13 (e) applicant's employer or status as:
- 14 (i) self-employed;
- 15 (ii) unemployed;
- 16 (iii) retired; or
- 17 (iv) a student;
- 18 (f) North Carolina county where employed;
- 19 (g) with regard to the notary course attended:
- 20 (i) the name of the eligible institution that offered the course;
- 21 (ii) the number of course hours;
- 22 (iii) the printed or typed name of the course instructor; and
- 23 (iv) the date the course was successfully completed;
- 24 (h) a description of included attachments, if any; and
- 25 (i) the declaration required by G.S. 10B-12; and
- 26 (3) from the notary course instructor:
- 27 (a) certification that:
- 28 (i) the date, eligible institution, and printed name of the instructor are correct; and
- 29 (ii) the applicant successfully completed the course and therefore qualifies for
30 consideration for a notary commission; and
- 31 (b) the course instructor's signature as required by G.S. 10B-6 and the date of the signature.

32
33 *History Note: Authority G.S. 10B-4;*
34 *Eff. ~~July 1, 2024.~~ March 1, 2025.*

1 18 NCAC 07B .0409 is adopted with changes as published in 38:09 NCR 555 as follows:

2
3 **18 NCAC 07B .0409 APPLICATION FOR RECOMMISSIONING AS NOTARY PUBLIC**

4 The form for application for recommissioning as a notary public ~~form~~ before expiration of a commission or within 12
5 months of commission expiration requires:

- 6 (1) information regarding the applicant's current or, if expired, the ~~immediately preceding~~ most recent
7 commission, including the commission number;
- 8 (2) an imprint or stamp from the applicant's current ~~seal~~ seal, or most recently expired ~~seal~~ seal, if the
9 applicant currently possesses a seal;
- 10 (3) information required pursuant to G.S. 10B-11;
- 11 (4) the instructor's signature, if the applicant takes the notary course as part of the recommissioning
12 process;
- 13 (5) information required pursuant to Rule .0407 of this Section that is not otherwise included in Items
14 (1)-(3) of this Rule; and
- 15 (6) the declaration under penalty of perjury that is required by G.S. 10B-12.

16
17 *History Note: Authority G.S. 10B-4;*
18 *Eff. July 1, 2024.*

1 18 NCAC 07B .0410 is adopted with changes as published in 38:09 NCR 555-556 as follows:

2
3 **18 NCAC 07B .0410 NOTICE OF ~~CHANGE~~ CHANGES IN GENERAL NOTARY INFORMATION**
4 **REQUIRED BY 18 NCAC 07D .0301**

5 The form for notice of change in ~~general notary~~ the information ~~requires~~ required by 18 NCAC 07D .0301 shall
6 include:

- 7 (1) the ~~notary's~~ notary public's commission name and county of commission;
8 (2) the notary's commission number;
9 (3) contact information for the notary;
10 (4) last four digits of the notary's SSN;
11 (5) for ~~changes~~ each change; ~~required to be reported pursuant to G.S. 10B-50, 10B-51, 10B-52, or 18~~
12 ~~NCAC 07D .0301;~~
13 (a) which item of information regarding the notary has changed;
14 (b) the information as it existed before the change; and
15 (c) the information after the change; and
16 (6) the printed name and signature of the notary and the date signed.

17
18 *History Note: Authority G.S. 10B-4;*
19 *Eff. July 1, 2024.*

1 18 NCAC 07B .0411 is adopted with changes as published in 38:09 NCR 556 as follows:

2
3 **18 NCAC 07B .0411 NOTICE OF CHANGES REGARDING CRIMINAL HISTORY RECORD**

4 The form for notice of changes in criminal history record requires:

- 5 (1) the name of the individual;
- 6 (2) if a commissioned ~~notary~~, notary public the notary's commission number;
- 7 (3) the last four digits of the individual's SSN;
- 8 (4) contact information for the individual;
- 9 (5) for a previously unreported criminal charge:
- 10 (a) the date of the charge;
- 11 (b) the court in which the charge is filed;
- 12 (c) whether the charge is for a felony or misdemeanor;
- 13 (d) ~~what the charge is;~~ name of the charge;
- 14 (e) whether the charge has been set for a hearing or trial and, if yes, the scheduled date; and
- 15 (f) the case number;
- 16 (6) for notice of a disposition of a criminal charge:
- 17 (a) the date of the disposition;
- 18 (b) the name of the court and the case number;
- 19 (c) if the disposition resulted in a conviction:
- 20 (i) whether the conviction was for a felony or misdemeanor; and
- 21 (ii) the sentence imposed;
- 22 (d) a copy of the disposition ~~document;~~ document or judgment;
- 23 (e) a copy of any document restoring citizenship rights; and
- 24 (7) the signature of the individual and the date signed.
- 25

26 *History Note: Authority G.S. 10B-4;*

27 *Eff. July 1, 2024.*

1 18 NCAC 07B .0412 is adopted with changes as published in 38:09 NCR 556 as follows:

2
3 **18 NCAC 07B .0412 NOTICE OF CHANGES REGARDING PROFESSIONAL LICENSES, NOTARY**
4 **COMMISSIONS, OR PUBLIC OFFICES**

5 The form for notice of changes regarding professional licenses, notary commissions, or public offices requires:

- 6 (1) the name of the individual;
7 (2) if a commissioned ~~notary~~, notary public, the notary's commission number;
8 (3) the last four digits of the individual's SSN;
9 (4) contact information for the individual;
10 (5) for a change in any information required by G.S. 10B-7(10), the information required by Section
11 .0700 of this Subchapter; and
12 (6) the printed name and signature of the individual and the date signed.

13
14 *History Note:* Authority G.S. 10B-4;
15 Eff. ~~July 1, 2024~~, March 1, 2025.

1 18 NCAC 07B .0413 is adopted with changes as published in 38:09 NCR 556 as follows:

2
3 **18 NCAC 07B .0413 NOTICE OF CHANGES REGARDING FINDINGS OR ADMISSIONS OF**
4 **DECEIT, OFFICIAL MISCONDUCT, FALSE OR MISLEADING ADVERTISING,**
5 **OR UNAUTHORIZED PRACTICE OF LAW**

6 The form for notice of changes regarding findings or admissions of deceit, official misconduct, false or misleading
7 advertising, or unauthorized practice of law requires:

- 8 (1) the ~~notary's~~ notary public's commission name and county of commission;
9 (2) the notary's commission number;
10 (3) last four digits of the notary's SSN;
11 (4) contact information for the notary;
12 (5) the information required pursuant to:
13 (a) 18 NCAC 07C .0207 for a finding or admission of liability against the notary pursuant to
14 G.S. 10B-5(d)(3);
15 (b) 18 NCAC 07C .0208 for a finding of official misconduct by the ~~notary public~~; notary;
16 (c) 18 NCAC 07C .0209 for a finding of unauthorized practice of law by the notary; and
17 (d) 18 NCAC 07C .0210 for a finding or charge of false or misleading advertising by the
18 notary; and
19 (6) the printed name and signature of the commission applicant or notary and the date signed.

20
21 *History Note: Authority G.S. 10B-4;*
22 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07B .0414 is adopted with changes as published in 38:09 NCR 556-557 as follows:

2
3 **18 NCAC 07B .0414 APPLICATION FOR CERTIFICATION AS NOTARY INSTRUCTOR**

4 The application for certification as a notary instructor form requires:

- 5 (1) the information required by Rule .0407(1)–(2)(i) of this Section;
- 6 (2) whether the applicant is currently employed as:
- 7 (a) a register of deeds or clerk of court; or
- 8 (b) an employee of the Department and ~~who~~ is authorized by the Secretary to serve as an
- 9 instructor;
- 10 (3) the eligible institution for which the applicant will teach if certified as an instructor;
- 11 (4) the name, telephone number, and email address of a contact person at the eligible institution who is
- 12 knowledgeable about the conditional hiring of the applicant to teach notary courses;
- 13 (5) whether the applicant has a personal copy of the most recent notary public manual approved by the
- 14 Department and, if yes, the year and edition number;
- 15 (6) whether the applicant has active experience as a ~~notary~~; notary public;
- 16 (7) whether the applicant has notified the Department of changes as required by Chapter 10B of the
- 17 General Statutes and the ~~Rules~~ rules in this Chapter or is submitting a change form with the
- 18 application;
- 19 (8) the printed name and signature of the applicant and the date signed; and
- 20 (9) a declaration under penalty of perjury that:
- 21 (a) the information provided is true and complete to the best of the applicant's knowledge and
- 22 belief;
- 23 (b) the applicant remains qualified to be commissioned as a notary public; and
- 24 (c) the applicant will perform the duties and responsibilities of a certified notary instructor.
- 25

26 *History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;*

27 *Eff. ~~July 1, 2024~~, March 1, 2025.*

1 18 NCAC 07B .0416 is adopted with changes as published in 38:09 NCR 557 as follows:

2
3 **18 NCAC 07B .0416 EMPLOYER AFFIDAVIT REGARDING INSTRUCTOR APPLICANT ACTIVE**
4 **EXPERIENCE FORM**

5 The form for the employer affidavit regarding active experience requires:

- 6 (1) the name of the person employing the applicant;
- 7 (2) information about the affiant, consisting of the following:
- 8 (a) the full printed name of the affiant;
- 9 (b) the affiant's title and position with the employer; ~~and~~
- 10 (c) the ~~address,~~ address and telephone ~~number, and email address~~ number of the ~~affiant~~
11 employer; and
- 12 (d) the email address of the affiant;
- 13 (3) an explanation of the reasons the instructor applicant has performed notarial acts while employed
- 14 by the employer;
- 15 (4) a statement specifying which of the preceding twelve months the instructor applicant performed
- 16 notarial acts for the employer;
- 17 (5) a declaration that:
- 18 (a) the affiant has the authority to sign; and
- 19 (b) the affiant has knowledge of the matters described in the affidavit;
- 20 (6) the signature of the affiant and date on which the affiant signed; and
- 21 (7) a jurat certificate.

22
23 *History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;*
24 *Eff. ~~July 1, 2024.~~ March 1, 2025.*

1 18 NCAC 07B .0418 is adopted with changes as published in 38:09 NCR 557-558 as follows:

2
3 **18 NCAC 07B .0418 APPLICATION FOR RECERTIFICATION AS NOTARY INSTRUCTOR**

4 The notary instructor application for recertification form requires:

- 5 (1) the information specified in Rule .0414 of this Section;
- 6 (2) verification that the applicant has taught the notary instructor course at least twice a year during the
- 7 current two-year certification period;
- 8 (3) the date of initial certification as an instructor;
- 9 (4) whether certification has been continuous;
- 10 (5) a declaration under penalty of perjury that:
- 11 (a) the information provided is ~~true, complete, and correct;~~ true and complete;
- 12 (b) the applicant remains qualified to be commissioned as a notary public; and
- 13 (c) the applicant:
- 14 (i) understands the official duties and responsibilities of a notary public and notary
- 15 public instructor in North Carolina; and
- 16 (ii) will perform to the best of the applicant's ability all responsibilities of teaching
- 17 the notary courses in accordance with the law.

18
19 *History Note:* Authority G.S. 10B-4; 10B-14; 10B-134.21;
20 Eff. ~~July 1, 2024.~~ March 1, 2025.

1 18 NCAC 07B .0501 is adopted with changes as published in 38:09 NCR 558 as follows:

3 **SECTION .0500 – ~~COMMISSIONS~~ CRIMINAL RECORDS**

5 **18 NCAC 07B .0501 CRIMES**

6 For purposes of applications and discipline under Chapter 10B of the General Statutes and the ~~Rules~~ rules in this
7 Chapter, each of the following offenses ~~are examples of, and~~ shall be classified as, ~~either as~~ as a crime involving “moral
8 turpitude” as defined in G.S. 10B-3(9) or a “crime involving dishonesty” as defined in Rule .0102(8) of this

9 Subchapter:

- 10 (1) arson;
- 11 (2) assault;
- 12 (3) battery;
- 13 (4) burglary;
- 14 (5) carrying a concealed weapon without a permit;
- 15 (6) child molestation;
- 16 (7) child pornography;
- 17 (8) discharge of a firearm in a public place or into a dwelling;
- 18 (9) domestic violence;
- 19 (10) ~~driving under the influence;~~ while impaired;
- 20 (11) embezzlement;
- 21 (12) failure to comply with a court order;
- 22 (13) failure to pay child support;
- 23 (14) failure to return to confinement;
- 24 (15) false financial statement;
- 25 (16) forgery;
- 26 (17) fraud;
- 27 (18) hit and run;
- 28 (19) identity theft;
- 29 (20) impersonation of a law enforcement officer;
- 30 (21) kidnapping;
- 31 (22) practicing law without a license;
- 32 (23) prostitution;
- 33 (24) rape;
- 34 (25) receipt of stolen goods or property;
- 35 (26) ~~resisting arrest;~~ resist, delay or obstruct a public officer in discharging or attempting to discharge an
36 official duty;
- 37 (27) robbery;

- 1 (28) tax evasion;
- 2 (29) terrorist threat or act;
- 3 (30) unlawful possession or sale of drug; and
- 4 (31) worthless check.

5

6 *History Note:* *Authority G.S. 10B-4;*

7 *Eff. July 1, 2024.*

1 18 NCAC 07B .0502 is adopted with changes as published in 38:09 NCR 558 as follows:

2
3 **18 NCAC 07B .0502 ADDITIONAL REQUIREMENTS FOR AN INDIVIDUAL LISTING**
4 **CONVICTIONS**

5 An individual required to provide a criminal history record pursuant to Chapter 10B of the General Statutes and the
6 ~~Rules~~ rules in this Chapter shall include:

- 7 (1) a complete listing of felony convictions of the individual and the name under which each conviction
8 was entered;
9 (2) a complete listing of misdemeanor convictions of the individual and the name under which each
10 conviction was entered;
11 (3) if the individual's criminal history record includes a conviction in North Carolina, a copy of the
12 individual's criminal history record prepared by the North Carolina State Bureau of Investigation;
13 (4) if the individual has a criminal conviction in a jurisdiction other than North Carolina, a copy of the
14 individual's criminal history record from a criminal history record registry or repository of record
15 reflecting the conviction; and
16 (5) the signed explanation required by Rule .0503 of this Section.

