

CHAPTER 10 - BOARD OF CHIROPRACTIC EXAMINERS

SECTION .0100 - ORGANIZATION OF BOARD

21 NCAC 10 .0101 IDENTIFICATION
21 NCAC 10 .0102 GENERAL PURPOSE OF BOARD

History Note: Authority G.S. 90-139 et seq.; 90-141 to 90-146; 90-142 et seq.; 90-148; 90-149; 90-151; 90-153 to 90-157;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Repealed Eff. December 1, 1988.

21 NCAC 10 .0103 STRUCTURE OF BOARD

- (a) As necessary to meet the requirements of G.S. 90-140, the Board shall hold an election for chiropractic candidates for appointment. Notice of the election shall be published on the Board's website at <https://ncchiroboard.com> at least 30 days in advance of the election.
- (b) The election shall be administered by the Board of Chiropractic Examiners. Any member of the Board who is nominated to succeed himself or herself shall be disqualified from conducting the vote in which he or she is a nominee.
- (c) Each candidate shall provide two letters of endorsement from chiropractors licensed by the Board. The letters shall be submitted to the Board no less than 21 days before the election.
- (d) If less than three candidates are elected, the Board shall provide additional names to the Governor, President Pro Tempore of the Senate, and Speaker of the House in order to comply with G.S. 90-140.

History Note: Authority G.S. 90-139; 90-140; 90-142;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. January 1, 1983; May 8, 1979;
Legislative Objection Lodged Eff. January 31, 1983;
Curative Amended Eff. February 18, 1983;
Amended Eff. June 1, 1994; December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. July 1, 2021; January 1, 2020.

21 NCAC 10 .0104 SEAL OF THE BOARD OF CHIROPRACTIC EXAMINERS

- (a) The official seal of the Board consists of two concentric circles, with the word "Seal" inside the inner circle surrounded by the phrase "North Carolina Board of Chiropractic Examiners, Organized May 5, 1917" in the area between the circles.
- (b) The Seal of the State of North Carolina, without alteration, has also been adopted for use by the Board where appropriate.

History Note: Authority G.S. 90-142; 90-156;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 10 .0105 ESCROW ACCOUNT

- (a) The Board shall maintain an escrow account at a federally insured bank for the temporary deposit of any fees received by the Board during a period in which the Board's authority to expend funds is suspended by operation of law.
- (b) At such time as the authority of the Board to expend funds is restored, the fees deposited in the escrow account shall be transferred to the Board's general account.

History Note: Authority G.S. 90-142; 93B-2;
Eff. July 1, 2011;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

SECTION .0200 - PRACTICE OF CHIROPRACTIC

21 NCAC 10 .0201 REQUIREMENTS FOR LICENSURE

History Note: Authority G.S. 90-142; 90-143; 90-143.1; 150B-9(d); Eff. February 1, 1976; Readopted Eff. January 27, 1978; Amended Eff. January 1, 1983; Legislative Objection Lodged Eff. January 31, 1983; Curative Amended Eff. February 28, 1983; Amended Eff. April 1, 1989; July 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Repealed Eff. January 1, 2022.

21 NCAC 10 .0202 APPLICATION FOR LICENSURE

- (a) General. Application for licensure shall be made in writing upon forms provide by the Board. Application forms and instructions may be found on the Board's website, www.ncchiroboard.com.
- (b) Description of Forms. The written application shall consist of two forms, the Application Form and the Character Reference Form. The following information shall be required to complete each form:
- (1) The application form shall include the personal background of the applicant; educational history; a recent photograph; and a statement confirming that the applicant has read, understands, and will abide by the General Statutes and administrative rules governing chiropractic.
 - (2) The character reference form shall include the statements of three persons not related to the applicant attesting to the applicant's good moral character.
- (c) Deadlines for Filing Applications. Applications for the North Carolina examination shall be received at the Board office no later than 15 days before the next examination date as provided in Rule .0203(b) of this Section.
- (d) Application Fee. A non-refundable application fee of three hundred dollars (\$300.00) shall accompany each application. This fee may be paid by credit card through the Board's website, www.ncchiroboard.com, or by check made payable to the North Carolina Board of Chiropractic Examiners. Cash shall not be accepted.

History Note: Authority G.S. 90-142; 90-143; 90-143.1; 90-145; 90-146; 90-149; Eff. February 1, 1976; Readopted Eff. January 27, 1978; Amended Eff. October 17, 1980; Legislative Objection Lodged Eff. December 17, 1982; Curative Amendment Eff. December 30, 1982; Amended Eff. January 1, 1983; Legislative Objection Lodged Eff. January 31, 1983; Curative Amendment Eff. February 28, 1983; Amended Eff. January 1, 1989; Temporary Amendment Eff. January 1, 2003; Temporary Amendment Expired October 31, 2003; Amended Eff. April 1, 2018; August 1, 2004; February 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 10 .0203 NORTH CAROLINA EXAMINATION

- (a) Eligibility. Only those applicants who meet the requirements of this Rule and G.S. 90-143 or, in the case of reciprocity applicants, G.S. 90-143.1, and who have submitted a written application and paid the non-refundable application fee pursuant to Rule 21 NCAC 10 .0202 shall be allowed to take the North Carolina examination.
- (b) Dates of Examination. The North Carolina examination shall be given at least four times during the calendar year and will be scheduled based on the number of applications received. The Board shall announce an examination date not less than 30 days in advance, and the date of upcoming examinations shall be published on the Board's website, www.ncchiroboard.com.

The Board shall also individually notify each eligible applicant of the date of the next examination after the applicant's non-refundable application fee has been paid and the written application completed.

(c) National Boards. Except as provided in Paragraph (e) of this Rule, in order to take the North Carolina examination, an applicant who has never been licensed in this State or who is not a reciprocity applicant shall first achieve a score of 375 or higher on Parts I-IV of the examinations given by the National Board of Chiropractic Examiners.

(d) Report of Scores. The applicant shall arrange for his or her test results from any National Board examination to be reported to the North Carolina Board. Failure to comply with this Paragraph shall be a basis for delaying the issuance of a license.

(e) Waiver of National Boards. Notwithstanding the requirements of Paragraph (c) of this Rule, an applicant who submits National Board examinations in conformity with the following schedule shall not be disqualified from licensure in North Carolina:

- (1) An applicant who graduated from chiropractic college before July 1, 1966 shall not be required to submit a score from any National Board examination.
- (2) An applicant who graduated from chiropractic college between July 1, 1966 and June 30, 1986 shall be required to submit scores of 375 or higher on National Board Part I, Part II, and the elective examination termed "Physiotherapy," but shall not be required to submit a score on Part III (WCCE) or Part IV.
- (3) An applicant who graduated from chiropractic college between July 1, 1986 and June 30, 1997 shall be required to submit scores of 375 or higher on National Board Part I, Part II, the elective examination termed "Physiotherapy," and Part III, but shall not be required to submit a score on Part IV.

In order to receive a license, an applicant who qualifies for a waiver of any National Board score shall take and pass the SPEC examination and the North Carolina Examination pursuant to G.S. 90-143.3 and Rule .0202 of this Chapter.

(f) SPEC Examination. In order to take the North Carolina examination, a reciprocity applicant, a waiver applicant pursuant to Paragraph (e) of this Rule, or an applicant previously licensed in this State whose license has been cancelled pursuant to G.S. 90-155 for more than 180 days shall first take and pass the Special Purpose Examination for Chiropractic ("SPEC"). The SPEC exam is administered by the National Board of Chiropractic Examiners. The passing score shall be 375 or higher.

(g) Nature of Examination. The North Carolina examination shall be a test of an applicant's knowledge of North Carolina chiropractic jurisprudence. The passing grade shall be 75 percent.

