



## **NORTH CAROLINA STATE BOARD OF BARBER EXAMINERS**

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### **Minutes for Public Meeting** Held May 11, 2020, at 9:00 a.m. Teleconference

#### **Board Members**

Don Beal, Chair  
Sherod Holloway, Vice Chair  
Carolyn Q. Coleman  
Michael T. Swinney  
David L. Williams

#### **Executive Director**

Dennis Seavers

#### **Counsel to the Board**

M. Jackson Nichols

The meeting of the North Carolina State Board of Barber Examiners was called to order at 9:04 a.m., on May 11, 2020. Due to the pandemic, the meeting was conducted by teleconference, as indicated in the agenda.

The following board members were present during the meeting by telephone: Don Beal, Sherod Holloway, Michael T. Swinney, and David L. Williams. Also, Carolyn Q. Coleman joined during the meeting as indicated below.

Also in attendance were Dennis Seavers, Executive Director, and M. Jackson Nichols, Counsel to the Board.

## OPEN SESSION

### Ethics awareness and conflict of interest

Mr. Beal read the statement required by G.S. § 163A–159(e) on ethics awareness and conflicts of interest. No board members indicated that they had any potential or actual conflicts.

### Temporary rulemaking

Mr. Beal referred board members to Mr. Seavers’s memo on the adoption of 21 NCAC 06F .0128 and 06N .0111 under temporary procedures (see Attachment 1). After discussion, Mr. Beal made a motion to adopt the rules, and Mr. Holloway seconded. The board conducted a roll call vote as indicated below, and the motion passed, 4–0.

<b>Vote</b>	<b>Don Beal</b>	<b>Sherod Holloway</b>	<b>Carolyn Q. Coleman</b>	<b>Michael T. Swinney</b>	<b>David Williams</b>
Yes	X	X		X	X
No					
Abstain					
Not present			X		

### Emergency rulemaking—renewals

Mr. Beal referred board members to Mr. Seavers’s memo on the adoption of 21 NCAC 06N .0115 under emergency procedures (see Attachment 2). After discussion, Mr. Holloway made a motion to adopt the rules, and Mr. Williams seconded. The board conducted a roll call vote as indicated below, and the motion passed, 4–0.

<b>Vote</b>	<b>Don Beal</b>	<b>Sherod Holloway</b>	<b>Carolyn Q. Coleman</b>	<b>Michael T. Swinney</b>	<b>David Williams</b>
Yes	X	X		X	X
No					
Abstain					
Not present			X		

### Barber school instructors

Ms. Coleman joined the meeting at 9:17 a.m.

The board discussed whether to allow non-instructor personnel to serve as apprentices or interns in barber schools to help address a shortage of instructors in certain areas of the state. The board listened to comments from barber school employees and administrators. After discussion, the board asked the staff to develop rules or a proposal for the board to consider at an upcoming meeting.

### Emergency rulemaking—schools

Mr. Beal referred board members to Mr. Seavers’s memo on the adoption of 21 NCAC 06F .0129 under emergency procedures (see Attachment 3). After discussion, Mr. Holloway made a motion to adopt the rules, and Mr. Williams seconded. The board conducted a roll call vote as indicated below, and the motion passed, 5–0.

<b>Vote</b>	<b>Don Beal</b>	<b>Sherod Holloway</b>	<b>Carolyn Q. Coleman</b>	<b>Michael T. Swinney</b>	<b>David Williams</b>
Yes	X	X	X	X	X
No					
Abstain					
Not present					

### Minutes from previous meeting

Ms. Coleman made a motion to approve the minutes and closed-session narrative from the April 21, 2020 meeting. Mr. Swinney seconded the motion, which passed, 5–0.

<b>Vote</b>	<b>Don Beal</b>	<b>Sherod Holloway</b>	<b>Carolyn Q. Coleman</b>	<b>Michael T. Swinney</b>	<b>David Williams</b>
Yes	X	X	X	X	X
No					
Abstain					
Not present					

Mr. Beal adjourned the meeting at 9:49 a.m.

Minutes approved on June 23, 2020

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Don Beal  
Board Chair



# NORTH CAROLINA BOARD OF BARBER EXAMINERS

## Memo

TO: Board members

FROM: Dennis Seavers

DATE: April 3, 2020

**SUBJECT: Adoption of temporary rules**

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At its May 11, 2020 meeting, the board will consider whether to adopt two temporary rules that the board previously proposed. This memo explains the background of the rulemaking actions and what steps the board needs to take.

### **Background**

On March 18, 2020, the board adopted emergency rules and proposed temporary rules to assist schools during the coronavirus-related state of emergency. The board proposed to eliminate rules that would prevent schools from being able to offer online classes. In addition, the board proposed to extend the timeframes for reporting requirements so that schools with absent staff members could still fulfill their obligations.

The emergency rules will remain in effect until mid-July, after which the temporary rules, if approved by the Rules Review Commission, would keep these provisions in effect for 270 days.

Members of the public had until May 8, 2020 to make comments on the proposed temporary rules. As of May 7, 2020, the board had not received any public comments. If any comments are submitted before the deadline, I will transmit them to the board.