17 Note: A "registry or repository of record" is the official governmental state, federal, national, or tribal archive or
18 center for collection of criminal history information.

19
20 *History Note: Authority G.S. 10B-4;*
21 *Eff. July 1, 2024.*

1 18 NCAC 07B .0602 is amended with changes as published in 38:09 NCR 559-560 as follows:

2
3 **18 NCAC 07B .0602 ~~GENERAL APPLICATION DENIAL DENIALS~~**

4 ~~(1)(a)~~ The ~~Director~~ Department shall deny an application in which an applicant willfully and knowingly contains
5 provided false information about about: the applicant's

6 (1) _____ a criminal ~~record~~ history; history record; or

7 (2) _____ a record of ~~civil lawsuit~~ official findings or admissions of liability ~~based on~~ related to the applicant's
8 ~~deceit; or deceit, dishonesty, or intentional disclosure of confidential information to a person not~~
9 legally entitled to the information.

10 ~~(2)(b)~~ The ~~Director~~ Department may deny an application ~~which that~~ contains misleading ~~information;~~ information.

11 (A) ~~The applicant's criminal record, including whether all charges were dismissed or consolidated~~
12 ~~or whether all terms and conditions of a judgment have been completed~~

13 (B) ~~Misstatement or omission of a nonmaterial fact;~~

14 (C) ~~Whether a civil lawsuit included findings based on the applicant's deceit; or~~

15 (D) ~~Whether, in a civil lawsuit or settlement of a civil lawsuit, an applicant made admissions~~
16 ~~of liability related to the applicant's deceit.~~

17 ~~(d)(c)~~ Applicant notarization. The ~~Director~~ Department shall deny an application ~~if if:~~

18 (1) _____ the Department determines that the applicant is not qualified for the authorization issued pursuant
19 to the Constitution of the State of North Carolina, Chapter 10B of the General Statutes, [and] or the
20 [Rules] rules in this Chapter; or

21 (2) _____ the an applicant notarizes ~~his or her~~ the applicant's own signature.

22 ~~(e)~~ The ~~Director~~ shall deny an application if the applicant:

23 (1) ~~Leaves three or more sections of the application incomplete;~~

24 (2) ~~Fails to submit an application for initial appointment within 90 days of class; or~~

25 (3) ~~Fails to submit complete and correct information on an application for initial appointment or~~
26 ~~reappointment after three submissions by the applicant.~~

27
28 *History Note:* Authority G.S. 10B-4; 10B-5; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;

29 Eff. April 1, 2007;

30 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
31 6, 2016;

32 Transferred from 18 NCAC 07B .0902 Eff. June 1, 2023; 2023;

33 Amended Eff. July 1, 2024.

18 NCAC 07B .0603 is amended with changes as published in 38:09 NCR 560 as follows:

18 NCAC 07B .0603 ~~EXECUTED DOCUMENT VIOLATIONS~~ LEVELS OF ENFORCEMENT

~~The Director shall revoke the commission of a notary who performs a notarial act knowing that the document or information contained in it is false or fraudulent, or that the intent of the executed document is dishonest. Acts of fraud or dishonesty include:~~

- ~~(1) Notarizing a blank DMV vehicle title document;~~
- ~~(2) Embezzlement;~~
- ~~(3) Forgery;~~
- ~~(4) Fraud;~~
- ~~(5) Identity theft;~~
- ~~(6) Impersonation of a law enforcement officer;~~
- ~~(7) Receiving stolen goods or property; and~~
- ~~(8) Theft.~~

Upon consideration of the evidence before it, the purposes and requirements of Chapter 10B of the General Statutes, and the **Rules** **rules** in this Chapter, the Department may:

- (1) upon a finding of a violation of Chapter 10B of the General Statutes or the **Rules** **rules** in this Chapter:
 - (a) issue a letter of caution to a person along with:
 - (i) a request for compliance; and
 - (ii) a statement that future noncompliance may lead to disciplinary action by the Department;
 - (b) issue a letter of warning to a person, with or without a corrective action plan. NOTE: A requirement for additional education is an example of a corrective action plan;
 - (c) suspend a person's authorization and bar the grant of an authorization for a specific period of time not to exceed 24 months, with or without a corrective action plan;
 - (d) issue a revocation of a person's authorization;
 - (e) issue a permanent revocation of a person's authorization;
 - (f) issue an **order** **administrative action** **restricting** **restricting, for a specific period of time,** **an unauthorized person from submitting an application or from becoming** **authorized for a specific period of time;** **authorized; or**
 - (g) issue an **order** **administrative action** permanently restricting an unauthorized person from submitting an application or from becoming authorized; and
- (2) use the factors in Rule .0601 of this Section to take action to withdraw, stay, rescind, or expunge a disciplinary action.

1 Note: An application submitted in violation of an administrative action pursuant to paragraphs (f) and (g) of this Rule
2 shall be denied by the Department immediately upon identification of the applicant as being subject to the
3 administrative action during the period of time applicable to the action. The application fee shall not be refunded.

4
5 *History Note: Authority G.S. ~~10B-2; 10B-5(d); 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;~~*

6 *Eff. April 1, 2007;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
8 *6, 2016;*

9 *Transferred from 18 NCAC 07B .0903 Eff. June 1, ~~2023~~ 2023;*

10 *Amended Eff. July 1, 2024.*

18 NCAC 07B .0603 is amended with changes as published in 38:09 NCR 560 as follows:

18 NCAC 07B .0603 ~~EXECUTED DOCUMENT VIOLATIONS~~ LEVELS OF ENFORCEMENT

~~The Director shall revoke the commission of a notary who performs a notarial act knowing that the document or information contained in it is false or fraudulent, or that the intent of the executed document is dishonest. Acts of fraud or dishonesty include:~~

- ~~(1) Notarizing a blank DMV vehicle title document;~~
- ~~(2) Embezzlement;~~
- ~~(3) Forgery;~~
- ~~(4) Fraud;~~
- ~~(5) Identity theft;~~
- ~~(6) Impersonation of a law enforcement officer;~~
- ~~(7) Receiving stolen goods or property; and~~
- ~~(8) Theft.~~

Upon consideration of the evidence before it, the purposes and requirements of Chapter 10B of the General Statutes, and the **Rules** **rules** in this Chapter, the Department may:

- (1) upon a finding of a violation of Chapter 10B of the General Statutes or the **Rules** **rules** in this Chapter:
 - (a) issue a letter of caution to a person along with:
 - (i) a request for compliance; and
 - (ii) a statement that future noncompliance may lead to disciplinary action by the Department;
 - (b) issue a letter of warning to a person, with or without a corrective action plan. NOTE: A requirement for additional education is an example of a corrective action plan;
 - (c) suspend a person's authorization and bar the grant of an authorization for a specific period of time not to exceed 24 months, with or without a corrective action plan;
 - (d) issue a revocation of a person's authorization;
 - (e) issue a permanent revocation of a person's authorization;
 - (f) issue an **order** **administrative action** **restricting** **restricting, for a specific period of time,** **an unauthorized person from submitting an application or from being becoming** **authorized for a specific period of time;** **authorized;** or
 - (g) issue an **order** **administrative action** permanently restricting an unauthorized person from submitting an application or from becoming authorized; and
- (2) use the factors in Rule .0601 of this Section to take action to withdraw, stay, rescind, or expunge a disciplinary action.

1 Note: An application submitted in violation of an administrative action pursuant to paragraphs (f) and (g) of this Rule
2 shall be denied by the Department immediately upon identification of the applicant as being subject to the
3 administrative action during the period of time applicable to the action. The application fee shall not be refunded.

4
5 *History Note: Authority G.S. ~~10B-2; 10B-5(d); 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;~~*

6 *Eff. April 1, 2007;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
8 *6, 2016;*

9 *Transferred from 18 NCAC 07B .0903 Eff. June 1, ~~2023~~ 2023;*

10 *Amended Eff. July 1, 2024.*

1 18 NCAC 07B .0604 is amended with changes as published in 38:09 NCR 560 as follows:

2
3 **18 NCAC 07B .0604 ~~COMPLETE AND LAWFUL NOTARIAL ACT VIOLATIONS~~ LETTER OF**
4 **CAUTION**

5 ~~(a) The Director~~ Department may issue a letter of caution to a person for a violation of the requirements of Chapter
6 10B of the General Statutes or the [Rules] rules in this Chapter in circumstances that do not merit take disciplinary
7 action action. against a notary for an offense relating to failure to meet the statutory requirements for a notarial act.

8 ~~(b) Offenses relating to failure to meet the statutory requirements for a complete and lawful notarial act include:~~

- 9 ~~(1) Incomplete attestation;~~
10 ~~(2) Improper acknowledgment language;~~
11 ~~(3) Incorrect signature;~~
12 ~~(4) Incorrect expiration date;~~
13 ~~(5) Failure to administer an oath or affirmation;~~
14 ~~(6) Failure to verify identification;~~
15 ~~(7) Failure to require personal appearance;~~
16 ~~(8) Notarization of a document in which the notary is a named, interested, or signed party;~~
17 ~~(9) Notarization of a "non signature" or a copy of a signature;~~
18 ~~(10) Charging a fee in excess of that which is set by law, including fees for mileage or travel;~~
19 ~~(11) Acting as a notary when not commissioned;~~
20 ~~(12) Unauthorized use of a seal.~~

21
22 *History Note:* Authority ~~G.S. 10B-2; 10B-4; 10B-14(f);~~ 10B-60; 10B-126; 10B-134.19; 10B-134.21;

23 *Eff. April 1, 2007;*

24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
25 *6, 2016;*

26 *Transferred from 18 NCAC 07B .0904 Eff. June 1, 2023- 2023;*

27 *Amended Eff. July 1, 2024.*

1 18 NCAC 07B .0605 is amended with changes as published in 38:09 NCR 560 as follows:

2
3 **18 NCAC 07B .0605 ~~OTHER VIOLATIONS~~ [WARNINGS] WARNING**

4 The ~~Director~~ Department may ~~take disciplinary action against a notary~~ issue a warning to a person for [any] a violation
5 [violations] of Chapter 10B of the General Statutes or the [Rules] rules in this Chapter. Subchapter, including failure
6 to provide information required by Rule .0107 of this Subchapter.

7
8 *History Note:* Authority G.S. ~~10B-2; 10B-4; 10B-5(d); 10B-14(f);~~ 10B-60; 10B-126; 10B-134.19; 10B-134.21;

9 Eff. April 1, 2007;

10 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
11 6, 2016;

12 Transferred from 18 NCAC 07B .0905 Eff. June 1, ~~2023;~~ 2023;

13 Amended Eff. July 1, 2024.

1 18 NCAC 07B .0606 is amended with changes as published in 38:09 NCR 561 as follows:

2
3 **18 NCAC 07B .0606 ~~MINIMUM SANCTION~~ SUSPENSION**

4 ~~(a) If a notary commits a combination of acts of official misconduct, the notary shall receive, at a minimum, the~~
5 ~~maximum penalty of the lesser of the acts committed.~~

6 ~~(b) Nothing in this Section shall restrict the Secretary from using any other statutory penalty available.~~

7 After consideration of the factors in Rule .0601 of this Section, the Department may issue a suspension to a person
8 who:

9 (1) violates [the requirements] a requirement of Chapter 10B of the General Statutes or the [Rules] rules
10 in this Chapter; or

11 (2) has a criminal conviction.
12

13 *History Note:* Authority ~~G.S. 10B-2; 10B-4; 10B-14(f);~~ 10B-60; 10B-126; 10B-134.19; 10B-134.21;

14 ~~Eff. April 1, 2007;~~

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
16 *6, 2016;*

17 *Transferred from 18 NCAC 07B .0906 Eff. June 1, ~~2023-~~ 2023;*

18 *Amended Eff. July 1, 2024.*

1 18 NCAC 07B .0607 is amended with changes as published in 38:09 NCR 561 as follows:

2
3 **18 NCAC 07B .0607 APPEAL PROCEDURES RESTRICTION**

4 ~~(a) Applicants for commissioning or recommissioning whose applications have been denied and notaries who have~~
5 ~~received disciplinary action by the Director have the right to file a petition for a contested case hearing pursuant to~~
6 ~~Article 3 of Chapter 150B of the General Statutes.~~

7 ~~(b) Petition forms may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh,~~
8 ~~NC 27699-6700; 1711 New Hope Church Road, Raleigh, NC 27609; 984-236-1850; <https://www.oah.nc.gov>.~~

9 ~~(c) A copy of a Petition filed with the Office of Administrative Hearings must also be served on the process agent for~~
10 ~~the Department of the Secretary of State.~~

11 Upon a finding that the person has acted without being authorized by the Department, the Department may issue an
12 administrative action to restrict that person from applying for authorization or from becoming authorized to:

13 (1) perform a notarial act;

14 (2) teach a notarial course;

15 (3) offer an electronic notarization system to an electronic notary public; or

16 (4) act as a depository.

17
18 *History Note: Authority G.S. ~~10B-2~~; 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;*

19 *Eff. April 1, 2007;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
21 *6, 2016;*

22 *Amended Eff. October 1, 2019; Eff. February 1, 2021;*

23 *Transferred from 18 NCAC 07B .0907 Eff. June 1, ~~2023~~, 2023;*

24 *Amended Eff. July 1, 2024.*

1 18 NCAC 07B .0608 is adopted with changes as published in 38:09 NCR 561 as follows:

2
3 **18 NCAC 07B .0608 MANDATORY REVOCATION**

4 The Department shall revoke an authorization of:

- 5 (1) a person who is convicted of a crime related to performance of an act pursuant to, or in relation to,
6 an authorization issued by the Department;
7 (2) a notary public who notarizes the notary's own signature;
8 (3) a notary who performs a notarial act and either:
9 (a) fails to require the personal appearance of the principal; or
10 (b) performs a remote electronic notarial act without requiring the appearance of a principal
11 by an authorized communication technology; or
12 (4) a person who performs an act permitted by an authorization issued by the Department knowing that:
13 (a) the act, a document associated with the act, or information contained in a document
14 associated with the act is false or fraudulent; or
15 (b) the intent of the act or document is to perpetrate a ~~crime of dishonesty~~ crime.