History Note: Authority G.S. 90-142; 90-143; 90-143.1; 90-143.3; 90-144; 90-145; 90-146; Eff/ February 1, 1976; Readopted Eff. January 27, 1978; Amended Eff. January 1, 1983; October 17, 1980; Legislative Objection Lodged Eff. January 31, 1983; Curative Amendment Eff. February 18, 1983; Temporary Amendment Eff. May 1, 1998; Amended Eff. October 1, 2018; April 1, 2018; February 1, 2009; July 1, 2004; August 1, 2000; August 1, 1995; December 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. July 1, 2021.

21 NCAC 10 .0204 LICENSURE; RENEWAL OF LICENSE

(a) Initial Licensure. The initial license awarded to an applicant who passed the examination shall be mailed to the address appearing on the application form.

(b) Change of Contact Information. The licentiate shall inform the Board of any change in his or her contact information. Updated contact information shall be forwarded to the Board office email at nboce@ncchiroboard.com within 30 days after any such change.

(c) General. The renewal, inactivation, and restoration of a license are governed by G.S. 90-155 and this Rule. A current license that is not renewed shall be placed on inactive status on January 30th of the following year. A licentiate desiring license renewal shall submit to the Board, on or before the date of inactivation, a completed license renewal form accompanied by the renewal fee as provided in Paragraph (i) of this Rule. The renewal fee shall not be paid in cash and may be paid by credit card through the Board's website, www.ncchiroboard.com, or by a check made payable to the North Carolina Board of Chiropractic Examiners.

(d) License Renewal Notification and Form. On or before December 1 of each year, the Board shall email to each licentiate, at the licentiate's current email address on file with the Board, license renewal instructions. The license renewal form with instructions shall also be available at the Board's website, www.ncchiroboard.com, or upon request at the Board's office. A

licentiate desiring license renewal shall note on the form changes in name, address, specialty, employment circumstances, and criminal convictions since the last renewal form was submitted to the Board. The licentiate shall also note on the form any professional development continuing education for which the licentiate seeks credit pursuant to Rule .0210(d) of this Chapter.

(e) Continuing Education. As used in G.S. 90-155, one "day" of continuing education shall mean nine hours. Except as provided in Paragraphs (f), (g) and (h) of this Rule, a licentiate seeking license renewal shall obtain 18 hours (2 days) of Board-approved continuing education each calendar year. At least 10 hours shall be obtained by attending in-person educational sessions. As many as eight hours may be obtained in the manner set forth in Rule .0210 of this Chapter. The Board shall not award credit for any continuing education hours until the sponsor or licentiate submits to the Board the sponsor's certificate of attendance or course completion.

(f) First-Year Continuing Education Exemptions. A licentiate who was enrolled in chiropractic college at any time during the year of initial licensure or a licentiate initially licensed after September 1st of the current year shall be permitted to renew his or her license for the ensuing year without obtaining continuing education but shall be required to submit a license renewal form and pay the renewal fee. In subsequent years, a licentiate shall not be permitted to renew his or her license until the continuing education requirements set forth in Paragraph (e) of this Rule are satisfied.

(g) Hardship Waivers. A licentiate seeking a hardship waiver of the continuing education requirement shall make written application to the Board no later than December 15th of the current year explaining the nature and circumstances of the hardship. Upon the applicant's showing that compliance with the continuing education requirement poses an undue hardship, the Board may waive the requirement in whole or part or grant an extension of time within which to comply. "Undue hardship" shall include protracted medical illness, natural disaster, or extended absence from the United States.

(h) Military Hardship. A licentiate who is serving in the Armed Forces of the United States and to whom G.S. 93B-15(a) grants an extension of time to pay a renewal fee shall also be granted an identical extension of time to complete the continuing education required for license renewal.

(i) Renewal Fee. A renewal fee in the maximum amount allowed by G.S. 90-155 shall be paid by each licentiate applying for renewal.

(j) Restoration of Inactive License. Evidence of Proficiency. In order to provide evidence of proficiency, a former licentiate whose license has been inactive for 180 or fewer days due to non-compliance with G.S. 90-155 shall be re-examined and shall pay the non-refundable application fee prescribed in Rule .0202(d) of this Chapter and shall demonstrate compliance with continuing education requirements. A former licentiate whose license has been inactive for more than 180 days shall comply with Rule .0203(f) of this Chapter in addition to this Paragraph. Payment of the application fee shall not constitute payment of the reinstatement fee of twenty-five dollars (\$25.00) mandated by G.S. 90-155.

History Note: Authority G.S. 90-142; 90-145; 90-155; 90-148; 93B-15;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. January 1, 1983;
Legislative Objection Lodged Eff. January 31, 1983;
Curative Amended Eff. February 28, 1983;
Amended Eff. July 1, 2014; December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. January 1, 2022; January 1, 2020.

21 NCAC 10 .0205 RENEWAL OF LICENSE

History Note: Authority G.S. 90-142; 90-155; 93B-15;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. January 1, 1983; October 17, 1980;
Legislative Objection Lodged Eff. January 31, 1983;
Curative Amended Eff. February 18, 1983;
Amended Eff. April 1, 2018; June 1, 2015; July 1, 2011; January 4, 1993; December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Repealed Eff. January 1, 2022.

21 NCAC 10 .0206 CERTIFICATION OF RADIOLOGIC TECHNOLOGISTS

History Note: Authority G.S. 90-143.2; 90-154.3;

Eff. February 1, 1993;
Temporary Amendment Eff. January 1, 2003;
Temporary Amendment Expired October 31, 2003;
Amended Eff. April 1, 2018; July 1, 2010; January 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. January 1, 2020;
Repealed Eff. January 1, 2022.

21 NCAC 10 .0207 CONTINUING EDUCATION SEMINARS

(a) Approval of Seminars. Only continuing education seminars approved by the Board shall count towards satisfying the requirements for license renewal. The sponsor and co-sponsors of any proposed seminar shall be responsible for submitting all the information outlined on the Board's Course Application ("Application") to enable the Board to evaluate the seminar in accordance with this Rule. The Application can be found on and must be submitted pursuant to instructions on the Board's website at <https://ncchiroboard.com>. All applications must reflect that the seminar for which approval is being sought has been previously approved no more than 12 months prior to the date of the seminar by one of the following organizations:

- (1) Any chiropractic college recognized by the Council on Chiropractic Education (CCE);
- (2) Federation of Chiropractic Licensing Boards, PACE program; or
- (3) Any other chiropractic association that can demonstrate an active membership base of at least 200 members.

(b) Applications. In addition to the information set forth in Paragraph (a) of this Rule, all Applications must also contain the following information:

- (1) Whether the course's target audience is doctors of chiropractic, certified chiropractic assistants, or x-ray technicians;
- (2) The course title;
- (3) The beginning and end dates on which the course will be offered;
- (4) Whether the course will be offered online or in a physical location;
- (5) If the course is offered in a physical location, the cities and states in which the course will be offered;
- (6) The manner in which the sponsor or co-sponsor will verify the attendance of licentiates;
- (7) The name and contact information of the sponsor and co-sponsor;
- (8) The website at which information on the course offering will be available;
- (9) The number of continuing education credits that the licentiates can obtain by attending the course; and
- (10) Whether the course will provide doctors of chiropractic, certified chiropractic assistants, or x-ray technicians with continuing education credit toward eligibility for licensure renewal, certification, or recertification.

The Application shall be submitted at least 30 days prior to the date of the proposed seminar. Incomplete applications will not be processed.

(c) Duration of Approval. A seminar approval issued by the Board shall expire at the end of the calendar year for which approved. If the sponsor or co-sponsors of an approved seminar wish to repeat the seminar on a date beyond the approval period, a new application shall be submitted to the Board.