### **Upcoming steps**

- The board must decide whether to adopt the temporary rules.
- I will file the rules for consideration by the Rules Review Commission.
- If approved, the rules will go into effect before the emergency rules expire.

1 21 NCAC 06F .0128 is adopted under temporary procedures as follows:

2  
3 **21 NCAC 06F .0128 WAIVER OF REQUIREMENTS DURING DISASTER OR EMERGENCY**

4 (a) If the governor declares a state of emergency, the following exceptions shall apply to barber schools and students,  
5 the requirements in this Subchapter notwithstanding:

6 (1) Schools shall maintain a monthly record of the subject matter taught to the student in theory classes,  
7 despite the requirement in Rule .0110(4) of this Subchapter for a weekly record.

8 (2) Schools shall provide to the Board the list of students required by G.S. 86A-22(5) by the last day of  
9 each month, despite the requirement in Rule .0110(6) of this Subchapter for schools to submit the  
10 list by the 15th of each month.

11 (3) Within 60 days of the date on which any student completes his or her course of study, drops out of  
12 school, or transfers to another school, the barber school shall return the student permit to the Board,  
13 despite the requirement in Rule .0113(d) of this Subchapter to return the student permit within five  
14 business days.

15 (4) Students shall not be required to meet the requirements in Rule .0122 of this Subchapter if the  
16 students are attending online classes.

17 (5) No student shall be given credit for more than 10 total hours during any instruction day, despite the  
18 restriction to eight hours in Rule .0124(a) of this Subchapter.

19 (6) The restrictions on off-campus hours in Rule .0124(c) of this Subchapter shall not apply to hours  
20 that students receive during a state of emergency.

21 (7) Schools shall not be required to revise the handbooks required by Rule .0125 of this Subchapter to  
22 reflect the exceptions listed in this Rule.

23 (b) The exceptions in this Rule shall only apply during the effective period of the state of emergency.

24  
25 *History Note: Authority G.S. 86A-22;*

26 *Emergency Adoption Eff. March 27, ~~2020~~ 2020;*

27 *Temporary Adoption Eff. June 12, 2020.*

1 21 NCAC 06N .0111 is amended under temporary procedures as follows:

2

3 **21 NCAC 06N .0111 FORM BAR-10**

4 (a) The Form BAR-10 is a report that shall be filed monthly by the manager of the school for each student enrolled  
5 in barber school. It requires the following:

- 6 (1) the name of the school submitting the report;
- 7 (2) the name and date of enrollment of the student;
- 8 (3) the month and year for which the report is filed;
- 9 (4) the dates and hours of the student's absences;
- 10 (5) the dates and hours of the student's attendance;
- 11 (6) the number of patrons served for clinical services; and
- 12 (7) the subject matter covered in practical and theory courses.

13 (b) The Form BAR-10 shall be submitted to the Board over the signature of the manager of the school and co-signed  
14 by the student.

15 (c) ~~The Form BAR-10 shall be returned to the Board within five business days of the date on which~~ If a student  
16 completes his or her course of study, drops out of school, or transfers to another ~~school~~ school, the barber school shall  
17 return the Form BAR-10 to the Board:

- 18 (1) within five business days; or
- 19 (2) within 30 days if the student's enrollment ends during the effective period of a state of emergency  
20 declared by the governor.

21

22 *History Note: Authority G.S. 86A-22;*  
23 *Eff. May 1, 1989;*  
24 *Readopted Eff. July 1, 2016;*  
25 *Emergency Adoption Eff. March 27, ~~2020~~ 2020;*  
26 *Temporary Adoption Eff. June 12, 2020.*



# NORTH CAROLINA BOARD OF BARBER EXAMINERS

## Memo

TO: Board members

FROM: Dennis Seavers

DATE: April 3, 2020

**SUBJECT: Adoption of emergency rules**

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At its May 11, 2020 meeting, the board will consider whether to adopt emergency rules to extend the deadline for renewing licenses from May 31 to July 31, 2020. This memo explains the background of the rulemaking action and what steps the board can take.

### **Senate Bill 704**

On Monday, Governor Cooper signed into law SB 704, which contained a number of provisions designed to provide aid to North Carolinians in response to the pandemic. Among its provisions is a section that authorizes agencies to take the following actions, despite any contrary statute, if the agency determines that it's in the public interest:

- Delay the collection, or modify the method of collection, of any fees, fines, or late payments assessed by the agency under its statutes, including the accrual of interest associated with any fees, fines, or late payments.
- Delay the renewal dates of permits, licenses, and other similar certifications, registrations, and authorizations issued by the agency pursuant to its statutes.
- Delay or modify any educational or examination requirements implemented by the agency pursuant to its statutes.

The legislation specifies that state agencies must exercise the authority granted to the maximum extent practicable in order to protect the economic well-being of the citizens and businesses of the State. In addition, agencies must submit a report to two committees of the General Assembly and the Office of State Budget and Management. This report must explain what efforts the agency took to exercise regulatory flexibility under the authorizations listed above.