16
17 *History Note: Authority G.S. 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;*
18 *Eff. July 1, 2024.*

1 18 NCAC 07B .0701 is amended with changes as published in 38:09 NCR 561-562 as follows:

2
3 **SECTION .0700 – REPORTING PROFESSIONAL LICENSES, CIVIL AND CRIMINAL HISTORY**
4 **PUBLIC OFFICES, AND NOTARY COMMISSIONS**
5

6 **18 NCAC 07B .0701 GENERAL**

7 ~~(a) Other Professional Licenses.~~ An applicant for a notary commission shall include with the list on his or her
8 application all suspensions, revocations and other disciplinary actions taken against the applicant regarding the
9 applicant's current or former professional licenses, a list of all professional licenses, public offices, and notary
10 commissions as required by G.S. 10B-7(10), together with the information required by the [Rules] rules in this Section.

11 ~~(b) Criminal Record.~~ An applicant shall list on his or her application all misdemeanor and felony convictions related
12 ~~to crimes of dishonesty and moral turpitude. For purposes of this Chapter, those crimes include:~~

- 13 ~~(1) Arson;~~
- 14 ~~(2) Assault;~~
- 15 ~~(3) Battery;~~
- 16 ~~(4) Burglary;~~
- 17 ~~(5) Carrying a concealed weapon without a permit;~~
- 18 ~~(6) Child molestation;~~
- 19 ~~(7) Child pornography;~~
- 20 ~~(8) Discharge of a firearm in a public place or into a dwelling;~~
- 21 ~~(9) Domestic violence;~~
- 22 ~~(10) Driving under the influence;~~
- 23 ~~(11) Unlawful possession or sale of drugs;~~
- 24 ~~(12) Embezzlement;~~
- 25 ~~(13) Failure to comply with a court order;~~
- 26 ~~(14) Failure to pay child support;~~
- 27 ~~(15) Failure to return to confinement;~~
- 28 ~~(16) False financial statements;~~
- 29 ~~(17) Forgery;~~
- 30 ~~(18) Fraud;~~
- 31 ~~(19) Identity theft;~~
- 32 ~~(20) Impersonation of a law enforcement officer;~~
- 33 ~~(21) Hit and run;~~
- 34 ~~(22) Kidnapping;~~
- 35 ~~(23) Prostitutions;~~
- 36 ~~(24) Multiple worthless checks showing a pattern of behavior indicating moral turpitude and dishonesty;~~
- 37 ~~(25) A worthless check in excess of five hundred dollars (\$500.00);~~

- 1 ~~(26) Possession of an unregistered firearm;~~
2 ~~(27) Practicing law without a license;~~
3 ~~(28) Rape;~~
4 ~~(29) Receipt of stolen goods or property;~~
5 ~~(30) Resisting arrest;~~
6 ~~(31) Robbery;~~
7 ~~(32) Statutory rape;~~
8 ~~(33) Tax evasion;~~
9 ~~(34) Terrorist threats or acts;~~
10 ~~(35) Theft;~~
11 ~~(36) Threats to commit a crime or cause bodily injury;~~
12 ~~(37) Spousal abuse.~~

13 ~~(c) In considering whether to appoint or reappoint an applicant to the office of notary public, the Director may consider~~
14 ~~the factors set forth in Rule .0901 of this Subchapter.~~

15
16 *History Note:* Authority G.S. 10B-4; 10B-5(d); 10B-7; 10B-11; 10B-14(f); 10B-106; 10B-134.19; 10B-134.21;

17 *Eff. April 1, 2007;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
19 *6, 2016;*

20 *Transferred from 18 NCAC 07B .0201 Eff. June 1, 2023; 2023;*

21 *Amended Eff. July 1, 2024. — March 1, 2025.*

1 18 NCAC 07B .0702 is adopted with changes as published in 38:09 NCR 562 as follows:

2
3 **18 NCAC 07B .0702 REQUIREMENTS REGARDING PROFESSIONAL LICENSES AND NOTARIAL**
4 **COMMISSIONS**

5 An individual required to provide information to the Department about professional licenses and notarial commissions
6 that the individual presently holds, has held, or has applied for shall include the following, to the extent the information
7 is available to the individual after reasonable efforts, for each license and notarial commission listed:

- 8 (1) the name under which each license or notarial commission was issued;
9 (2) the state, federally recognized tribe, or nation that issues or grants each listed license or commission;
10 (3) the name of the governmental ~~agency~~ agency, board, or commission that issued each license or
11 granted each commission;
12 (4) the name of the professional license or notary commission;
13 (5) the license or commission number, if one is assigned by the issuing ~~agency~~; agency, board, or
14 commission;
15 (6) the expiration dates for all licenses or commissions listed; and
16 (7) whether, to the knowledge of the individual, there is an open investigation by the issuing ~~agency~~
17 agency, board, or commission into use or misuse by the individual of a license or commission listed.

18
19 *History Note:* *Authority G.S. 10B-4;*
20 *Eff. ~~July 1, 2024.~~ March 1, 2025.*

1 18 NCAC 07B .0703 is adopted with changes as published in 38:09 NCR 562 as follows:

2
3 **18 NCAC 07B .0703 DISCIPLINARY ACTION INVOLVING A PROFESSIONAL LICENSE OR**
4 **NOTARY COMMISSION**

5 For each professional license or notary commission listed by the applicant pursuant to Rule .0701 of this Section, and
6 for which the individual has been the subject of a disciplinary ~~action~~, action by a court, legislative body, governmental
7 agency, board, or commission, the individual shall include:

- 8 (1) the date of each disciplinary action;
- 9 (2) the disciplinary action taken;
- 10 (3) a copy of each disciplinary action;
- 11 (4) if not included in the copy of the disciplinary action provided:
- 12 (a) the reason given for the disciplinary action; ~~by the issuing agency;~~
- 13 (b) an explanation of the circumstances that led to the disciplinary action; and
- 14 (c) the name of the ~~court, legislative body, or governmental agency that issued or took the~~
15 ~~action~~; issuing entity;
- 16 (5) whether the disciplinary action included any corrective action or conditions on the license or
17 commission;
- 18 (6) whether the individual has complied with the corrective actions or conditions;
- 19 (7) the date on which compliance with the corrective actions or conditions was satisfied;
- 20 (8) whether the individual would be eligible for relicensure or ~~recommissioning by the issuing agency;~~
21 recommissioning; and
- 22 (9) other information that the individual wishes to include in order to aid the Department in assessing
23 the individual's professional license and notary commission history.
- 24

25 *History Note:* Authority G.S. 10B-4; 10B-134.21; 10B-134.23;

26 *Eff. ~~July 1, 2024.~~ March 1, 2025.*

1 18 NCAC 07B .0704 is adopted with changes as published in 38:09 NCR 562 as follows:

2
3 **18 NCAC 07B .0704 PUBLIC OFFICES**

4 An individual shall include on the application for authorization:

- 5 (1) a list of each public office that the individual presently holds or has held;
- 6 (2) the name under which each public office is or was held;
- 7 (3) the locality, state, federally recognized tribe, or nation in which the public office is or was held;
- 8 (4) the title of the public office;
- 9 (5) the beginning and ending dates of the term of each public office; and
- 10 (6) whether, to the knowledge of the individual, there is an open investigation by a government or law
- 11 enforcement agency into the use or misuse by the individual of the public office.

12
13 *History Note: Authority G.S. 10B-4;*

14 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07B .0705 is adopted with changes as published in 38:09 NCR 562 as follows:

2
3 **18 NCAC 07B .0705 DENIALS OF PUBLIC OFFICES**

4 If an individual was denied a public office, the individual shall include with the application:

- 5 (1) the name of the public office that was denied;
- 6 (2) the locality, state, federally recognized tribe, or nation where the public office is or was located;
- 7 (3) the date of the denial;
- 8 (4) the name used when the denial occurred;
- 9 (5) the reason for the denial; and
- 10 (6) other information that the individual wishes to include in order to aid the Department in assessing
- 11 the individual's qualification for authorization.
- 12

13 *History Note:* Authority G.S. 10B-4;

14 Eff. ~~July 1, 2024.~~ March 1, 2025.

1 18 NCAC 07B .0706 is adopted with changes as published in 38:09 NCR 563 as follows:

2
3 **18 NCAC 07B .0706 RESIGNATIONS FROM PUBLIC OFFICES**

4 If an individual resigned from a public office, ~~office in lieu of disciplinary action~~, the individual shall include:

- 5 (1) the name of the public office from which the individual resigned;
- 6 (2) the locality, state, federally recognized tribe, or nation where the public office is or was located;
- 7 (3) the date of the resignation;
- 8 (4) the name used when the resignation occurred;
- 9 (5) the reason for the resignation; and
- 10 (6) other information that the individual wishes to include in order to aid the Department in assessing
- 11 the individual's qualification for authorization.

12
13 *History Note:* *Authority G.S. 10B-4;*

14 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07B .0707 is adopted with changes as published in 38:09 NCR 563 as follows:

2
3 **18 NCAC 07B .0707 DISCIPLINARY ACTION INVOLVING A PUBLIC OFFICE**

4 For each public office listed pursuant to Rule .0701 of this Section and for which the individual has been the subject
5 of a disciplinary action, the individual shall include:

- 6 (1) the date of each disciplinary action;
7 (2) the disciplinary action taken;
8 (3) a copy of each disciplinary action;
9 (4) if not otherwise set out in the copy of the disciplinary action provided:
10 (a) the reason given for the disciplinary action; and
11 (b) an explanation of the circumstances that led to the disciplinary action;
12 (5) whether the disciplinary action included any corrective actions or conditions;
13 (6) whether the individual complied with the corrective actions or conditions;
14 (7) the date on which compliance with the corrective actions or conditions was satisfied;
15 (8) whether the individual would be eligible to hold public office again; and
16 (9) other information that the individual wishes to include in order to aid the Department in assessing
17 the individual's qualification for authorization.
18

19 *History Note:* Authority G.S. 10B-4;

20 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07C .0201 is amended with changes as published in 38:09 NCR 563 as follows:

2
3 **18 NCAC 07C .0201 INITIAL APPLICATION**

4 ~~(a) Application Form.~~

5 ~~(1) Applicants~~ An applicant for initial appointment as a traditional notary public who is not a licensed member of the
6 North Carolina State Bar ~~shall use the application form designated by the Division for that purpose and may download~~
7 ~~the application form from the Department's website. shall:~~

8 (1) ~~_____~~ possess a current personal copy of the North Carolina notary public manual applicable to traditional
9 notaries;

10 (2) ~~Applicants for initial appointment who are members of the North Carolina State Bar may download~~
11 ~~the application form from the Department's website and may file the completed application without~~
12 ~~first obtaining a signature from a notary instructor. successfully complete the notary course and~~
13 ~~exam; and~~

14 (3) ~~All other applicants for initial appointment who download the application form from the~~
15 ~~Department's website shall obtain a signature on the application from a notary instructor certifying~~
16 ~~that the applicant successfully completed the required course of instruction before the applicant may~~
17 ~~file the form with the Department. submit the application form specified in 18 NCAC 07B .0407.~~

18 Note: The official North Carolina notary public manual is written by the Department. The Department's website
19 includes information regarding where to purchase the manual.

20 ~~(b) Submission of Application. An applicant for an initial appointment shall submit his or her application by:~~

21 ~~(1) _____ U.S. mail;~~

22 ~~(2) _____ In person delivery; or~~

23 ~~(3) _____ Courier service.~~

24
25 *History Note: Authority G.S. 10B-4; ~~10B-14(f)~~;*

26 *Eff. April 1, 2007;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
28 *6, 2016;*

29 *Transferred from 18 NCAC 07B .0301 Eff. June 1, ~~2023~~. 2023;*

30 *Amended Eff. [July 1, 2024] March 1, 2025.*

1 18 NCAC 07C .0206 is adopted with changes as published in 38:09 NCR 564 as follows:

2
3 **18 NCAC 07C .0206 REQUIREMENTS FOR APPLICANTS REGARDING PROFESSIONAL**
4 **LICENSES, NOTARIAL COMMISSIONS, AND PUBLIC OFFICES**

5 A commission applicant who has applied for, holds, or has held a professional license, a notarial commission, or a
6 public office, shall comply with Section .0700 of Subchapter 07B 07B, ~~Section .0700~~, of this Chapter.

7
8 *History Note: Authority G.S. 10B-4;*

9 *Eff. ~~July 1, 2024~~. March 1, 2025.*

1 18 NCAC 07C .0207 is adopted with changes as published in 38:09 NCR 564 as follows:

2
3 **18 NCAC 07C .0207 FINDINGS OR ADMISSIONS OF LIABILITY AGAINST ~~THE APPLICANT~~**
4 **BASED ON ~~THE APPLICANT'S DECEIT~~**

5 A commission applicant ~~against whom~~ for whom, in a civil lawsuit, there has been a finding or admission of fault or
6 liability based on the applicant's deceit in a civil lawsuit regarding the applicant's activity as a notary public based on
7 ~~the applicant's deceit~~ shall include with the application:

- 8 (1) a list of each finding or admission;
9 (2) a copy of the document containing the finding or admission;
10 (3) a brief description of the circumstances surrounding the finding or admission;
11 (4) if not included in the document in Item (2) of this Rule:
12 (a) the date on which the finding or admission was made;
13 (b) the ~~governmental agency or~~ court in which the civil lawsuit was filed; and
14 (c) the case name and docket number; and
15 (5) any additional information that the applicant wishes the Department to consider.

16
17 *History Note: Authority G.S. 10B-4;*
18 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07C .0208 is adopted with changes as published in 38:09 NCR 564-565 as follows:

2
3 **18 NCAC 07C .0208 FINDINGS THAT THE APPLICANT ENGAGED IN OFFICIAL MISCONDUCT**

4 A commission applicant who is, has previously been, or has acted in the capacity as a notary public of any locality,
5 state, federally recognized tribe, or nation, and who has listed on the application findings of official misconduct, civil
6 findings, or admissions of fault or liability regarding the applicant's activities as a notary, ~~misconduct as a notary on~~
7 the application, shall include with the application:

- 8 (1) the name of the court or governmental ~~agency~~ agency, board, or commission that made the finding;
9 (2) a copy of the document in which the official misconduct finding was made;
10 (3) if not included in the document in Item (2) of this Rule:
11 (a) the date on which the finding or admission was made;
12 (b) the court or governmental ~~agency or court~~ agency, board or commission that made the
13 finding; and
14 (c) the case name and docket number, or similar unique designation;
15 (4) a description of the circumstances surrounding the finding; and
16 (5) any additional information that the applicant wishes the Department to consider.