(d) Criteria for Approval. The Board's criteria for approving continuing education seminars is as follows:

- (1) No practice-building or motivational seminars shall be approved;
- (2) No seminar shall be approved that requires attendees, in order to be able to utilize the information presented at the seminar, to purchase equipment or clinical supplies available only through the seminar's instructors, sponsors or co-sponsors;
- (3) Each seminar subject shall fall within the extent and limitation of chiropractic licensure in this State; and
- (4) Each instructor shall submit a curriculum vitae or the equivalent demonstrating that he or she has an educational background in, or professional experience with, the subject or subjects he or she is scheduled to teach.

(e) Duties of Seminar Sponsor. Sponsors and co-sponsors of any approved continuing education seminar shall:

- (1) Disclose on all brochures and advertising materials the name and address of each sponsor and co-sponsor and whether each sponsor and co-sponsor is a for-profit or not-for-profit entity;
- (2) Be liable for all expenses incurred in holding the seminar;
- (3) Give notice to the Board of any material changes in the seminar, including date, location, subject matter or instructors; and
- (4) Provide an agent at the seminar site who shall:

- (A) Monitor and report the attendance of each person attending the seminar, in accordance with the method identified in the Course Application submitted for the course;
- (B) Supervise the agenda and prohibit the presentation of any subject matter not approved by the Board; and
- (C) Complete and submit to the Board a post-seminar review summarizing any problems experienced and any variance between the application for approval and the seminar as presented.

(f) Sanction for Non-Compliance. By applying for seminar approval, each sponsor and co-sponsor agrees to admit to the seminar at no charge a representative of the Board for the purpose of observing compliance with this Rule. If the Board determines that a sponsor or co-sponsor has falsified the application for approval, has failed to keep attendance, has allowed the seminar as presented to vary from the agenda as set forth in the application, or has failed to adhere to any other provision of this Rule, the Board shall refuse to approve future seminar applications from the offending sponsor or co-sponsor or from any principal who is a partner or shareholder in the offending sponsor or co-sponsor.

History Note: Authority G.S. 90-142; 90-155; 90-143.2; 90-143.4; Eff. January 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. July 1, 2021; January 1, 2020.

21 NCAC 10 .0208 ACUPUNCTURE

Until July 1, 2008, in order to perform acupuncture, a licentiate or applicant for licensure must first certify to the Board that he has completed a minimum of 100 hours' coursework in acupuncture-meridian therapy, including sterile needle technique, theory of acupuncture and differential diagnosis of clinical indications. This coursework must be offered as either part of the curriculum leading to the Doctor of Chiropractic degree or at the post-doctoral level, and by a college accredited pursuant to G.S. 90-143(b). Beginning July 1, 2008, in order to perform acupuncture, a licentiate or applicant for licensure must first certify to the Board that he has completed a minimum of 200 hours of the above-described coursework; provided, that this requirement of 200 hours' coursework shall apply only to a licentiate or applicant for licensure whose initial certification date falls on or after July 1, 2008. Any licentiate certified prior to July 1, 2008 may continue to perform acupuncture without obtaining additional education.

History Note: Authority G.S. 90-142; 90-143; 90-151; Eff. February 1, 2004; Amended Eff. July 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 10 .0209 NUTRITIONAL SUPPLEMENTS

For the purpose of enforcing G.S. 90-151.1, the term Anutritional supplements@ includes vitamins, minerals, enzymes, dietary supplements, herbs, homeopathic and naturopathic preparations, glandular extracts, food concentrates and other natural agents. The term Anutritional supplements@ does not include controlled substances.

History Note: Authority G.S. 90-142; 90-151; 90-151.1; 90-154; Eff. May 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 10 .0210 INDIVIDUAL-STUDY CONTINUING EDUCATION

(a) Hours permitted. A doctor of chiropractic may obtain as many as eight credit hours of continuing education each year by successfully completing one or more individual-study courses approved by the Board.

(b) Course approval. The criteria for Board approval of any individual-study course are as follows:

- (1) no practice-building or motivational courses shall be approved;
- (2) no course shall be approved that requires participants, in order to utilize the information presented, to purchase equipment or clinical supplies available only through the course's instructors, sponsors, or co-sponsors;
- (3) each subject taught shall fall within the extent and limitation of chiropractic licensure in this State as provided in G.S. 90-151;
- (4) the subject matter shall be presented in a manner comparable to instruction at chiropractic colleges accredited by the Council on Chiropractic Education;

- (5) the sponsor shall have a method for recording and verifying a doctor's participation expressed in credit hours and fractions thereof, and the sponsor shall assume responsibility for submitting a certificate of participation to the Board within 60 days after a doctor completes the course;
 - (6) the course shall include one or more examinations or other means of verifying that a participating doctor has mastered the material presented in the course.
- (c) Sponsor's obligation. The sponsor shall provide such information as the Board deems necessary to evaluate the course according to the criteria set forth in Paragraph (b) of this Rule, including the syllabus, a curriculum vitae for each instructor, the method for verifying attendance, and the length of the course. Failure to provide information required by the Board shall be a basis for denying the course. The application process for obtaining course approval is set forth in Rule .0207 of this Section.
- (d) Professional development continuing education. A doctor of chiropractic may obtain continuing education credit for undertaking the professional development activities described in this Paragraph. Credit shall be awarded based on the actual time spent and shall not exceed two hours annually for all activities combined. To apply for credit, the doctor shall report such activities on his or her annual license renewal form as provided in Rule .0205(c) of this Section. Approved professional development activities shall include:
- (1) reading scientific, peer-reviewed professional journals; or
 - (2) visiting vendor displays at professional association conventions to become familiar with trends in treatment technologies and new products.
- (e) Attendance at interstate regulatory meetings. A doctor of chiropractic may obtain as many as 12 hours of continuing education credit annually by attending morning and afternoon sessions of a national meeting of the Federation of Chiropractic Licensing Boards or morning and afternoon sessions of a meeting of the National Board of Chiropractic Examiners.

*History Note: Authority G.S. 90-142; 90-151; 90-155;
 Eff. July 1, 2004;
 Amended Eff. June 1, 2015;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

21 NCAC 10 .0211 AGREEMENTS TO PROVIDE FINANCE OR MANAGEMENT SERVICES

- (a) Purpose and extent of rule. G.S. 90-157.3 limits the "ownership" of a chiropractic practice to licensed chiropractors. However, in addition to the treatment of patients, operating a chiropractic practice involves the procurement of financing, office space, equipment, supplies and personnel, as well as the creation and implementation of advertising and marketing strategies, billing procedures and other management functions. It is common in many chiropractic offices for one or more of these operating components to be outsourced. The purpose of this Rule is to define the extent to which a chiropractor licensed and practicing in North Carolina may enter into a financing or management services agreement with a vendor who is not a North Carolina-licensed chiropractor while remaining in compliance with the ownership limitations imposed by G.S. 90-157.3. This Rule does not apply to contracts exclusively between or among North Carolina-licensed chiropractors.
- (b) Review of agreements. No person shall be required to submit a financing or management services agreement to the Board for advance approval. The Board shall review existing or proposed agreements only upon request of one or more of the parties or as part of a disciplinary investigation. In order to protect pricing information, trade secrets and similar proprietary information, the Board shall maintain the confidentiality of any agreement under review. The review shall be completed within 90 days of submission, and any agreement not disapproved within 90 days shall be deemed approved.
- (c) Prohibited provisions. Beginning July 1, 2012, the following contractual provisions, singly or in combination, shall be deemed by the Board to violate G.S. 90-157.3:
- (1) Any provision or series of provisions that creates a partnership between the chiropractor and the vendor to engage in the practice of chiropractic in contravention of G.S. 90-157.3(a). When reviewing contracts for compliance with this section, the Board shall apply the rules for determining the existence of a partnership set forth in G.S. 59-37 and the ordinary legal definition of partnership, as follows: "a partnership is a combination by two or more persons of their property, effects, labor, or skill in a common business or venture, under an agreement to share the profits and losses in equal or specified proportions;"
 - (2) Ownership or control of patient records by the vendor or any party other than the chiropractor;
 - (3) Control by the vendor over the hiring and firing of any personnel who provide clinical services to patients;
 - (4) Any requirements imposed by the vendor that affect the chiropractor's exercise of professional judgment in creating treatment plans and delivering clinical services to patients;

- (5) Control by the vendor over the transfer of ownership interests in the practice, but this prohibition shall not prevent the vendor from terminating the agreement if the chiropractor transfers ownership of the practice without the vendor's consent;
- (6) Any attempt to transfer legal liability from the chiropractor to the vendor for the content of advertising or the implementation of any marketing program undertaken to promote the practice.