17
18 *History Note: Authority G.S. 10B-4;*
19 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07C .0209 is adopted with changes as published in 38:09 NCR 565 as follows:

2
3 **18 NCAC 07C .0209 FINDING OF UNAUTHORIZED PRACTICE OF LAW**

4 A commission applicant against whom a finding has been made that the applicant engaged in the unauthorized practice
5 of law shall include with the application:

- 6 (1) the name of the court or governmental agency or court agency, board, or commission that made the
7 finding;
8 (2) a copy of the finding;
9 (3) the date of the finding, if not included in the copy provided pursuant to Item (2) of this Rule;
10 (4) a description of the circumstances surrounding the finding; and
11 (5) any additional information that the applicant wishes the Department to consider.

12
13 *History Note: Authority G.S. 10B-4;*
14 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07C .0210 is adopted with changes as published in 38:09 NCR 565 as follows:

2
3 **18 NCAC 07C .0210 FINDING OF FALSE OR MISLEADING ADVERTISING**

4 A commission applicant against whom a charge or finding has been made that as a notary public, the notary knowingly
5 used false or misleading advertising that represents that the notary has powers, duties, rights, or privileges not
6 conveyed by law, shall include with the application:

- 7 (1) the name of the court or governmental agency or court agency, board, or commission in which the
8 charge or finding is made;
9 (2) a copy of the charge or finding;
10 (3) the date of the charge or finding, if not included in the copy provided pursuant to Item (2) of this
11 Rule;
12 (4) a description of the circumstances surrounding the charge or finding; and
13 (5) any additional information that the applicant wishes the Department to consider.
14

15 *History Note: Authority G.S. 10B-4;*

16 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07C .0401 is amended with changes as published in 38:09 NCR 565 as follows:

2
3 **18 NCAC 07C .0401 APPOINTMENT**

4 ~~(a) Upon determination that an applicant has complied with all requirements of the Act and this Subchapter, the~~
5 ~~Director~~ The Department shall appoint or reappoint ~~the~~ an applicant to the office of notary public after reviewing the
6 application submitted by the applicant and determining that: ~~and issue a commissioning certificate.~~

7 (1) the application is accepted; and

8 (2) the applicant is qualified to be appointed pursuant to N.C. Const. Art. VI, Sec. 8, Chapter 10B of
9 the General Statutes, and the [Rules] rules in this Chapter.

10 ~~(b) The Division shall send the commissioning certificate to the Register of Deeds in the county of commissioning.~~

11 ~~(c) The Division shall send the appointee notice that:~~

12 ~~(1) The commissioning certificate has been issued; and~~

13 ~~(2) The appointee shall appear within 45 days of the commissioning date to take the oath of office before~~
14 ~~the Register of Deeds in the county of commissioning.~~

15
16 *History Note: Authority G.S. ~~10B-2; 10B-4; 10B-5; 10B-10; 10B-11; 10B-14(f);~~*

17 *Eff. April 1, 2007;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
19 *6, 2016;*

20 *Transferred from ~~18 NCA 07B .0501~~ 18 NCAC 07B .0501 Eff. June 1, ~~2023;~~ 2023;*

21 *Amended Eff. [July 1, 2024.] March 1, 2025.*

1 18 NCAC 07C .0402 is adopted with changes as published in 38:09 NCR 566 as follows:

2
3 **18 NCAC 07C .0402 ISSUANCE OF CERTIFICATES**

4 The Department shall provide:

- 5 (1) to the Register of Deeds in the county of the ~~notary's~~ notary public's commissioning:
- 6 (a) a certificate of appointment that includes the appointee's full legal name and the
- 7 commission name of the appointee; and
- 8 (b) a commission certificate in the commission name of the appointee to be used by the
- 9 Register of Deeds to document that the notary oath has been administered to the appointee;
- 10 and
- 11 (2) a duplicate commission certificate to a notary public, upon request to the Department.
- 12

13 *History Note:* Authority G.S. 10B-4;

14 Eff. ~~July 1, 2024~~ March 1, 2025.

1 18 NCAC 07C .0403 is adopted with changes as published in 38:09 NCR 566 as follows:

2
3 **18 NCAC 07C .0403 NOTICE TO APPOINTEE**

4 The Department shall send the appointee notice that:

- 5 (1) the certificate of appointment has been issued; and
6 (2) the appointee shall appear before the Register of Deeds in the county of commissioning and take the
7 oath of office within 45 days of the certificate of appointment issuance date.
8

9 *History Note: Authority G.S. 10B-4;*

10 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07C .0404 is amended with changes as published in 38:09 NCR 566 as follows:

2
3 **18 NCAC 07C .0404 ~~NO BACK-DATING~~ COMMISSION CERTIFICATE**

4 ~~A commissioning certificate shall not be back dated.~~

5 A commission certificate:

6 (1) shall not be valid until the oath of office has been taken; and

7 (2) shall include:

8 (a) the appointee's name for use on a notary public commission;

9 (b) the county of commissioning;

10 (c) the beginning date of the commission; and

11 (d) the expiration date of the commission.

12
13 *History Note: Authority G.S. 10B-4; ~~10B-14(f)~~;*

14 *Eff. April 1, 2007;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
16 *6, 2016;*

17 *Transferred from 18 NCAC 07B .0502(a) Eff. June 1, ~~2023~~, 2023;*

18 *Amended Eff. [July 1, 2024] March 1, 2025.*

1 18 NCAC 07C .0407 is adopted with changes as published in 38:09 NCR 566 as follows:

2
3 **18 NCAC 07C .0407 PERFORMING TRADITIONAL NOTARIAL ACTS**

4 No individual may perform a notarial act unless the individual has ~~[is in possession of]~~ a valid commission certificate.

5
6 *History Note: Authority G.S. 10B-4;*

7 *Eff. July 1, 2024.*

1 18 NCAC 07C .0409 is amended with changes as published in 38:09 NCR 566 as follows:

2
3 **18 NCAC 07C .0409 TERM OF ~~OFFICE~~ COMMISSION**

4 (a) ~~A notary's commission or recommission shall not be effective until the oath of office has been administered.~~

5 (b) ~~A notary's~~ The term of a notary public's commission ~~five year term of office~~ begins on shall be calculated from
6 the date ~~on the commissioning certificate.~~ [an] that the commission application is ~~[accepted]~~ filed pursuant to 18
7 NCAC 07B .0312 ~~[or the day immediately following the expiration date of a commission, whichever is later.]~~ unless
8 Rule .0410 of this Subchapter applies.

9
10 *History Note: Authority G.S. 10B-4; ~~10B-14(f)~~;*

11 *Eff. April 1, 2007;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
13 *6, 2016;*

14 *Transferred from 18 NCAC 07B .0505 Eff. June 1, ~~2023~~; 2023;*

15 *Amended Eff. July 1, 2024.*

1 18 NCAC 07C .0505 is amended with changes as published in 38:09 NCR 567 as follows:

2
3 **18 NCAC 07C .0505 ~~FAILURE TO TAKE TIMELY OATH~~ APPLICATION FOR**
4 **RECOMMISSIONING WITHIN [TWELVE] 12 MONTHS OF COMMISSION**
5 **EXPIRATION OR PURSUANT TO G.S. 10B-53**

6 ~~(a) An appointee who fails to take the oath of office within 45 days of the commissioning certificate date may~~
7 ~~reapply for reappointment.~~

8 ~~(b) Reapplication within one year of commission date. If an appointee seeks reappointment more than 45 days and~~
9 ~~less than one year after the commissioning certificate date, the appointee shall:~~

10 ~~(1) Apply for reappointment;~~

11 ~~(2) Submit another application fee; and~~

12 ~~(3) Pass the reappointment test.~~

13 ~~(c) Reapplication one year or more after commissioning certificate date. If an appointee seeks reappointment one year~~
14 ~~or more after the commissioning certificate date, the appointee shall:~~

15 ~~(1) Comply with the requirements of G.S. 10B-8(a);~~

16 ~~(2) Apply for reappointment; and~~

17 ~~(3) Submit another application fee.~~

18 A notary **public** may seek recommissioning by complying with G.S. 10B-11 and the **Rules** **rules** in this Subchapter
19 if:

20 (1) the notary's commission has **expired;** **expired** and

21 **[(2)]** less than **[twelve] 12** months have elapsed since the expiration of the prior **[commission;**
22 **commission; or**

23 **(2) the notary seeks recommissioning pursuant to G.S. 10B-53.**
24

25 *History Note: Authority G.S. ~~10B-4; 10B-11; 10B-14(f);~~*

26 *Eff. April 1, 2007;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
28 *6, 2016;*

29 *Transferred from 18 NCAC 07B .0504 Eff. June 1, ~~2023;~~ 2023;*

30 *Amended Eff. July 1, 2024.*

1 18 NCAC 07C .0603 is amended with changes as published in 38:09 NCR 568 as follows:

2
3 **18 NCAC 07C .0603 COURSE AS ALTERNATIVE TO REAPPOINTMENT RECOMMISSIONING**
4 **TEST EXAM**

5 ~~(a) Attorneys who are licensed members of the North Carolina State Bar do not have to take a reappointment test.~~

6 ~~(b) The~~ An applicant for reappointment recommissioning test may be taken either: comply with the Rules in Section
7 .0300 of this Subchapter as though the applicant were applying for an initial notary commission in lieu of taking or
8 retaking the recommissioning exam.

9 (1) ~~By completing the on-line test on the Department's website;~~

10 (2) ~~By completing a paper test at the Department's offices at a time based upon:~~

11 (A) ~~The availability of the Division's staff; and~~

12 (B) ~~The availability of the applicant; or~~

13 (3) ~~By completing a paper test at a time and place mutually agreed upon by the applicant and a certified~~
14 ~~notary public instructor.~~

15 ~~(c) An applicant for reappointment shall have 30 minutes to complete the test. An applicant needing accommodation~~
16 ~~pursuant to the Americans with Disabilities Act shall contact the Division and request the accommodation.~~

17 ~~(d) If an applicant fails the reappointment test, the applicant may re-take the test no more than two times within 30~~
18 ~~days of the date on which the test is first taken.~~

19 ~~(e) If the applicant fails to pass the reappointment test within 30 days, the applicant shall not be reappointed and the~~
20 ~~application shall be denied.~~

21
22 *History Note: Authority G.S. ~~10B-2; 10B-4; 10B-8; 10B-14(f); 168A-7; 42 USC 12132;~~*

23 *Eff. April 1, 2007;*

24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
25 *6, 2016;*

26 *Transferred from 18 NCAC 07B .0402 Eff. June 1, 2023- 2023;*

27 *Amended Eff. July 1, 2024.*

1 18 NCAC 07D .0304 is adopted with changes as published in 38:09 NCR 570 as follows:

2
3 **18 NCAC 07D .0304 NOTICE TO DEPARTMENT OF FINDINGS OR ADMISSIONS OF DECEIT**

4 A notary ~~applicant or a notary~~ public shall use the form specified in 18 NCAC 07B .0413 to notify the Department
5 within 45 calendar days of a finding or admission of fault or liability in a civil lawsuit ~~regarding the notary's activity~~
6 ~~as a notary public~~ based on the applicant's or notary's deceit.

7
8 *History Note: Authority G.S. 10B-4;*

9 *Eff. ~~July 1, 2024.~~ March 1, 2025.*

1 18 NCAC 07D .0305 is adopted with changes as published in 38:09 NCR 570 as follows:

2
3 **18 NCAC 07D .0305 NOTICE TO DEPARTMENT OF CHANGES TO PROFESSIONAL LICENSES,**
4 **NOTARY COMMISSIONS, OR PUBLIC OFFICES**

5 A notary applicant or notary public shall use the form specified in 18 NCAC 07B .0412 to notify the Department
6 within 45 calendar days of an issuance, a denial, a revocation, a suspension, a restriction, or a resignation of the
7 applicant's or notary's professional license, notary commission, or public office.

8
9 *History Note: Authority G.S. 10B-4;*

10 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07D .0306 is adopted with changes as published in 38:09 NCR 570 as follows:

2
3 **18 NCAC 07D .0306 NOTICE TO DEPARTMENT OF OFFICIAL MISCONDUCT**

4 A notary applicant or notary public shall use the form specified in 18 NCAC 07B .0413 to notify the Department
5 within 45 calendar days of a finding that the applicant or notary has engaged in official misconduct and shall provide
6 the Department with the documents and information required by 18 NCAC 07C .0208.

7
8 *History Note: Authority G.S. 10B-4;*

9 *Eff. ~~July 1, 2024.~~ March 1, 2025.*

1 18 NCAC 07D .0307 is adopted with changes as published in 38:09 NCR 570 as follows:

2
3 **18 NCAC 07D .0307 NOTICE TO DEPARTMENT OF FALSE OR MISLEADING ADVERTISING**

4 A notary applicant or notary public shall use the form specified in 18 NCAC 07B .0413 to notify the Department
5 within 45 calendar days of a finding or a charge that the applicant or notary has knowingly used false or misleading
6 advertising that represents that the applicant or notary has powers, duties, rights, or privileges the applicant or notary
7 does not possess by law.

8
9 *History Note: Authority G.S. 10B-4;*

10 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07D .0308 is adopted with changes as published in 38:09 NCR 570 as follows:

2
3 **18 NCAC 07D .0308 NOTICE TO DEPARTMENT REGARDING UNAUTHORIZED PRACTICE OF**
4 **LAW**

5 A notary applicant or notary public shall use the form specified in 18 NCAC 07B .0413 to notify the Department
6 within 45 calendar days of a finding by a court or the attorney-licensing agency of any state, federally recognized
7 tribe, or nation, that the applicant or notary has engaged in the unauthorized practice of law.

8
9 *History Note: Authority G.S. 10B-4;*

10 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07E .0105 is amended with changes as published in 38:09 NCR 572 as follows:

2
3 **18 NCAC 07E .0105 ~~INSTRUCTOR CERTIFICATION - GENERAL~~ REQUIREMENTS**

4 ~~Applicants~~ An applicant for initial notary ~~public~~ instructor certification shall:

5 (1) be nominated by an eligible institution;

6 ~~(1)(2) Complete~~ complete and submit the Department's notary ~~public~~ instructor application form specified
7 in 18 NCAC 07B .0414; and submit it to the Department;

8 ~~(2)(3) Comply with the requirements of Rule .0708 through Rule .0711 of this Chapter regarding~~
9 ~~verification of 12 months of experience; provide proof of active experience as a notary public using~~
10 any combination of the methods set out in Section .0200 of this Subchapter;

11 ~~(3)(4) Comply with the requirements of Rule .0712 of this Chapter regarding recommendations; submit~~
12 three recommendations supporting the applicant from nonfamily members in compliance with Rule
13 .0112 of this Section;

14 ~~(4) Comply with the requirements of Rule .0713 of this Chapter regarding an oral presentation of a~~
15 ~~notary public course curriculum lesson;~~

16 (5) have read:

17 (a) Chapter 10B of the General Statutes;

18 (b) the ~~Rules~~ rules in this Chapter; and

19 (c) the current edition of the approved notary manual for traditional notaries; and

20 ~~(5)(6) Make a passing grade on the final examination in~~ successfully complete the notary ~~public~~ instructor
21 certification course as set forth in Rule .0714 of this Chapter; and course.

22 ~~(6) Except as otherwise provided in G.S. 10B-14(c) and Rule .0705 of this Chapter, pay the required~~
23 fee.

24
25 *History Note:* Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;

26 Eff. January 1, 2008;

27 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December
28 6, 2016;

29 Transferred from 18 NCAC 07B .0702 Eff. June 1, 2023- 2023;

30 Amended Eff. ~~[July 1, 2024.]~~ March 1, 2025.

1 18 NCAC 07E .0108 is amended with changes as published in 38:09 NCR 572-573 as follows:

2
3 **18 NCAC 07E .0108 VERIFICATION THAT INSTRUCTOR APPLICANT CONTINUES TO MEET**
4 **REQUIREMENTS FOR A NOTARY COMMISSION**

5 An instructor applicant ~~for notary public instructor certification or recertification~~ shall verify that: under [oath] penalty
6 of perjury on the instructor application form specified in 18 NCAC 07B .0414 that:

7 (1) the information on the application is true and complete; and

8 ~~(1)(2)~~ the applicant ~~continues to meet each of the qualifications for a notary commission in G.S. 10B-5~~
9 ~~and 10B-7; and will perform the responsibilities of [an] a certified notary~~ instructor as set out in
10 Chapter 10B of the General Statutes and the [Rules] rules in this Chapter to the best of the applicant's
11 ability.

12 ~~(2) With regard to changes requiring notification to the Division pursuant to Rule .0107 of this Chapter,~~
13 ~~verify:~~

14 ~~(a) That there have been no changes requiring notification to the Department;~~

15 ~~(b) That there have been changes requiring notification to the Department and that the~~
16 ~~applicant has made all required notifications; or~~

17 ~~(c) That there have been changes requiring notification to the Department and the applicant~~
18 ~~has not previously made the required notification to the Department but is including the~~
19 ~~notification with the application.~~

20
21 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*

22 *Eff. January 1, 2008;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
24 *6, 2016;*

25 *Transferred from 18 NCAC 07B .0706 Eff. June 1, ~~2023;~~ 2023;*

26 *Amended Eff. [July 1, 2024.] March 1, 2025.*

1 18 NCAC 07E .0205 is adopted with changes as published in 38:09 NCR 573-574 as follows:

2
3 **18 NCAC 07E .0205 EMPLOYER AFFIDAVIT AS EVIDENCE OF EXPERIENCE**

4 An employer affidavit submitted as evidence of active experience as a notary public shall be submitted on the form
5 specified in 18 NCAC 07B .0416.

6
7 *History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;*

8 *Eff. ~~July 1, 2024.~~ March 1, 2025.*

1 18 NCAC 07E .0206 is adopted with changes as published in 38:09 NCR 574 as follows:

2
3 **18 NCAC 07E .0206 EMPLOYER AFFIDAVIT REGARDING NOTARIAL ACTS FOR EMPLOYER**

4 An employer affidavit submitted pursuant to Rule .0205 of this Section:

5 (1) shall refer to notarial acts performed for the employer; and

6 (2) may refer to other notarial acts of the instructor applicant of which the employer affiant is personally
7 aware.

8
9 *History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;*

10 *Eff. ~~July 1, 2024~~ March 1, 2025.*

1 18 NCAC 07E .0207 is adopted with changes as published in 38:09 NCR 574 as follows:

2
3 **18 NCAC 07E .0207 EMPLOYER AFFIDAVIT MAY INCLUDE RECOMMENDATION**

4 An employer submitting an affidavit ~~submitted~~ pursuant to Rule .0205 of this Section may include as an attachment a
5 recommendation from the employer made pursuant to Rule .0112 of this Subchapter.

6
7 *History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;*

8 *Eff. ~~July 1, 2024.~~ March 1, 2025.*

1 18 NCAC 07E .0209 is amended with changes as published in 38:09 NCR 574 as follows:

2
3 **18 NCAC 07E .0209 SUBMITTAL OF EMPLOYER AFFIDAVIT AS EVIDENCE OF EXPERIENCE**

4 ~~(a) An applicant for notary public instructor certification may submit an affidavit from his or her employer verifying~~
5 ~~that the applicant has had experience performing notarial acts.~~

6 ~~(b) The submitted affidavit shall, at a minimum, include the following:~~

7 ~~(1) The name of the corporation, business, individual or entity employing the applicant;~~

8 ~~(2) The full name of the person verifying the applicant's experience;~~

9 ~~(3) The authority of the person to verify the applicant's experience, including his or her title;~~

10 ~~(4) The address, telephone number and, if applicable, email address of the person verifying the~~
11 ~~applicant's experience;~~

12 ~~(5) A narrative description of the reasons the applicant has performed notarial acts while employed by~~
13 ~~the person or entity submitting the affidavit; and~~

14 ~~(6) Verification that the applicant has performed at least one notarial act during each of the 12~~
15 ~~immediately preceding months.~~

16 ~~(c) The submitted affidavit may also contain a recommendation pursuant to Rule .0712 of this Chapter.~~

17 An instructor applicant who relies upon an employer affidavit pursuant to Rule .0205 of this Section shall either submit
18 it to the Department or have the employer affiant directly submit it to the Department.

19
20 *History Note: Authority G.S. 10B-4; ~~10B-8~~; 10B-14; 10B-134.21;*

21 *Eff. January 1, 2008;*

22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
23 *6, 2016;*

24 *Transferred from 18 NCAC 07B .0710 Eff. June 1, ~~2023~~. 2023;*

25 *Amended Eff. [July 1, 2024] March 1, 2025.*

1 18 NCAC 07E .0402 is adopted with changes as published in 38:09 NCR 576 as follows:

2
3 **18 NCAC 07E .0402 CONSEQUENCE OF FAILING TO PASS WRITTEN INSTRUCTOR EXAM**

4 An instructor applicant who fails to pass the written instructor exam within one month of the date on which the written
5 exam is first taken and wishes to become a certified instructor shall comply again with Rule .0105 of this Subchapter.

6
7 *History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;*

8 *Eff. ~~July 1, 2024.~~ March 1, 2025.*

1 18 NCAC 07E .0602 is adopted with changes as published in 38:09 NCR 577 as follows:

2
3 **18 NCAC 07E .0602 ADHERENCE TO CURRICULUM**

4 A certified notary instructor shall follow the Department curriculum for notary courses unless the Department grants
5 a written variance to the instructor pursuant to the Rules in Section .0800 of this Subchapter.

6
7 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*
8 *Eff. July 1, 2024.*

1 18 NCAC 07E .0801 is adopted with changes as published in 38:09 NCR 578 as follows:

2
3 **SECTION .0800 – NOTARY INSTRUCTOR REQUESTS FOR APPROVAL OF INSTRUCTIONAL AIDS**

4
5 **18 NCAC 07E .0801 REQUEST FOR VARIANCE FROM APPROVED INSTRUCTIONAL AIDS**

6 ~~Instructors~~ Certified notary instructors may submit a written request addressed to the Director requesting that the
7 Department approve a variance allowing use of instructional aids in addition to or differing from those established by
8 the Department.

9
10 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*
11 *Eff. July 1, 2024.*

1 18 NCAC 07E .0802 is adopted with changes as published in 38:09 NCR 578 as follows:

2
3 **18 NCAC 07E .0802 VARIANCE REQUEST - EXEMPLAR REQUIRED**

4 ~~An instructor~~ A certified notary instructor who submits a request for variance pursuant to this Section shall include a
5 complete copy of the proposed instructional aid in its original size and colors.

6
7 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*

8 *Eff. July 1, 2024.*

1 18 NCAC 07E .0803 is adopted with changes as published in 38:09 NCR 578 as follows:

2
3 **18 NCAC 07E .0803 VARIANCE REQUEST - EXPLANATION OF VALUE**

4 ~~An instructor~~ A certified notary instructor who submits a variance request shall explain to the Department how the
5 revised or new aid:

6 (1) will be used by the instructor; and

7 (2) will assist notary course students in understanding the role and responsibilities of a notary ~~public~~.
8 public or an electronic notary public.

9
10 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*
11 *Eff. July 1, 2024.*

1 18 NCAC 07E .0804 is adopted with changes as published in 38:09 NCR 578 as follows:

2
3 **18 NCAC 07E .0804 VARIANCE REQUEST – APPROVAL CRITERIA**

4 The Department shall approve or deny a variance request using the following criteria:

- 5 (1) conformity with Chapter 10B of the General Statutes and the ~~Rules~~ rules in this Chapter;
- 6 (2) the value added to the curriculum;
- 7 (3) the impact of the change on the length of the course; and
- 8 (4) the quality of visual or audio ~~elements; and elements.~~
- 9 ~~(5) — avoidance of confusion.~~

10
11 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*
12 *Eff. July 1, 2024.*

1 18 NCAC 07E .1101 is amended with changes as published in 38:09 NCR 579 as follows:

2
3 **SECTION .1100 – NOTARY INSTRUCTOR ~~RE-CERTIFICATION~~ RE-CERTIFICATION**

4
5 **18 NCAC 07E .1101 ~~ELIGIBILITY~~ INELIGIBILITY FOR ~~RE-CERTIFICATION~~**
6 **RE-CERTIFICATION AS NOTARY INSTRUCTOR**

7 A certified notary ~~public~~ instructor shall not be eligible for recertification as a notary ~~public~~ instructor if the notary
8 ~~public~~ instructor:

- 9 (1) ~~Has failed to submit notary public student examination grades or notary public instructor evaluations~~
10 ~~to the Division as required by Rules .0716 and .0717 of this Chapter;~~
11 (2) ~~Has been subject to disciplinary action by the Division in relation to:~~
12 ~~(a) The performance of notary public duties pursuant to Chapter 10B of the General Statutes~~
13 ~~or this Chapter; or~~
14 ~~(b) The performance of notary public instructor duties; or~~
15 (3) ~~Has failed to comply with other requirements imposed upon a notary or notary public instructor~~
16 ~~pursuant to law or rule.~~
17 (1) no longer qualifies for initial commissioning as a notary public;
18 (2) has not taught at least two notary courses in each of the two immediately preceding instructor
19 certification years; or
20 (3) has failed to comply with other requirements imposed upon a notary or notary public instructor
21 pursuant to G.S. 10B-14 or the Rules rules in this Chapter.
22

23 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*

24 *Eff. January 1, 2008;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
26 *6, 2016;*

27 *Transferred from 18 NCAC 07B .0718 Eff. June 1, 2023- 2023;*

28 *Amended Eff. July 1, 2024.*

1 18 NCAC 07E .1102 is amended with changes as published in 38:09 NCR 579-580 as follows:

2
3 **18 NCAC 07E .1102 NOTARY PUBLIC INSTRUCTOR ~~RE-CERTIFICATION~~ RE-CERTIFICATION**
4 **REQUIREMENTS**

5 An applicant for recertification as a notary ~~public~~ instructor shall:

- 6 (1) ~~Complete~~ complete the Department's notary ~~public~~ instructor ~~application~~ recertification form
7 specified in 18 NCAC 07B .0418 and submit it to the Department; Department prior to lapse of
8 certification;
9 (2) ~~Comply with the requirements of Rule .0708 through Rule .0711 of this Chapter regarding~~
10 ~~verification of 12 months of experience performing notarial acts; successfully complete the notary~~
11 ~~instructor recertification course; and~~
12 (3) ~~Comply with the requirements of Rule .0713 of this Chapter regarding an oral presentation of a~~
13 ~~notary public course lesson;~~
14 (5) ~~Make a passing grade on the final examination in the notary public instructor certification~~
15 ~~recertification course as set forth in Rule .0714 of this Chapter;~~
16 (6)(3) ~~Except except~~ as otherwise provided in Rule .0705 of this Chapter, by G.S. 10B-14, pay the required
17 fee; and fee.
18 (7) ~~Submit an affidavit verifying that the applicant has taught the notary public instructor course at least~~
19 ~~twice a year during the two year certification period.~~

20
21 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*

22 *Eff. January 1, 2008;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
24 *6, 2016;*

25 *Transferred from 18 NCAC 07B .0719 Eff. June 1, 2023- 2023;*

26 *Amended Eff. [July 1, 2024.] March 1, 2025.*

Burgos, Alexander N

Subject: FW: [External] Quick check to be sure you have what you need from us

From: Ann Wall <awall@sosnc.gov>

Sent: Friday, February 23, 2024 10:53 AM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>

Subject: [External] Quick check to be sure you have what you need from us

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I just want to verify what you have received from us and what you are awaiting. There's so much going on that it would be easy to miss something.

Please respond if: (1) You have not received one of the items listed below, and (2) If I have omitted something we owe you.