History Note: Authority G.S. 90-142; 90-147; 90-157.3;
Eff. September 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 10 .0212 MEDICAL COLLEGE TRANSFER CREDITS

- (a) Purpose of Rule. An increasing number of students who initially enrolled in medical colleges are transferring to chiropractic colleges. The standard curricula for the first two years of medical and chiropractic colleges are similar. The Board of Chiropractic Examiners believes that it is in the public interest to allow applicants for chiropractic licensure in this State to receive credit for hours earned while attending medical college, as such a policy promotes the efficient use of classroom resources, reduces wasteful duplication and lowers the cost of obtaining a chiropractic degree.
- (b) Declaration of Equivalency. To the extent the curricula of the institutions overlap, the Board deems a medical college approved by the Liaison Commission on Medical Education or the Committee for the Accreditation of Canadian Medical Schools or an osteopathic college approved by the American Osteopathic Association to be the equivalent of a chiropractic college accredited by the Council on Chiropractic Education.
- (c) Counting Transfer Credits. For purposes of North Carolina licensure, the Board shall count any and all hours earned by an applicant at an approved medical college that have been accepted as transfer credits by the applicant's chiropractic college.

History Note: Authority G.S. 90-142; 90-143;
Eff. July 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 10 .0213 CERTIFIED CHIROPRACTIC ASSISTANTS

- (a) Designation. The Board shall classify Certified Chiropractic Assistants as follows:

- (1) Level 1 – Clinical
- (2) Level 2 – X-ray

For purposes of this Rule, a Certified Chiropractic Assistant – Level 1 is the same as a "chiropractic clinical assistant" as defined in G.S. 90-143.4(a). For purposes of this Rule, a Certified Chiropractic Assistant – Level 2 is the same as a "diagnostic imaging technician" as defined in G.S. 90-143.2 and may be referred to as a "radiologic technologist", "X-ray tech", and "X-ray technician."

- (b) Application Procedure. Anyone seeking to be certified as a Chiropractic Assistant shall submit an application found on the Board's website at <https://ncchiroboard.com>. All applicants shall:

- (1) Be at least 18 years of age;
- (2) Demonstrate that he or she graduated from high school or the equivalent;
- (3) Possess good moral character as determined by the Board; and
- (4) Submit an application fee of thirty-five dollars (\$35.00).

- (c) New Applicants – Level 1.

- (1) Education. In addition to the requirements set forth in Paragraph (b) of this Rule, new applicants shall submit evidence of completion of a clinical assistant education program at least 24 hours in length, of which at least 6 hours shall be in-person didactic training with an instructor or instructors who, based on education and experience, are competent to teach the portion of the curriculum they have been assigned. Credit for online coursework shall not exceed 18 hours, and all online coursework shall precede didactic training. The education program shall provide sufficient instruction in the five subjects set forth in G.S. 90-143.4(c) to enable its graduates to satisfy all applicable standards of care. To obtain approval of an education program, the program sponsor shall submit to the Board, at least 60 days prior to the proposed starting date, all instructional materials to be used in the program, including a syllabus of the didactic training, and a curriculum vitae for each instructor.
- (2) Examination. The proficiency examination for new applicants shall assess both academic knowledge and practical skills acquired through education programs and shall be administered at least four times per year on dates and at locations to be announced by the Board at least 30 days in advance and published on the

Board's website at <https://ncchiroboard.com>. In its discretion, the Board may authorize additional testing sessions based on the number of applications received. The minimum passing score on the examination is 75 percent.

(d) New Applicants – Level 2.

- (1) Education. In addition to the requirements set forth in Paragraphs (b) and (c) of this Rule, new applicants shall complete a radiological technologist education program at least 50 hours in length, of which at least 6 hours shall be in-person didactic training with an instructor or instructors who, based on education and experience, are competent to teach the portion of the curriculum they have been assigned, and completion of the practical requirement as set forth in Subparagraph (d)(2) of this Rule. The education program shall provide sufficient instruction in the five subjects set forth in G.S. 90-143.2 to enable its graduates to satisfy all applicable standards of care governing the production of X-rays. To obtain approval of an education program, the program sponsor shall submit to the Board, at least 60 days prior to the proposed starting date, all instructional materials to be used in the program, including a syllabus of the didactic training and a curriculum vitae for each instructor. Any person registered as "active" with the American Chiropractic Registry of Radiologic Technologists shall be deemed to have satisfied the educational requirements of this paragraph.
- (2) Practical Requirement. Upon completion of the training set forth in Subparagraph (d)(1) of this Rule, a person desiring certification as a Certified Chiropractic Assistant – Level 2 shall undergo a Practical whereby the person is evaluated by his or her program sponsor on the following competencies while performing x-ray examinations under the in-person observation of a sponsor for four different patients:
 - (A) Image quality;
 - (B) Marking sides of the body;
 - (C) Technique input to controller;
 - (D) Tube/focal film distance;
 - (E) Bucky/tube alignment;
 - (F) Patient positioning;
 - (G) Gonad shielding;
 - (H) Ability to name additional views in the series; and
 - (I) Collimation.

The person shall submit written documentation of the Practical evaluation on a form prescribed by the Board that is available on the Board's website at <https://ncchiroboard.com/x-ray-technician>.

- (3) Examination. The competency examination shall be administered at least three times per year. The Board shall publish on its website, <https://ncchiroboard.com>, the date, time, and location of the examination at least 30 days in advance. In its discretion, the Board may authorize additional testing sessions based on the number of applications received. The minimum passing score is 75 percent.

(e) Reciprocity Applicants. A "reciprocity applicant" means an applicant who is currently certified or registered as a clinical assistant or X-ray technician in another state whose requirements for certification or registration are substantially similar to or more stringent than the requirements for certification in North Carolina. A reciprocity applicant shall submit a copy of the applicant's current certification or registration as a clinical assistant in a state with which North Carolina reciprocates and shall also submit written confirmation from the state's certifying authority or registrar that the applicant is in good standing in that state.

(f) Certification Expiration and Renewal. Starting with certifications issued or renewed on or after July 1, 2022, a certificate of competency shall expire on June 30th of the second year following the year in which it was issued unless otherwise renewed. A certificate holder seeking to renew shall submit evidence that the applicant has completed six hours of Board-approved continuing education. A Level 2 certificate holder shall complete six hours of education applicable to a Level 1 renewal plus six hours in radiologic technology. A certificate of attendance or completion issued by the course sponsor and filed with the Board shall constitute prima facie evidence that the applicant has completed the number of hours recited in the certificate. The applicant shall pay to the Board a renewal fee in the amount of fifty dollars (\$50.00).

(g) Lapsed Certificates. If a certificate of competency has lapsed due to non-renewal and the lapse does not exceed 60 days, the certificate holder may obtain reinstatement by making up the accrued deficiency in continuing education. If the lapse is greater than 60 days, no make-up continuing education shall be required, but the certificate holder shall re-take and pass the proficiency examination for new applicants. Regardless of the length of lapse, a certificate holder seeking reinstatement shall pay the renewal fee set forth in Paragraph (f) of this Rule.

(h) Exemptions. Graduates of accredited chiropractic colleges and students enrolled in accredited chiropractic colleges who are serving college-sponsored preceptorships in North Carolina are deemed by the Board to have satisfied all requirements

imposed by this Rule and shall be deemed competent to perform the duties of a clinical assistant. Any person who qualifies for exemption and who works as a clinical assistant in this state for more than 180 days shall submit the applicant pursuant to this Rule and note the claim of exempt status. Exempt persons shall not be required to pay a certification fee. For the purposes of this Rule, "accredited" shall mean colleges accredited by the Council on Chiropractic Education.

(i) Displaying Certificate. The holder of a Level 1 certificate issued pursuant to this Rule shall display the certificate in the chiropractic clinic in which the holder is employed in a location where the certificate may be viewed by patients. The holder of a Level 2 certificate issued pursuant to this Rule shall display the certificate in the x-ray room of the chiropractic clinic in which the holder is employed in a location where the certificate may be viewed by patients.

History Note: Authority G.S. 90-142; 90-143.2; 90-143.4; 90-154.3; Eff. July 1, 2014; Amended Eff. April 1, 2018; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. January 1, 2022; January 1, 2020.

21 NCAC 10 .0214 RANDOM OFFICE INSPECTIONS

History Note: Authority G.S. 90-142; 90-154; 90-154.2; 90-154.3; Eff. March 1, 2016; Expired Eff. May 1, 2019 pursuant to G.S. 150B-21.3A.

21 NCAC 10 .0215 PETITION FOR PREDETERMINATION

(a) General. Pursuant to G.S. 93B-8.1(b6), any person with a criminal history may petition the Board at any time for a predetermination of whether the individual's criminal history will likely disqualify the individual from obtaining a license, in accordance with this Rule. The Petition form may be found on the Board's website at <https://ncchiroboard.com>.

(b) Petition Procedure. To petition the Board under this Rule, a person must submit to the Board's office a petition for predetermination that contains all of the following information:

- (1) The person's name;
- (2) The last four digits of the person's social security number;
- (3) The person's current residential address;
- (4) The person's current mailing address;
- (5) A nationwide criminal history record report from the criminal records reporting service currently under contract with the Board;
- (6) For each crime identified in the criminal history record report, the following information:
 - (A) Whether the crime was a felony or misdemeanor;
 - (B) The date that the crime occurred;
 - (C) The date the person was convicted of, or plead guilty or nolo contendere to, the crime;
 - (D) The age of the person at the time of the crime;
 - (E) The circumstances surrounding the commission of the crime;
 - (F) The sentence imposed for the crime;
 - (G) The period of time during which the person was incarcerated for the crime;
 - (H) The period of time during which the person was on probation or parole for the crime;
 - (I) Any documentation related to the person's rehabilitation or employment since the date of the crime;
 - (J) Whether the person has undergone any rehabilitative drug or alcohol treatment since the date of the crime;
 - (K) Whether a Certificate of Relief has been granted regarding the crime, pursuant to G.S. 15A 173.2; and
 - (L) Any affidavits or other written documents, including character references, for the person.
- (7) An affirmation under oath that the person has read the Instructions for Submitting a Petition for Predetermination and the statutes and rules governing the practice of chiropractic and that the information contained in the petition is true and accurate.

Incomplete petitions shall not be considered by the Board. If incomplete petitions received by the Board are not made complete within 30 days of receipt, the incomplete petitions will be returned to the person from whom the request was made.

(c) Petition Fee. A non-refundable petition fee of forty-five dollars (\$45.00) shall accompany each petition. This fee may be paid by credit card through the Board's website at <https://ncchiroboard.com> or by check made payable to the North Carolina Board of Chiropractic Examiners. Cash shall not be accepted.

(d) Delegation of Authority for Predetermination. The Board delegates authority for rendering predeterminations under this Rule to the Chiropractic Review Committee.

History Note: Authority G.S. 90-142; 90-143.3; 90-154; 93B-8.1;
Eff. January 1, 2020.

21 NCAC 10 .0216 WAIVER

The Board may waive any rule in this Chapter that is not statutorily required if a licensee, or applicant for license or certification, submits a written request. Factors the Board shall use in determining whether to grant the waiver are:

- (1) degree of disruption to the Board;
- (2) cost to the Board;
- (3) degree of benefit to the public;
- (4) whether the requesting party had control over the circumstances that required the requested waiver;
- (5) notice to and opposition by the public;
- (6) need for the waiver; and
- (7) previous requests for waivers submitted from the requesting party.

History Note: Authority G.S. 90-142; 150B-19(6);
Emergency Adoption Eff. April 28, 2020;
Temporary Adoption Eff. July 24, 2020;
Eff. July 1, 2021.

SECTION .0300 - RULES OF UNETHICAL CONDUCT

21 NCAC 10 .0301 RULES OF UNETHICAL CONDUCT

History Note: Legislative Objection Lodged Eff. January 31, 1983;
Statutory Authority G.S. 90-142; 90-154;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. January 1, 1983;
Curative Amended Eff. February 18, 1983;
Repealed Eff. June 1, 1988.

21 NCAC 10 .0302 ADVERTISING AND PUBLICITY

(a) Methods of Professional Identification. Methods of professional identification that are compliant with G.S. 90-154.2(4) include:

- (1) Signs. Signs may be placed on exterior doors, windows or walls of the licentiate's office or at entrances to the building in which his office is located.
- (2) Stationery. A licentiate may identify himself on his stationery and mailing literature using the terms permitted by this Rule.

(b) Prohibited Advertising. The following shall constitute false or misleading advertising in violation of G.S. 90-154(b)(1):

- (1) Advertising that purports to guarantee a beneficial result from chiropractic treatment.
- (2) Advertising that promotes a treatment, therapy, or service that constitutes unacceptable care or the scope of practice as set forth in G.S. 90-143(a) and G.S. 90-151.
- (3) Advertising in which the licentiate is identified as a specialist, unless the licentiate has complied with the requirements of 21 NCAC 10 .0304, and any reference to the specialty is immediately preceded by the term "chiropractic." Illustrations are as follows:
 - (A) "Pediatrics" standing alone is deemed false or misleading; "chiropractic pediatrics" conforms to this Rule; and

- (B) "Neurologist" standing alone is deemed false or misleading; "chiropractic neurologist" conforms to this Rule.
- (4) Advertising that implies the licensee holds an additional license(s) in North Carolina not so held, including but not limited to a medical physician, physical therapist, massage therapist, or acupuncturist.

History Note: Authority G.S. 90-142; 90-154;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. January 1, 1983; May 8, 1979;
Legislative Objection Lodged Eff. January 31, 1983;
Curative Amended Eff. February 28, 1983;
Curative Amended Eff. March 2, 1983;
Amended Eff. November 1, 2007; December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. January 1, 2020.