I have sent you:

Responses to technical change requests (TCR) for 18 NCAC 07B, 07C, 07D, 07E

Letter emailed 2/22/4, 4:09 p.m., notifying you of changes per 26 NCAC 05 .0107:

- * Withdrawals of rules

- * Changes to authority in history notes (addition of 10B-60 was requested in a TCR and we identified other places it should have been)

- * Changes to effective dates of rules.

By close of business today, I owe you revised rules for 18 NCAC 07B, 07C, 07D, 07E (and we should make that deadline).

Thanks for reviewing this,

Ann

Ann B. Wall

General Counsel

Department of the Secretary of State

awall@sosnc.gov

Phone (919) 814-5310
Fax 919-814-5391

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Burgos, Alexander N

Subject: FW: *Time Sensitive* RE: [External] Response to technical correction requests for 18 NCAC 07B, 07C, and 07D for 2/28/24 RRC meeting (note 2nd email and letter coming momentarily)

Importance: High

From: Ann Wall <awall@sosnc.gov>

Sent: Thursday, February 22, 2024 4:09 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>

Subject: Re: *Time Sensitive* RE: [External] Response to technical correction requests for 18 NCAC 07B, 07C, and 07D for 2/28/24 RRC meeting (note 2nd email and letter coming momentarily)

Importance: High

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Thanks for letting us know. We'll get the change made and get it back to you. Elmo: you're on!

Ann B. Wall

General Counsel

Department of the Secretary of State

awall@sosnc.gov

Phone (919) 814-5310

Fax 919-814-5391

Burgos, Alexander N

Subject: FW: *Time Sensitive* RE: [External] Response to technical correction requests for 18 NCAC 07B, 07C, and 07D for 2/28/24 RRC meeting (note 2nd email and letter coming momentarily)

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Thursday, February 22, 2024 4:06 PM

To: Wall, Ann B <awall@sosnc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Subject: *Time Sensitive* RE: [External] Response to technical correction requests for 18 NCAC 07B, 07C, and 07D for 2/28/24 RRC meeting (note 2nd email and letter coming momentarily)

Ann,

In reviewing your responses, we discovered an error that I accidentally introduced. I wanted to bring that to your attention ASAP, so it could be correct in the final rules.

In rule 18 NCAC 07B .0501, on line 19 (and p. 4 of your letter), the charge is “driving while impaired”, see G.S. 20-138.1. I inadvertently misled you when I suggested intoxicated. Luckily our resident former prosecutor (Travis) caught this and corrected me.

To be clear, I recommend “driving while impaired” on line 19 of 18 NCAC 07B .0501.

Apologies for any confusion.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: [External] Responses to technical change requests for 18 NCAC 07E rules before RRC on 2/28/24
Attachments: 07E TCR responses final (2.21.24).docx

From: Ann Wall <awall@sosnc.gov>
Sent: Wednesday, February 21, 2024 5:33 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>
Subject: [External] Responses to technical change requests for 18 NCAC 07E rules before RRC on 2/28/24

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Hi. Seth.

We were able to add consideration of your technical change requests for 18 NCAC 07E to the end of our agenda today, so we have completed them.

Attached are those responses.

I will send you a separate letter listing additional, nonsubstantive changes, as required by 26 NCAC 05 .0107.

As soon as we have had the opportunity to proofread them and before the end of the day on Friday, we also will send all of the final text of the rules with changes made pursuant to both your technical change requests and the nonsubstantive changes.

Thanks, always for your help and patience.

Regards, Ann

Ann B. Wall
General Counsel
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awall@sosnc.gov
Phone (919) 814-5310
Fax 919-814-5391

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*State of North Carolina
Department of the Secretary of State*

ELAINE F. MARSHALL
SECRETARY OF STATE

ANN B. WALL
General Counsel

February 21, 2024

By email

Seth Ascher, Commission Counsel
Rules Review Commission
seth.ascher@oah.nc.gov

Re: Response to Requests for Technical Changes
18 NCAC 07E

Dear Seth:

The following are our responses to your request for technical changes to the 18 NCAC 07E rules that will be before the Commission on February 28, 2024.

Before close of business on Friday, February 23, 2024, we will provide the final text of all rules changed as a result of your requests for changes to 18 NCAC 07B, 07C, 07D, and 07E.

RULE CITATION: 18 NCAC 07E .0108

On line 5, is “under oath” the correct phrase here? It appears that the form described in rule 18 NCAC 07B .0414 requires it be a declaration “under penalty of perjury”.

Response: Under G.S. § 14-209 (see below), perjury is a false statement made under oath. Saying something is “under oath”, therefore, is the same as “under penalty of perjury”. To satisfy your concern, we have changed the rule to say “under penalty of perjury.

§ 14-209. Punishment for perjury.

If any person knowingly and intentionally makes a false statement under oath or affirmation in any suit, controversy, matter or cause, or in any unsworn declaration deemed sufficient pursuant to G.S. 7A-98 depending in any of the courts of the State; in any deposition or affidavit taken pursuant to law; in any oath or affirmation duly administered of or concerning any matter or thing where such person is lawfully required to be sworn or affirmed, that person is guilty of perjury, and punished as a Class F felon. (1791, c. 338, s. 1, P.R.; R.C., c. 34, s. 49; Code, s. 1092; Rev., s. 3615; C.S., s. 4364; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 1202; 1994, Ex. Sess., c. 24, s. 14(c); 2019-243, s. 3(c); 2021-47, s. 17(b).)

RULE CITATION: 18 NCAC 07E .0109

On lines 10 and 11, does a notary instructor remain certified if they no longer teach at the institution on an application?

Response: Yes. An instructor is certified for a two-year period. The certification would not be revoked because the instructor is not affiliated with an eligible institution for a period

of time. The certification might be revoked for other reasons such as those set out in 18 NCAC 07B .0600, or for being terminated for what the institution designates as “for cause”. If, however, an instructor was not teaching two courses per year at an eligible institution, as required, the instructor would not be eligible for recertification.

On line 12, can a certified instructor teach at multiple institutions at the same time?

Response: Yes. Indeed, some do teach at more than one institution within the same time period, although not at the same time.

RULE CITATION: 18 NCAC 07E .0113

This rule requires all notary instructors to be registered as electronic notaries. Is that intentional?

Response: Yes.

RULE CITATION: 18 NCAC 07E .0207

Rule .0112 requires the use of the 7B .0415 recommendation form and rule .0205 requires the use of the 07B .0416 affidavit. This rule seems to suggest that one form could be submitted to cover both rules. This appears to be a conflict between the rules. Please clarify in one or more of these rules.

Response: We have modified the rule as shown below.

18 NCAC 07E .0207 EMPLOYER AFFIDAVIT MAY INCLUDE RECOMMENDATION

An employer submitting an affidavit ~~submitted~~ pursuant to Rule .0205 of this Section may include as an attachment a recommendation from the employer made pursuant to Rule .0112 of this Subchapter.

RULE CITATION: 18 NCAC 07E .0602

Are the requirements of the department curriculum laid out in rule or statute? As written, and with the authority granted by the statutes in the history note, that may be necessary.

If not, and I correctly understand what the Department wants to do, I think you can rewrite the rule to utilize the authority in G.S. 10B-8. Consider something like, “The Department shall provide a certified notary instructor with the curriculum for an approved course of study for notaries pursuant to G.S. §10B-8. A certified notary instructor shall follow that curriculum unless the Department grants a written variance to the instructor pursuant to the Rules in Section .0800 of this Subchapter.” If you go in this direction, also include 10B-8 in your history note.

Response: We have amended the rule as per your suggestion and have added G.S. § 10B-8 to the history note.

RULE CITATION: 18 NCAC 07E .0801, .0802, .0803, .0804

I don’t see how the statutes listed in the history note provide sufficient authority for the rules in this section. However, it appears to me that this could be within the Secretary’s authority under 10B-8 (along with the corresponding changes in 7E .0602.) If you decide to go this direction, please add 10B-8 to the history note for the rules in section .0800.

2/22/2024

Page Two

Otherwise, please explain the authority of the department to control the details of the curriculum (instructional aids, etc.) without 10B-8.

Response: We are retaining G.S. § 10B-4 and adding G.S. § 10B-8 as authority for the rule.

RULE CITATION: 18 NCAC 07E .1001

On line 24, keep 10B-8 in the authority note. That is "10B-8".

Response: Change made.

Please let us know if you have any questions in relation to our response.

Regards,



Ann B. Wall
General Counsel and Rulemaking Coordinator

Burgos, Alexander N

Subject: FW: [External] Response to technical correction requests for 18 NCAC 07B, 07C, and 07D for 2/28/24 RRC meeting (note 2nd email and letter coming momentarily)
Attachments: TCR responses v.8 (2.21.24).docx

From: Ann Wall <awall@sosnc.gov>
Sent: Wednesday, February 21, 2024 1:51 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>
Subject: [External] Response to technical correction requests for 18 NCAC 07B, 07C, and 07D for 2/28/24 RRC meeting (note 2nd email and letter coming momentarily)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi, Seth. Attached please find a letter containing all of our responses regarding your technical change requests for:

18 NCAC 07B

18 NCAC 07C

18 NCAC 07D.

We are proofreading the final rules and will send them as soon as we can. Responses to your technical change requests for 18 NCAC 07E will take priority over that proofreading, but we should be able to have everything to you on Friday.

Please let me know if you have any questions regarding our responses to your technical change requests.

Thanks again for your suggestions and attention to detail.

Regards, Ann

Ann B. Wall
General Counsel
Department of the Secretary of State
awall@sosnc.gov
Phone (919) 814-5310
Fax 919-814-5391

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ELAINE F. MARSHALL
SECRETARY OF STATE

ANN B. WALL
General Counsel

February 21, 2024

By email

Seth Ascher, Commission Counsel
Rules Review Commission
seth.ascher@oah.nc.gov

Re: Response to Requests for Technical Changes
18 NCAC 07B, 07C, 07D

Dear Seth:

The following are our responses to your request for technical changes to the 18 NCAC 07B, 18 NCAC 07C, and 18 NCAC 07D rules that will be before the Commission on February 28, 2024.

Responses to 18 NCAC 07B Requests for Technical Changes

RULE CITATION: 18 NCAC 07B .0101

In reviewing this Rule, the staff recommends the following changes be made: On line 7, why are notaries “Constitutional” officers? The only reference in the NC Constitution I see is Art VI, Sec. 9, which excepts notaries from dual office holding restrictions, but does not appear to create the office. Would it be more appropriate to call them public or statutory officers?

Response: We have changed “Constitutional” officers to “public” officers as shown below:

18 NCAC 07B .0101 SCOPE

The rules in this Subchapter implement Chapter 10B of the General Statutes, ~~the Notary Public and Electronic Notary Acts. Statutes.~~ The rules ~~govern~~ govern:

- (1) ~~the~~ the qualification, commissioning, notarial acts, ~~conduct~~ conduct, and discipline of notaries **public** as ~~Constitutional~~ **public** officers of the State. ~~State;~~

RULE CITATION: 18 NCAC 07B .0102

On p. 1, lines 10-11, consider simplifying to “For the purposes of this Chapter, the terms”.

Response: We have made the suggested change as shown below:

18 NCAC 07B .0102 DEFINITIONS

- (a) The ~~[In addition to the]~~ definitions in G.S. 10B-3 ~~[10B-3, 10B-101, and 10B-134.1, and]~~ apply to this Subchapter.
(b) ~~For~~ **for** purposes of ~~Chapter 10B of the General Statutes and~~ Subchapters 07B and 07C of this Chapter:

On p. 2, lines 1 and 2, should it be “charges entered and accepted by a court”? That is, are the

charges that would be entered but not accepted, or accepted but not entered?

Response: We consulted with counsel, a former prosecutor, and have deleted “entered or accepted by a court”. The line now reads:

“Criminal convictions means the following dispositions of criminal ~~charges~~ ~~charges entered or accepted by a court:~~ charges:

On p. 2, line 5, “*pleas of* ~~[admission]~~ *guilty*”.

Response: We have changed the rule from “please of admission” to “pleas of guilty”:

(9) “Criminal convictions” means the following dispositions of criminal charges:

- (a) adjudications of ~~[guilt by a court:]~~ *guilt;*
- (b) pleas of nolo contendere;
- (c) pleas of ~~[admission:]~~ *guilty;*

On p. 2, line 37, is “professional licensee” being proposed for addition post publication? Or removal? Format accordingly.

Response: It was submitted to be formatted with “professional license” deleted. When we proofread the formatted rules before submitting them, we missed it. The formatting has been changed as shown below:

- (c) is issued by a court or government ~~[agency]~~ *agency, board, or commission* of any locality, state, federally recognized tribe, or nation with authority to discipline or sanction the ~~[professional licensee]~~ *individual* or ~~[commissioned]~~ *notary public;* and

On p.3, line 7, “*upon a* review of evidence in an investigation, *a* quasi-judicial *proceeding, or a* judicial proceeding”.

Response: The changes have been made as requested.

- (14) “Finding” means a decision, conclusion, or opinion by a court, legislative body, or governmental ~~[agency]~~ *agency, board, or commission* of any locality, state, federally recognized tribe, or nation that is based upon *a* review of evidence in an investigation, ~~[quasi-judicial,]~~ *a quasi-judicial proceeding,* or *a* judicial proceeding resulting in a determination that:

On p.4, line 4, not all acts authorized by these two statutes require a notary to participate, so you need to clarify. Consider “*an act* *required to performed by a notary public pursuant to:* ~~[authorized by]~~”.

Response: We have changed the definition to read as follows:

- (19) “Notarial act” means, in addition to those acts listed in G.S. 10B-3(11), ~~[an act]~~ *acts* authorized ~~[by:]~~ *to be performed by a notary public pursuant to:*
- (a) G.S. 163-231(a); and
 - (b) G.S. 53C-6-13(a).

RULE CITATION: 18 NCAC 07B .0106

On line 4, what does it mean for the “Department” (as opposed to an individual) to waive a rule? Are the rules or statutes providing clarity about who and how this works?

Response: The Department waives rules pursuant to G.S. § 150B-19(6). The process for the Department to waive a rule is set forth in the rules in 18 NCAC 07B .0106 - .0108. Internal departmental processes set out the specific internal steps followed by staff. Internal departmental consideration of a rule waiver pursuant to 18 NCAC 07B .0106 - .0108 might, for example, be generated by an external event affecting a number of the members of the regulated community under the APA, *e.g.*, a natural disaster, to which the factors in 18 NCAC 07B .0108(2) might apply. Notice of grant or denial of a waiver is, of course, required under Article 3 of the APA and therefore, no rule is required.

RULE CITATION: 18 NCAC 07B .0108

*On line 16, consider “**any** ~~the~~ harm”.*

Response: The requested change has been made.

RULE CITATION: 18 NCAC 07B .0407

On lines 8 and 9, item (2)(b), as written if the applicant does not use a personal cell phone number for their residence, they would not provide any phone number. Is that intentional?

Response: G.S. § 10B-7(a)(3) requires that

“(a) The application for a notary commission shall include at least all of the following:

....

(3) The mailing address for the applicant's residence, the street address for the applicant's residence, and **the telephone number for the applicant's residence.**” (emphasis added)

The purpose of the rule provision is, therefore, to clarify that if the applicant lacks a land line residence phone and instead uses a cell phone as the telephone number for the applicant’s residence, the applicant must provide that cell phone number. In light of your comments, we have changed the rule to read:

- (b) a ~~personal cell~~ residential phone number, ~~if the applicant uses that number as the applicant’s residential telephone number;~~ which may be a cell phone number;

RULE CITATION: 18 NCAC 07B .0409

*On line 8, consider adding commas “~~seal~~ **seal**, or most recently expired **seal**, ~~seal~~”*

Response: The requested changes have been made.

RULE CITATION: 18 NCAC 07B .410

On line 5, “required by 18 NCAC 07D .0301 ~~[-0301-]~~ shall include:”

Response: The requested change has been made.

RULE CITATION: 18 NCAC 07B .0411

*On line 4, “in **a** criminal”.*

Response: We have not made a change to this introductory language: “The form for notice of changes in criminal history record requires.”

An individual may actually have more than one criminal history record, *e.g.*, a criminal history record in North Carolina, a criminal history record in Puerto Rico, a federal criminal history record,

and a criminal history record in another country.

On line 12, “is ~~for~~ a felony”.

Response: We have not made a change to this Sub-Item: “(c) whether the charge is for a felony or misdemeanor”.

The charge is not itself a felony. The use of the preposition “for” is correct, as the charge is for a felony.

On line 13, consider replacing item (d) with “the name of the charge”

Response: We have made the requested change.

On line 20, “was ~~for~~ a felony”.

Response: We have not made the change. The charge is not itself a felony. The charge is for a felony.

On line 22, consider “disposition ~~document~~; document or judgment”.

Response: We have made the requested change.

RULE CITATION: 18 NCAC 07B .0418

On line 6 and 7, item (2), what happens if someone was a certified notary instructor and did not teach the course at least twice during the past two years?

Response: Teaching the course at least twice during the past two years is a prerequisite for being recertified as a notary instructor. We would reject the application for recertification. If the applicant still wants to teach, the notary would have to go through the certification process as if they had never been a certified notary instructor. No change made.

On line 11, you have “true” twice.

Response: One “true” has been deleted.

RULE CITATION: 18 NCAC 07B .0501

General Response: The Department is required to consider applicant criminal history records of convictions for crimes committed anywhere in the world. G.S. § 10B-7(a)(11). The Department’s goal here is to ensure that applicants are put on notice as to the kind of crimes for which they are required to provide information. Corollary to that goal is the desire to avoid a situation where the applicant may not report a crime simply because it did not carry that exact label in the jurisdiction in which the conviction occurred. The sheer number of crimes and variations in names of crimes from place to place precludes including specifics here.

On line 18, “domestic violence” is not necessarily a single crime in NC. Consider including specific offenses, such as violation of a domestic violence protective order, assault on a female, or stalking.

Response: Use of the general phrase, “domestic violence,” is intentional. No change made.

On line 19, “driving under the influence” is not the name of the charge in NC. Consider “driving while intoxicated”.

Response: The requested change has been made.

On line 35, “resisting arrest” is not the name of the charge in NC. Consider “resist, delay or obstruct a public officer in discharging or attempting to discharge an official duty”.

Response: Agreed and changed.

On p. 2, line 1, is “terrorist threat or act” defined somewhere? Federal law?

Response: NC defines the crime, terrorism, at G.S. § 14-10.1. Federal law defines a terroristic threat at 25 CFR § 11.402. Other states and nations may have different names for the crimes as well as different definitions of those crimes. No change made.

On p. 2, line 2, consider if “sale of ~~drug~~, a controlled substance.”.

Response: In drafting the rule, the Department considered and rejected reference to “controlled substances,” as there are other classifications, e.g., dangerous drugs. Our goal was to capture any illegal sale of drugs. For example, a sale of a counterfeit drug would not be covered by “sale of a controlled substance”, yet a sale of a specified quantity of counterfeit trademarked drugs is a felony. G.S. § 80-11.1(b). No change made.

RULE CITATION: 18 NCAC 07B .0502

On line 14, “criminal history record registry” is potentially very broad. Do you want it prepared by a particular entity? By what standard? Should it be certified?

Response: We have modified the rule by adding the following note:

“Note: A “registry or repository of record” is the official governmental state, federal, national, or tribal archive or center for collection of criminal history information.”

RULE CITATION: 18 NCAC 07B .0505

On lines 4-6, consider: “charge in a court ~~shall~~: ~~shall, for each pending criminal charge~~: (1) notify the ~~Department~~ ~~[Department:]~~ Department of each pending criminal charge.”

Response: We have not made the suggested change to the rule, which presently states:

18 NCAC 07B .0505 REQUIREMENTS FOR INDIVIDUAL WITH PENDING CRIMINAL CHARGES

An individual required to provide a criminal history record who has a pending criminal charge in a court shall, for each pending criminal charge:

- (1) notify the ~~Department~~ Department:
 - (a) at the time of application to the Department; or
 - (b) within 45 days of the charge; if a charge is brought after the application has been filed; and
- (2) provide the information specified in the form in Rule .0411 of this Subchapter.

It is imperative that the phrase “for each pending criminal charge” apply to both Item (1) and Item (2). The Department wants both certain pieces of information (Item (2)) and wants that information at certain points in time (Item (1)). By adding the phrase “for each pending charge” solely to paragraph (1), the Department believes the rule would be narrowed. No change made.

RULE CITATION: 18 NCAC 07B .0602

On lines 4 and 10, how are decisions being made by “the Department”. Similar to .0106, are the rules or statutes providing clarity about who and how this works?

Response: I am assuming that the intent is not to ask for particulars of the Department’s criteria or guidelines for reviewing applications, which we consider to be a form of “audit, investigation or inspection” exempted from the definition of “rule” by G.S. § 150B-2(8a)g.

Line 4 states: ~~(1)(a)~~ The ~~Director~~ Department shall deny an application in which an applicant willfully and knowingly contains

Line 10 states: ~~(2)(b)~~ The ~~Director~~ Department may deny an application ~~which that~~ contains misleading ~~information~~, information.

The Department is statutorily mandated to make decisions to deny or grant notary commissions, electronic notary registrations, notary instructor certifications, and technology provider approvals, registrations, and licenses. The Department conducts reviews of applications pursuant to constitutional and statutory criteria, which may be considered as audits or investigations depending on the completeness and content of the applications reviewed. The applicable statutory criteria used by the Department include, for example: G.S. §§ 10B-5(d), 10B-105, 10B-60, and 10B-134.19. *See also* 18 NCAC 07B .0601. Additional criteria are set out throughout the existing, newly adopted, and amended rules in 18 NCAC 07. Further criteria applicable to denials of technology provider applications will be provided in the Department’s Phase 3 notary rules. No change made; however, the authority G.S. 10B-60 was added to the history note.

On line 10, is “may” in place of “shall” intentional? What standard would determine if there is a denial?

Response: Yes, “may” is intentional. The standards that would determine whether a denial is necessary include the factors set forth in 18 NCAC 07B .0601, as well as statutory criteria, such as G.S. §§ 10B-5(d), 10B-105, 10B-60, and 10B-134.19. No change made.

On line 19, what limits does the Constitution of the State of North Carolina place on the authorization? Consider specifying what sections you are referring to.

Response: The NC Constitution specifically addresses dual office holding by notaries, and more generally places limits on the activities of public office holders such as notaries. Limiting the applicability of the Constitution by a rule seems outside the authority of the agency, as the Department cannot possibly have the authority to limit the power of courts to apply any applicable provision of the Constitution, nor can a rulemaking limit the applicability of future Constitutional amendments. For example, in this century, the people of North Carolina amended the Constitution to impose a disqualification from public office for felons. No change made.

RULE CITATION: 18 NCAC 07B .0603

On line 21, do you mean “shall” instead of “may”?

Response: No, we do mean “may”. Whether future disciplinary action would be a result of a future violation would depend upon the factors set forth in 18 NCAC 07B .0601 and the other rules in Section .0600 of the rules in 18 NCAC 07. No change made; however, the authority G.S. § 10B-60 was undeleted in the history note, per the suggestion made in connection with 18 NCAC 07B .0604.

For items (1)(f) and (1)(g), lines 29-32, what is the Department’s authority to order someone not to submit an application?

Response: We have statutory and constitutional authority to refuse to process applications that include a prima facie disqualifying activity or event. For example, to have held oneself out as a notary when there is no commission is such a disqualifying event. This rule puts violators on notice with a final administrative decision appealable to OAH under Article 3 of the APA that application would be futile for a defined period of time. The notice has the added advantage of saving the notice recipient money as well as time, as application fees are nonrefundable. We have changed the rule from this:

18 NCAC 07B .0603 ~~EXECUTED DOCUMENT VIOLATIONS~~ LEVELS OF ENFORCEMENT

....

Upon consideration of the evidence before it, the purposes and requirements of Chapter 10B of the General Statutes, and the ~~[Rules]~~ rules in this Chapter, the Department may:

....

- (f) issue an order restricting an unauthorized person from submitting an application or from becoming authorized for a specific period of time; or
- (g) issue an order permanently restricting an unauthorized person from submitting an application or from becoming authorized; and

to this:

- (f) issue an ~~[order]~~ administrative action ~~[restricting]~~ restricting, for a specific period of time, an unauthorized person from submitting an application or from being becoming ~~[authorized for a specific period of time;]~~ authorized; or
- (g) ~~issue an [order]~~ administrative action permanently restricting an unauthorized person from submitting an application or from becoming authorized; and
- (2) use the factors in Rule .0601 of this Section to take action to withdraw, stay, rescind, or expunge a disciplinary action.

Note: An application submitted in violation of an administrative action pursuant to paragraphs (f) and (g) of this Rule shall be denied by the Department immediately upon identification of the applicant as being subject to the administrative action during the period of time applicable to the action. The application fee shall not be refunded.

RULE CITATION: 18 NCAC 07B .0604

Note: The following two questions/comments apply to several discipline related rules (.0604, .0605, .0606, .0608). Rather than repeat them, I am only including them here. Feel free to respond specifically for each rule if necessary.

It looks like 10B-60 is the Secretary's disciplinary authority over notaries. Why did you remove it from the history note?

Response: Inadvertent omission. It has been added back to all .0600 history notes from which it is missing.

G.S. § 10B-60 appears to give the Secretary authority to discipline notaries for reasons that an application to become a notary could be denied. This rule allows for discipline for any violation of Chapter 10B or the rules in the Chapter. Are these the same? Put another way, are there violations of statute or rule which would not result in a denial of a notary's certification, and if so, why can the Secretary discipline those violations?

Response: No change made. G.S. § 10B-60 was amended by [S.L. 2023-57](#) as shown below. The amendment makes it clear that the Secretary may discipline a notary public not only for grounds on which a notary application may be denied but also for a violation of Chapter 10B of the General Statutes or for a violation of the rules in 18 NCAC 07. In addition, the Secretary has been given the authority to discipline an electronic notary public, a certified notary instructor, or a technology provider pursuant to the amended G.S. § 10B-60.
S.L. 2023-57:

SECTION 5.(e) G.S. **10B-60** reads as rewritten:

"§ 10B-60. Enforcement and penalties.

(a) The Secretary may issue a ~~warning to a notary or restrict, suspend, or revoke a notarial commission~~ warning, restriction, suspension, or revocation for a violation of this Chapter, rules adopted pursuant to this Chapter, and on any ground for which an ~~application for a commission~~ application, registration, certification, approval, or license may be denied under this Chapter. Any period of restriction, suspension, or revocation shall not extend the expiration date of a ~~commission~~ commission, registration, certification, approval, or license issued pursuant to this Chapter.

...

RULE CITATION: 18 NCAC 07B .0607

On line 12, where does the Department get authority to restrict applying for authorization?

Response: We have statutory and constitutional authority to refuse to process applications that include a prima facie disqualifying activity or event. For example, to have held oneself out as a notary when there is no commission is such a disqualifying event. This rule puts people on notice, so they do not apply and then lose the nonrefundable application fee. And of course, the final decision is appealable to OAH under Article 3 of the APA because restriction is a final administrative action by the Department.

The Department has made a small change to the rule to clarify that the restriction is an administrative action subject to appeal pursuant to Article 3 of the APA, as well as adding the disciplinary authority of G.S. § 10B-60 to the history note, as you suggested above in 07B .0604:

18 NCAC 07B .0607 APPEAL PROCEDURES RESTRICTION

....
Upon a finding that the person has acted without being authorized by the Department, the Department may issue an administrative action to restrict that person from applying for authorization or from becoming authorized to:

- (1) perform a notarial act;
- (2) teach a notarial course;
- (3) offer an electronic notarization system to an electronic notary public; or
- (4) act as a depository.

History Note: Authority G.S. ~~10B-2~~; 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;

What is line 16, “act as a depository”, referring to?

Response: “Depository” and “depository services” are defined in G.S. § 10B-134.1, as amended by S.L. 2023-57:

- (3c) Depository. – The person or platform providing the depository services.
(3d) Depository services. – Storage services provided by the platform of the electronic journal entries and communications technology recordings as they are entered.

Depository rules will be included in our Phase 3 rules. No change made.