21 NCAC 10 .0303 SOLICITATION OF AUTO ACCIDENT VICTIMS

- (a) In-Person and Telephone Solicitation of Auto Accident Victims. In order to protect the public from misrepresentation, coercion or undue influence, it shall be unlawful for a doctor of chiropractic, or the doctor's employee, to initiate direct personal contact or telephone contact with any person who has been injured in a motor vehicle collision, or with any person residing in the injured person's household, for a period of 90 days following the collision, if the purpose of initiating contact is, in whole or part, to solicit the injured person to become a patient of the doctor.
- (b) Acceptance of Referrals From Runners. It shall be unlawful for a doctor of chiropractic to accept as a patient any person injured in an automobile accident who was referred by a runner. As used in this Rule, the term "runner" means any person, firm or corporation that routinely obtains the names of injured persons from motor vehicle accident reports or other public records and then contacts those persons to induce them to seek medical or chiropractic treatment or pursue legal claims.
- (c) Solicitation of Auto Accident Victims by Mail. A doctor of chiropractic may solicit persons injured in motor vehicle collisions at any time through the use of posted communications such as letters, brochures, information packages and sound or video recordings. The words, "This is an advertisement for chiropractic services" must appear on the communication's envelope or mailing container in print large enough to be easily read.
- (d) Nonconforming Solicitation Deemed Unethical Conduct. Any solicitation of automobile accident victims which does not conform to the requirements of this Rule shall be considered a violation of the Rules of Ethics of Advertising and Publicity pursuant to G.S. 90-154.2(5).

History Note: Authority G.S. 90-142, 90-154, 90-154.2;
Eff. September 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 10 .0304 DESIGNATION OF SPECIALTIES

- (a) Definitions. For purposes of this Rule, the following definitions shall apply:
 - (1) Claim of Specialization: any use of the designations listed in this Rule or any representation stating or implying that, by virtue of additional training, a licentiate possesses greater expertise in any aspect of health care than is possessed by chiropractic physicians who have not had additional training. The mere recitation of academic degrees awarded to a licentiate does not constitute a claim of specialization.
 - (2) Publication: representations regarding any claim of specialization made by a licentiate which may include representations made in advertising, whether printed or broadcast; written representations appearing on professional stationery, business cards, curriculum vitae, or office signage; and oral representations made in judicial proceedings.
- (b) Recognized Specialties. The Board of Examiners recognizes the specialties in the following fields of practice:
 - (1) Chiropractic Orthopedics;
 - (2) Chiropractic Radiology;
 - (3) Chiropractic Neurology;
 - (4) Chiropractic Internal Disorders;
 - (5) Chiropractic Pediatrics;
 - (6) Chiropractic Sports Injuries;

- (7) Chiropractic Nutrition; and
- (8) Chiropractic Rehabilitation.

(c) Any licentiate wishing to request a specialty designation not listed in Paragraph (b) of this Rule shall first submit a written request to the Board and provide evidence that the designation meets the criteria set forth in Paragraph (d) of this Rule. A licentiate shall not publish the specialty designation until the Board has approved, in writing, the specialty designation requested.

(d) Criteria for approval. In order to publish a claim of specialization as set forth in Paragraph (b) of this Rule or upon request of a specialty pursuant to Paragraph (c) of this Rule, a licentiate shall demonstrate the following:

- (1) Evidence of completion of a post-graduate course of study in the specialty requested at least 300 hours in length and offered by a college approved by the Council on Chiropractic Education; and
- (2) Evidence that the licentiate has passed an examination offered by a 501(c)(3) organization whose testing for specialization is recognized by the House of Delegates of the American Chiropractic Association or an exam deemed by the Board to be an equivalent.

(e) Claim of Specialty. Any published claim of specialization outside the recognized specialties or any published claim of specialization made by or at the behest of a licentiate who has not satisfied all applicable provisions of this Rule constitutes false or misleading advertising.

*History Note: Authority G.S. 90-142; 90-154; 90-154.2(5);
Eff. November 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. January 1, 2022.*

21 NCAC 10 .0305 PREPAID TREATMENT PLANS

(a) Prepaid Treatment Plan Defined. A "prepaid treatment plan" is a contract between a patient and a physician under which the patient, instead of paying for services as they are delivered, agrees in advance to pay a pre-determined total amount to the physician for a series of specified treatments and services to be performed by the physician or the physician's staff in the future and that are not covered by insurance. The patient's financial obligation may be payable in a lump sum or in periodic installments.

(b) Non-Conforming Plans Unlawful. A physician who offers to a patient a prepaid treatment plan that does not conform to this Rule shall be subject to disciplinary action pursuant to G.S. 90-154(b)(9), committing or attempting to commit fraud, deception or misrepresentation.

(c) Required Contractual Provisions. A prepaid treatment plan shall be in writing and signed by the patient. The physician shall provide an accurate and complete copy of the plan document to the patient. In addition to any permissive provisions not in conflict with this Rule, the plan document shall contain the following mandatory provisions:

- (1) The duration of the plan, measured either by number of office visits or calendar days;
- (2) The therapeutic objectives of the plan, based on a physical examination and assessment of the patient performed by the physician prior to the plan's start date;
- (3) The patient's cost to purchase the plan;
- (4) A description of the services and products that are included within the plan and for which there will be no additional charges;
- (5) A disclaimer, in bold-faced type, that the patient could incur additional charges if services and products not included within the plan are delivered to the patient during the course of treatment;
- (6) A description of the physician's office policy regarding charges for cancelled office visits and office visits not kept; and
- (7) A declaration of the patient's right to terminate the plan early and receive a refund in conformity with Paragraphs (d) and (e) of this Rule.

(d) Refund Calculation. The patient shall have the right to terminate a prepaid treatment plan at any point prior to the stated expiration without incurring any financial penalty. The physician may charge the patient the full amount for dispensed products that cannot be re-stocked, including opened nutritional supplements and used cervical pillows, orthotic and neurological appliances, and similar durable medical equipment. In all other respects, the amount of the refund payable to the patient shall be calculated strictly pro-rata, based on the measure of duration recited in the plan document (office visits or calendar days). No other method of refund calculation shall be permitted, and any provision in the plan that specifies another method of calculation shall be void.

(e) Notice of Plan Termination; Prompt Refund. The physician may require that a patient give notice of plan termination by delivery of a paper writing dated and signed by the patient or a person authorized to sign in the patient's behalf. The physician

shall not impose any other procedural impediments to obtaining a refund. The physician shall issue the appropriate pro-rata refund within ten business days after receiving notice of plan termination.

(f) Administrative Fees. The physician shall not collect from a patient any fees for administering a plan other than pass-through fees for which the physician is liable, such as credit card processing fees.

History Note: Authority G.S. 90-142; 90-154;

Eff. April 1, 2017;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 10 .0306 PUBLICATION OF NON-DIPLOMATE CREDENTIALS

(a) Scope of Rule. Any credential awarded to a licensee of the Board upon completion of a healthcare-related educational program shall be subject to this Rule except an academic degree or a diploma recognized pursuant to Rule .0304 of this Section.

(b) Publication of Unrecognized Credentials Unlawful. It shall constitute false or misleading advertising, in violation of G.S. 90-154(b)(1), for a licensee to publish a credential that is not recognized by the Board. For purposes of this Rule, "publication" includes representations made in a licensee's print, broadcast or online advertisement, professional stationery, business cards, and office signage.

(c) Criteria for Recognition. The criteria for recognition by the Board of a credential subject to this Rule shall be as follows:

- (1) the educational program leading to the awarding of the credential is offered at the post-doctor of chiropractic level;
- (2) for a chiropractic discipline, the educational program is offered or sponsored by a chiropractic college accredited by the Council on Chiropractic Education;
- (3) for a discipline not unique to chiropractic, the educational program is offered or sponsored by a professional school or college accredited by an agency that is the equivalent of the Council on Chiropractic Education;
- (4) the educational program is 100 hours in duration, except for programs in Acupuncture-Meridian Therapy, whose duration shall conform to Rule .0208 of this Chapter; and
- (5) The educational program culminates in a final examination that the candidate must pass to earn the credential.

(d) Recognized Credentials. The following credentials are recognized by the Board and may be published upon the credentialed licensee's compliance with Paragraph (e) of this Rule.