RULE CITATION: 18 NCAC 07B .0706

On line 4, what does it mean to resign “in lieu of disciplinary action”? For example, would a public official who reasoned after a news story accusing them of wrongdoing was published, but before any investigation, have resigned “in lieu of disciplinary action”?

Consider if it would work to delete “in lieu of disciplinary action” and require this information from anyone who resigned from public office.

Response: G.S. § 10B-7(a)(10) requires that applications include a list of all resignations from notary commissions, professional licenses and public offices. Our intent was to narrow the scope of the reportable resignations to reduce the regulatory burden on applicants as well as our staff who will have to review the applications. Despite extensive discussion, “in lieu of disciplinary action” was as clear a narrowing of reportable resignations as we could identify. Nonetheless, in response to your inquiry, we have removed the phrase “in lieu of disciplinary action”.

Responses to 18 NCAC 07C Requests for Technical Changes

RULE CITATION: 18 NCAC 07C .0201

On line 8, is there more detail about the “North Carolina notary public manual” given somewhere? It looks like there is a manual published by the School of Government, is that what you are referring to?

Response:

We have not written the new manual because the rulemaking has not been completed. The new manual will need to incorporate not only the RRC-approved notary rules but also the significant changes to the Notary Act included in the Remote Electronic Notarization Act, S.L. 2022-52, and

subsequent amendments (S.L. 2023-57 and S.L. 2023-124). We cannot include a price in the rule for a manual not yet written or published. Moreover, as we are not requiring direct purchase of the manual from the Department, we will not control the pricing of the manual. For example, with regard to the current manual, some community colleges apparently include the manual in the registration fee for the notary course, while others require purchase from their bookstores.

In response to your recommendation: We propose adding the following “note” to the rule following Item (3): “Note: The official North Carolina notary public manual is written by the Department. The Department’s website includes information regarding where to purchase the manual.”

RULE CITATION: 18 NCAC 07C .0203

Regarding lines 7 and 15, these seem to assume that the out of state notary is not self-employed. Is there a reason a self-employed out of state notary couldn’t apply? If not, what would they do under this rule?

Response: One of the required qualifications to become a commissioned North Carolina notary public is to “[r]eside or have a regular place of work or business in this State.” G.S. § 10B-5(b)(2). A self-employed individual cannot, therefore, become a commissioned North Carolina notary public unless the individual demonstrates that the individual has a regular place of work or business in North Carolina, defined as “[a] location, office or other workspace, where an individual regularly spends all or part of the individual’s work time.” G.S. § 10B-3(20). An individual applicant who is self-employed will have to provide an employer affidavit, just as is required of other employers by this rule. No change made.

RULE CITATION: 18 NCAC 07C .0207

On line 6, are there further definitions or standards for “based on the applicant’s deceit”? I think I understand what you mean, but it seems like this could be a point of confusion.

Response: No change made. G.S. § 10B-5(d)(3) specifies that the Secretary may deny a commission or recommission based on “[a] finding or admission of liability against the applicant in a civil lawsuit based on the applicant’s deceit.” The factors (standards) that the Department uses in determining whether to deny an application or discipline a notary are set forth in 18 NCAC 07B .0600. The Department relies on the Merriam-Webster dictionary for the definition of deceit. Therefore, no change has been made to the rule. The Merriam-Webster definition is:

deceit noun

de·ceit (dī-'sēt)

Synonyms of *deceit* >

- 1 : the act of causing someone to accept as true or valid what is false or invalid : the act or practice of **deceiving** : **DECEPTION**
| achieving one's goals through a web of *deceit*
- 2 : an attempt or device to deceive : **TRICK**
| Her excuse turned out to be a *deceit*.
- 3 : the quality of being dishonest or misleading : the quality of being deceitful : **DECEITFULNESS**
| ... far from *deceit* or guile.
| — John Milton

RULE CITATION: 18 NCAC 07C .0302

It seems like this rule is duplicative of 18 NCAC 07C .0607. Why are both necessary?

Response: The Department has considered your comments. As a result, we withdraw 18 NCAC 07C .0302.

RULE CITATION: 18 NCAC 07C .0305

What happens if you cannot retest under this rule?

Response: The Department has no authority to require that community colleges or any other eligible institution allow retesting. If a student takes a notary course at an eligible institution, fails the exam, and retesting is not allowed, the student will have to retake the course and pass the exam after completing the course. change made.

RULE CITATION: 18 NCAC 07C .0401

On line 5, what does it mean for “The Department” to appoint or reappoint? Are there rules or statutes that establish those processes?

Response: The Department appoints and reappoints notaries public pursuant to the provisions in G.S. § 10B, Article 1, Part 2, Commissioning, as well as the rules in 18 NCAC 07B and 07C. “Appoint” and related terms are defined in 18 NCAC 07B .0102. No change made.

RULE CITATION: 18 NCAC 07C .0407

On line 4, consider “individual [~~is in possession of~~] has a valid”.

Response: The Department has revised the rule as recommended.

RULE CITATION: 18 NCAC 07C .0409

This rule strikes me as awkwardly phrased. Consider rewriting to make the term itself the subject of the rule. I.e., “The term of a notary public’s commission shall be calculated. . .”

Response: The Department has revised the rule as recommended.

RULE CITATION: 18 NCAC 07C .0505

On line 18, you have “[Rules] rules”. I think you mean for the Rules in brackets to be struck through.

Response: The Department has revised the rule as recommended.

RULE CITATION: 18 NCAC 07C .0507

On line 6, G.S. 10B-8(a) is explicitly a requirement for initial commissions, so clarify how it is meant to apply. Consider “comply with the requirements of ~~G.S. 10B-8(a)~~; G.S. 10B-8(a) as though the applicant were applying for an initial notary commission.”

It seems like this rule is duplicative of 18 NCAC 07C .0607. Why are both necessary?

Response: The Department has considered your comments. As a result, the Department withdraws 18 NCAC 07C .0507.

RULE CITATION: 18 NCAC 07C .0603

On line 7, many of the Rules in Section .0300 are specific to initial applicants, so clarify how you mean for the applicant to comply. Consider “in Section .0300 of this Subchapter as though the applicant were applying an initial notary commission in lieu”.

Response: The Department has revised the rule as recommended.

RULE CITATION: 18 NCAC 07C .0607

It seems like this rule is duplicative of 18 NCAC 07C .0302 and .0507. Why are both necessary?

Response: The Department is withdrawing 18 NCAC 07C .0302 and .0507. Any duplication that may have existed has been eliminated. No change made.

Responses to 18 NCAC 07D Requests for Technical Changes

RULE CITATION: 18 NCAC 07D .0102

On line 6, how is the manner and time period determined?

What are the limitations on the manner and time period that the Department can set?

For example, it appears that 10B-126(f) and 10B-134.17(c) contemplate circumstances where the notary would have at least 10 days or at least 30 days to respond.

Response: G.S. §§ 10B-126(f) and 10B-134.17(c) were amended by S.L. 2023-57 (S 552) as follows:¹

SECTION 8.(a) G.S. 10B-126 reads as rewritten:

"§ 10B-126. Security measures.

....

(f) The failure of an electronic notary to produce within ~~10 days of the time period set out in~~ the Department's request any record required by a rule adopted under this section shall result in the suspension of the electronic notary's power to act as a notary under the provision of this Chapter until the Secretary reinstates the notary's commission.

SECTION 9.(i) G.S. 10B-134.17 reads as rewritten:

"§ 10B-134.17. Security measures by notary; surrender of journal; etc.

....

(c) The failure of a ~~remote~~an electronic notary to produce within ~~30 calendar days of the time period set out in the~~ Secretary's request any record required by a rule adopted under this Part shall result in the suspension of the ~~remote~~ electronic notary's power to act as a notary under the provisions of this Chapter until the Secretary reinstates the notary's commission."

The limitations on the Department with regard to setting the time period for a response are set out in 18 NCAC 07D .0103 and .0104, as well as 18 NCAC 07B .0108. No change made.

¹ Highlighting is a result of the search feature highlighting the terms for which I searched. It is not related to highlighting pursuant to OAH formatting rules.

RULE CITATION: 18 NCAC 07D .0304

On line 6, are there further definitions or standards for “based on the applicant’s or notary’s deceit”? I think I understand what you mean, but it seems like this could be a point of confusion.

Response: No change made. Our response is the same as that provided to a similar question in relation to 18 NCAC 07C .0207: G.S. § 10B-5(d)(3) specifies that the Secretary may deny a commission or recommission based on “[a] finding or admission of liability against the applicant in a civil lawsuit based on the applicant’s deceit.” The factors (standards) that the Department uses in determining whether to deny an application or discipline a notary are set forth in 18 NCAC 07B .0600. The Department relies on the [Merriam-Webster](#) dictionary for the definition of deceit. Therefore, no change has been made to the rule. The Merriam-Webster definition is:

deceit noun

de·ceit (dī-ˈsēt)

[Synonyms of deceit](#)

- 1 : the act of causing someone to accept as true or valid what is false or invalid : the act or practice of [deceiving](#) : [DECEPTION](#)
| achieving one's goals through a web of *deceit*
- 2 : an attempt or device to deceive : [TRICK](#)
| Her excuse turned out to be a *deceit*.
- 3 : the quality of being dishonest or misleading : the quality of being deceitful : [DECEITFULNESS](#)
| ... far from *deceit* or guile.
— John Milton

Thank you for your detailed attention to our rules. Please let us know if you have further questions. We will provide the final formatted rules as soon as possible.

Regards,



Ann B. Wall
General Counsel and Rulemaking Coordinator

Burgos, Alexander N

From: Ascher, Seth M
Sent: Wednesday, February 21, 2024 1:09 PM
To: Wall, Ann B; Elmore, Ann M
Cc: Wiggs, Travis C; Burgos, Alexander N
Subject: 18 NCAC 07E RFC
Attachments: 18 NCAC 07E February RFC.docx

Ann,

I have reviewed the 07E Rules submitted by the Secretary of State for the February 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, February 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 close to the meeting. If there are any other representatives from your agency who want to attend virtually, 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 for subchapter 07E. Note that I did not create an entry for any rules where I did not have a question or request. Please submit the responses and any revised Rules and forms to me via email, no later than 5 p.m. on February 23, 2024.

Also, note that I identified a substantive issue in 07E .602 and section .800. Given our previous discussions, I believe I have identified a potential solution and included it in the request for changes, but I am happy to discuss the issue further or consider any other alternatives.

Sincerely,

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: [External] Re: 18 NCAC 07D RFC

From: Ann Wall <awall@sosnc.gov>
Sent: Friday, February 16, 2024 5:17 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>
Subject: [External] Re: 18 NCAC 07D RFC

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Thanks, Seth.

Ann B. Wall
General Counsel
Department of the Secretary of State
awall@sosnc.gov
Phone (919) 814-5310
Fax 919-814-5391

Please be aware that communications with the Secretary of State's office may be public records.

Ann,

I have reviewed the 07D Rules submitted by the Secretary of State for the February 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, February 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 close to the meeting. If there are any other representatives from your agency who want to attend virtually, 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 for subchapter 07D. Note that I did not create an entry for any rules where I did not have a question or request. Please submit the responses and any revised Rules and forms to me via email, no later than 5 p.m. on February 23, 2024.

Sincerely,

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

From: Ann Wall <awall@sosnc.gov>
Sent: Wednesday, February 14, 2024 2:21 PM
To: Ascher, Seth M
Cc: Burgos, Alexander N; Wiggs, Travis C; Elmore, Ann M
Subject: [External] Re: 18 NCAC 07C RFC

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Sorry that you must be overwhelmed and therefore, in a hurry. You have us listed as Bd of Education in first line. It's nice to know, sometimes, that others make that kind of 'in a hurry' error.

Ann

Ann B. Wall
General Counsel
Department of the Secretary of State
awall@sosnc.gov
Phone (919) 814-5310
Fax 919-814-5391

Please be aware that communications with the Secretary of State's office may be public records.

Ann,

I have reviewed the 07C Rules submitted by the State Board of Education for the February 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, February 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 close to the meeting. If there are any other representatives from your agency who want to attend virtually, 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 for subchapter 07C. Note that I did not create an entry for any rules where I did not have a question or request. Please submit the responses and any revised Rules and forms to me via email, no later than 5 p.m. on February 23, 2024.

Sincerely,

Seth Ascher
Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: [External] RE: 18 NCAC 07B RFC

From: Ann Wall <awall@sosnc.gov>

Sent: Tuesday, February 13, 2024 4:18 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Elmore, Ann M <aelmore@sosnc.gov>

Subject: [External] RE: 18 NCAC 07B RFC

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Thanks for that. Made me laugh.

Ann B. Wall

General Counsel

Department of the Secretary of State

awall@sosnc.gov

Phone (919) 814-5310

Fax 919-814-5391

Please be aware that communications with the Secretary of State's office may be public records.

I noticed that I mistakenly put the deadline for the response to this request as February 22, 2022, when it should have been February 22, 2024. If you did not already assume so, please be assured that I meant for you to respond this year, and not two years ago.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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Burgos, Alexander N

From: Ann Wall <awall@sosnc.gov>
Sent: Thursday, February 8, 2024 5:41 PM
To: Ascher, Seth M
Cc: Burgos, Alexander N; Wiggs, Travis C; Elmore, Ann M
Subject: [External] RE: 18 NCAC 07B RFC

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Thanks, Seth.

Ann B. Wall
General Counsel
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awall@sosnc.gov
Phone (919) 814-5310
Fax 919-814-5391

Please be aware that communications with the Secretary of State's office may be public records.

This time with attachment.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: Ascher, Seth M
Sent: Thursday, February 8, 2024 11:17 AM
To: Ann Wall <awall@sosnc.gov>
Cc: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Elmore, Ann M; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 18 NCAC 07B RFC

Ann,

I have reviewed the 07B Rules submitted by the State Board of Education for the February 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, February 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 close to the meeting. If there are any other representatives from your agency who want to attend virtually, 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. Note that I did not create an entry for any rules where I did not have a question or request. Please submit the responses and any revised Rules and forms to me via email, no later than 5 p.m. on February 22, 2024.

Attached is the RFC for the 07B sub-chapter on the RRC's February 28, 2024, agenda. Please send any responses and updates by February 22, 2024.

FYI, I am hoping to get through 07C in the first half of next week.

Sincerely,

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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