- (1) Certified Chiropractic Extremity Practitioner (CCEP);
- (2) Certified Chiropractic Rehabilitation Doctor (CCRD);
- (3) Certified Chiropractic Sports Physician (CCSP);
- (4) Chiropractic Certification in Spinal Trauma (CCST);
- (5) International Chiropractic Sports Physician (ICSP); and
- (6) Certificate in Acupuncture-Meridian Therapy.

Any licensee wishing to publish a credential not listed in this Paragraph shall first make written application to the Board and provide evidence that the credential meets the criteria set forth in Paragraph (c) of this Rule. The licensee shall not publish the credential until receipt of Board recognition.

(e) Filing Certificates. A licensee shall not publish any recognized credential until he or she files with the Board a copy of the dated certificate or similar document signifying that the licensee successfully completed all program requirements and that the credential was awarded.

History Note: Authority G.S. 90-142; 90-154;

Eff. October 1, 2017;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

SECTION .0400 - RULE-MAKING PROCEDURES

21 NCAC 10 .0401 PETITIONS FOR ADOPTION OF RULES

Submission. Rule-making petitions shall be sent to the president of the Board and shall state the petitioner's name and address, and shall contain the information required in G.S. 150B-20(a). The petitioner also may submit the following additional information:

- (1) the reason for its proposal;

- (2) data supporting the proposed rule;
- (3) practices likely to be affected by the proposed rule;
- (4) persons likely to be affected by the proposed rule.

History Note: Authority G.S. 90-142; 150B-20;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. January 1, 2020.

21 NCAC 10 .0402 DISPOSITION OF PETITIONS

History Note: Authority G.S. 90-142; 150A-16;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Repealed Eff. December 1, 1988.

21 NCAC 10 .0403 ORAL PRESENTATIONS AT PUBLIC RULE-MAKING HEARINGS

Oral Presentations at Public Hearing. Any public rule-making hearing required by Article 2A of Chapter 150 of the North Carolina General Statutes shall be conducted by the President of the Board or by any person he or she may delegate. Oral presentations shall not exceed 15 minutes.

History Note: Authority G.S. 90-142; 150B-21.1A; 150B-21.2;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. January 1, 2020.

21 NCAC 10 .0404 HEARING

History Note: Authority G.S. 150A-12;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Repealed Eff. December 1, 1988.

21 NCAC 10 .0405 TEMPORARY RULES

History Note: Authority G.S. 150B-13;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. December 1, 1988;
Repealed Eff. July 1, 2012.

21 NCAC 10 .0406 DECLARATORY RULINGS

- (a) General. The Board shall respond to requests for declaratory rulings in accordance with G.S. 150B-4.
- (b) Request for Declaratory Ruling: Contents. A request for a declaratory ruling shall be in writing and addressed to the president. The request shall contain the following information:
 - (1) The name and address of the person making the request;
 - (2) The statute or rule to which the request relates;
 - (3) A statement of the manner in which the person has been aggrieved by the statute or rule; and
 - (4) A statement as to whether a hearing is desired, and if desired, the reason therefor.
- (c) Refusal to Issue Ruling. The Board shall refuse to issue a declaratory ruling under the following circumstances:
 - (1) When the Board has already made a controlling decision on similar facts in a contested case;

- (2) When the facts underlying the request for a ruling were considered at the time of the adoption of the rule in question; or
- (3) When the subject matter of the request is involved in pending litigation in North Carolina.

History Note: Authority G.S. 150B-4;
 Eff. February 1, 1976;
 Readopted Eff. January 27, 1978;
 Amended Eff. January 1, 1983;
 Legislative Objection Lodged Eff. January 31, 1983;
 Curative Amended Eff. February 28, 1983;
 Amended Eff. December 1, 1988;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
 Amended Eff. January 1, 2020.

SECTION .0500 - INVESTIGATION OF COMPLAINTS

21 NCAC 10 .0501 FILING COMPLAINTS

Any person who has reason to believe that a Doctor of Chiropractic has violated the laws governing chiropractic may file a complaint with the Board. Board Anyone wishing to file a complaint shall file a form with the Board office that contains the following information:

- (1) the complainant's name and contact information;
- (2) the name and contact information of the person about which the complainant wishes to file the complaint;
- (3) a narrative of the facts about which the complainant wishes to complain; and
- (4) the complainant's signature and the date on which the complaint is made.

The complaint form can be found on the Board's website at <https://ncchiroboard.com/complaint-filing-process>.

History Note: Authority G.S. 90-142; 90-154;
 Eff. February 1, 1976;
 Readopted Eff. January 27, 1978;
 Amended Eff. December 1, 1988; January 1, 1983; December 20, 1979;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
 Amended Eff. January 1, 2020.

21 NCAC 10 .0502 UNLAWFUL PRACTICE

History Note: Authority G.S. 90-147; 90-148;
 Eff. February 1, 1976;
 Readopted Eff. January 27, 1978;
 Repealed Eff. December 1, 1988.

21 NCAC 10 .0503 DETERMINATION OF PROBABLE CAUSE

(a) General. Complaints deemed likely to have occurred, based on the findings of the Investigative Report, shall be referred to the Chiropractic Review Committee. The committee shall hold a hearing to determine whether there is probable cause to believe a violation of the laws governing Chiropractic has occurred.

(b) Composition of Chiropractic Review Committee. The committee shall be composed of:

- (1) the secretary of the Board of Examiners. If the secretary is unable to attend a specific probable cause hearing, he or she may designate another physician member of the Board to serve and assume his or her duties at said hearing;
- (2) an alternate Board member. "Alternate Board member" means:
 - (A) a former Board member selected by the secretary;
 - (B) a current Board member selected by the secretary; or
 - (C) a licensee selected by the secretary from among those who, at any election held pursuant to Rule .0103(c) of this Chapter, have been elected nominees for Board membership but not appointed to the Board.

(c) Notice of hearing. The secretary shall provide notice of the probable cause hearing in accordance with G.S. 150B-38(b).

(d) Conduct of Probable Cause Hearing. The secretary, or designee per Subparagraph (b)(1) of this Rule, shall preside over the probable cause hearing. The Chiropractic Review Committee may consider evidence at the probable cause hearing that would not be admissible if offered at the hearing in a contested case.

(e) Action by the Chiropractic Review Committee. After examining the evidence presented at the probable cause hearing, the Chiropractic Review Committee shall dispose of each charge in a complaint as follows:

- (1) If no probable cause exists to believe that a violation of G.S. 90-154 has occurred, the charge shall be dismissed;
- (2) If probable cause exists to believe that a violation of G.S. 90-154 has occurred, and if the Committee and licensee at issue fail to resolve the matter through settlement, the case shall be considered a "contested case" and set for hearing before either the Board, or an Administrative Law Judge at the NC Office of Administrative Hearings, in accordance with G.S. 150B-40.

*History Note: Authority G.S. 90-141; 90-143; 90-154;
Eff. December 1, 1988;
Amended Eff. October 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. January 1, 2020.*

21 NCAC 10 .0504 DRUG TESTING

(a) Reasonable Suspicion. The Secretary of the Board may require a licentiate to submit to drug or blood alcohol testing if there is reasonable suspicion that the licentiate is consuming drugs or alcohol to such an extent or with such frequency as to impair the ability to treat patients. For purposes of this Rule, reasonable suspicion exists when:

- (1) The licentiate is cited or arrested on drug-related criminal charges;
- (2) The licentiate admits to the Board or to a judicial tribunal that the licentiate has abused alcohol or prescription drugs or consumed illicit drugs; or
- (3) The Secretary receives the sworn affidavit of a credible witness stating that the witness personally observed the licentiate in the licentiate's chiropractic office during business hours and the licentiate's behavior was erratic, unprofessional and apparently influenced by drug or alcohol consumption.

(b) Approved Laboratory. Any drug test required by the Secretary shall be conducted by an approved laboratory in accordance with the protocol set forth in Article 20, Chapter 95 of the General Statutes, Controlled Substance Examination Regulation.

(c) Reporting Results. The results of a licentiate's drug test shall be reported directly to the Secretary by the laboratory conducting the test and shall not be disclosed to any person other than the licentiate except for use as evidence in Board disciplinary actions or when disclosure is mandated by law.

(d) Right to Dispute Results. In any Board disciplinary proceeding in which a licentiate's drug test results are introduced into evidence, including a preliminary hearing before the Chiropractic Review Committee, the licentiate may dispute the accuracy of the test results.

(e) Effect of Refusal. A licentiate's refusal to submit to a drug test required by the Secretary pursuant to this Rule shall be considered the concealment of information about a matter affecting licensure, in violation of G.S. 90-154(b)(19).

*History Note: Authority G.S. 90-142; 90-154;
Eff. October 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

SECTION .0600 - CONTESTED CASES

21 NCAC 10 .0601 GENERAL

*History Note: Authority G.S. 150B-2; 90-154;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Repealed Eff. December 1, 1988.*

21 NCAC 10 .0602 RIGHT TO HEARING

History Note: Legislative Objection Lodged Eff. January 31, 1983;
Curative Amended Eff. February 28, 1983;
Statutory Authority G.S. 150B-2; 150B-3;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. December 1, 1988; January 1, 1983;
Expired Eff. May 1, 2019 pursuant to G.S. 150B-21.3A.

21 NCAC 10 .0603 NOTICE OF HEARING: ANSWER

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Legislative Objection Lodged Eff. January 31, 1983;
Curative Amended Eff. February 28, 1983;
Amended Eff. December 1, 1988; January 1, 1983;
Repealed Eff. July 1, 2012.

21 NCAC 10 .0604 REQUEST FOR HEARING
21 NCAC 10 .0605 GRANTING HEARING REQUEST
21 NCAC 10 .0606 NOTICE AFTER REQUEST FOR HEARING

History Note: Authority G.S. 150A-11; 150A-23;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Repealed Eff. December 1, 1988.

21 NCAC 10 .0607 LOCATION OF HEARING
21 NCAC 10 .0608 INTERVENTION

History Note: Authority G.S. 90-142; 150B-38;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. January 1, 1989;
Repealed Eff. July 1, 2012.

21 NCAC 10 .0609 TYPES OF INTERVENTION
21 NCAC 10 .0610 DISQUALIFICATION OF HEARING OFFICERS

History Note: Authority G.S. 150A-23; 150A-32;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Repealed Eff. December 1, 1988.

21 NCAC 10 .0611 SUBPOENAS

History Note: Authority G.S. 90-142; 150B-39;
Eff. January 1, 1989;
Repealed Eff. July 1, 2012.

SECTION .0700 - HEARINGS IN CONTESTED CASES

21 NCAC 10 .0701 FAILURE TO APPEAR

21 NCAC 10 .0702 WRITTEN ANSWERS TO NOTICE
21 NCAC 10 .0703 PRE-HEARING CONFERENCE
21 NCAC 10 .0704 SIMPLIFICATION OF ISSUES

History Note: Authority G.S. 150A-25; 150A-33;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Repealed Eff. December 1, 1988.

21 NCAC 10 .0705 SUBPOENAS

History Note: Authority G.S. 150A-27;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Repealed Eff. January 1, 1989.

21 NCAC 10 .0706 CONDUCT OF BOARD HEARING

(a) General. Hearings in contested cases shall be conducted by a majority of the Board, unless a majority of the Board votes to designate an administrative law judge to preside at the hearing in the Office of Administrative Hearings. The president shall serve as presiding officer at Board Hearings unless he or she is absent or disqualified, in which case the vice-president shall preside. Board Hearings shall be conducted as prescribed by G.S. 150B-40.

(b) Disqualification. An affidavit seeking disqualification of any Board member, if filed in good faith and in a timely manner, shall be ruled on by the remaining members of the Board. An affidavit is considered timely if it is filed:

- (1) Prior to the hearing; or
- (2) As soon after the commencement of the hearing as the affiant becomes aware of facts that give rise to his or her belief that a Board member should be disqualified.

(c) Evidence. The admission of evidence in a Board Hearing on a contested case shall be as prescribed in G.S. 150B-41.

History Note: Authority G.S. 150B-40; 150B-41;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. January 1, 1989;
Expired Eff. May 1, 2019 pursuant to G.S. 150B-21.3.A;
Readopted Eff. January 1, 2020.

21 NCAC 10 .0707 DECISION OF BOARD

History Note: Authority G.S. 150B-42;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. December 1, 1988;
Repealed Eff. July 1, 2012.

21 NCAC 10 .0708 CONTINUANCES FOR BOARD HEARINGS

(a) Consistent with G.S. 150B-40(b), all motions for continuance shall be addressed to the secretary, or the designated presiding officer of the contested case hearing. All motions for continuance shall be in writing and received in the office of the Board no less than seven calendar days before the hearing date.

(b) Motions for a continuance of a hearing may be granted upon a showing of good cause. In determining whether good cause exists, the presiding officer shall consider the ability of the party requesting a continuance to proceed without a continuance.

(c) A motion for a continuance filed less than seven calendar days from the date of the hearing shall be denied if a continuance has been previously granted unless the reason for the motion could not have been ascertained earlier.

History Note: Authority G.S. 90-156; 150B-38(h);
Eff. January 1, 2020.

21 NCAC 10 .0709 SUBPOENAS

(a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a Board Hearing or for the purposes of discovery, shall:

- (1) be made in writing to the Board;
- (2) identify any document sought;
- (3) include the full name and home or business address of all persons to be subpoenaed; and
- (4) if known, the date, time, and place for responding to the subpoena.

The Board shall issue the requested subpoenas within three days of receipt of the request.

(b) Subpoenas shall contain the following:

- (1) the caption of the case;
- (2) the name and address of the person subpoenaed;
- (3) the date, hour, and location of the hearing in which the witness is commanded to appear;
- (4) a particularized description of the books, papers, records, or objects the witness is directed to bring with him to the hearing, if any;
- (5) the identity of the party on whose application the subpoena was issued;
- (6) the date of issue;
- (7) the signature of the presiding officer or his designee; and
- (8) a "return of service." The "return of service" form as filled out, shall show:
 - (A) the name and capacity of the person serving the subpoena;
 - (B) the date on which the subpoena was delivered to the person directed to make service;
 - (C) the date on which service was made;
 - (D) the person on whom service was made;
 - (E) the manner in which service was made; and
 - (F) the signature of the person making service.

(c) Subpoenas shall be served in a manner set forth in Rule 45 of the N.C. Rules of Civil Procedure.

(d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office. Written objections shall comply with Rule 45 of the N.C. Rules of Civil Procedure.

(e) The party who requested the subpoena may file a written response to the objection. The written response shall be served by the requesting party on the objecting witness with the filing of the response with the Board.

(f) After receipt of the objection and response thereto, if any, the Board shall issue a notice of a Hearing on the motion to the party who requested the subpoena and the party challenging the subpoena to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.

(g) After the close of such Board Hearing, a majority of the Board members hearing the contested case shall rule on the challenge and issue a written decision. A copy of the decision will be issued to all parties and made a part of the record.

History Note: Authority G.S. 150B-38; 150B-39; 150B-40;
Eff. January 1, 2020.

SECTION .0800 - MISCELLANEOUS

21 NCAC 10 .0801 **INSTRUCTIONAL PROGRAMS**
21 NCAC 10 .0802 **RECORDS OF BOARD**

History Note: Authority G.S. 90-143; 90-148; 90-155;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Repealed Eff. December 1, 1988.