## **Recommended actions**

The attached emergency rule would delay the effective date of annual license renewals from May 31 to July 31, 2020. Although normally the board wouldn't be able to delay this renewal date, SB 704 allows the board to take this action. Since barbers will have been out of work for two months by the time barbershops reopen, and since that reopening occurs mere days before the May 31 deadline, the board may want to delay the renewal deadline. The rules would only apply to the 2020 renewal cycle.

The board can choose a different deadline if it wishes. In addition, the board may choose to take additional actions allowed by the General Assembly under the three bullet points in the previous section of this memo.

## **Upcoming steps**

- The board must decide whether to adopt the emergency rules.
- I will file the rules for consideration by the Codifier of Rules.
- If approved, the rules will go into effect before the May 31, 2020 deadline.

1 21 NCAC 06N .0115 is adopted under emergency procedures as follows:

2

3 **21 NCAC 06N .0115 EXTENSION OF RENEWAL DEADLINES DURING COVID-19 STATE OF**  
4 **EMERGENCY**

5 (a) The holders of the following licenses, permits, or certificates of registration shall renew their licenses, permits or  
6 certificates of registration by July 31, 2020:

7 (1) Certificates of registration for barbershops or barber schools, G.S. 86A-13(b) notwithstanding;

8 (2) Certificates of registration for registered barbers, G.S. 86A-17(a) notwithstanding;

9 (3) Certificates for barber instructors, G.S. 86A-23(b) notwithstanding; and

10 (4) Licenses for apprentice barbers, G.S. 86A-24(b) notwithstanding.

11 (b) Licenses, permits, and certificates of registration that normally would expire on May 31, 2020, shall remain valid  
12 through July 31, 2020.

13

14 History Note: Authority S.L. 2020-3, s. 4.38.(b);

15 Emergency Adoption Eff. May 20, 2020.



# NORTH CAROLINA BOARD OF BARBER EXAMINERS

## Memo

TO: Board members

FROM: Dennis Seavers

DATE: May 9, 2020

**SUBJECT: Adoption of emergency rules — 21 NCAC 06F .0129**

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At its May 11, 2020 meeting, the board will consider whether to offer additional flexibility to schools during the pandemic. This memo explains the background of the rulemaking action and what steps the board can take.

### **Senate Bill 704**

On Monday, Governor Cooper signed into law SB 704, which contained a number of provisions designed to provide aid to North Carolinians in response to the pandemic. Among its provisions is a section that authorizes agencies to take the following actions, despite any contrary statute, if the agency determines that it's in the public interest:

- Delay the collection, or modify the method of collection, of any fees, fines, or late payments assessed by the agency under its statutes, including the accrual of interest associated with any fees, fines, or late payments.
- Delay the renewal dates of permits, licenses, and other similar certifications, registrations, and authorizations issued by the agency pursuant to its statutes.
- Delay or modify any educational or examination requirements implemented by the agency pursuant to its statutes.

The legislation specifies that state agencies must exercise the authority granted to the maximum extent practicable in order to protect the economic well-being of the citizens and businesses of the State. In addition, agencies must submit a report to two committees of the General Assembly and the Office of State Budget and Management. This report must explain what efforts the agency took to exercise regulatory flexibility under the authorizations listed above.

## Recommended actions

The attached emergency rule would make two changes to assist barber schools, which have been affected economically by the pandemic. Please note that both of these changes have previously been approved by the board for legislation in next year's long session. However, SB 704 offers the board an opportunity to implement these changes sooner on a temporary basis.

- Under current law, nonprofit barber schools can have only one instructor employed for the first 20 students enrolled, while for-profit schools must have two instructors. Paragraph (a) of the attached rule would place for-profit schools on the same footing as nonprofit schools. This change relates to the pandemic because schools have been affected economically and may face the prospect of laying off or furloughing staff. By allowing a lower number of instructors, the rule would give schools flexibility in how they respond to the pandemic with their staffing levels.
- Under current law, barber schools must have two instructors present if they provide practical and theoretical training simultaneously. In the past, this has prevented schools from being able to have online modules that students could access on their own schedule because the students might access the module while practical training is occurring. During the stay-at-home orders, schools have been able to provide online education because in-person practical training at the school hasn't been occurring. But when schools are able to reopen their doors, they will need regulatory flexibility to be able to manage the number of students present in the school at once (and thus limit the chance for the virus to spread). Paragraph (b) of the attached rule would allow one instructor to be present if the theoretical training is being offered online. Schools wouldn't need to be concerned about having two instructors present simply because the schools might have students receiving training online.

## Upcoming steps

- The board must decide whether to adopt the emergency rules.
- I will file the rules for consideration by the Codifier of Rules.
- If approved, the rules will go into effect six business days later.

1 21 NCAC 06F .0129 is adopted under emergency procedures as follows:  
2

3 **21 NCAC 06F .0129 REQUIREMENTS FOR BARBER SCHOOL INSTRUCTORS DURING**  
4 **PANDEMIC**

5  
6 (a) For-profit barber schools shall employ at least one instructor for every 20 enrolled students, despite the requirement  
7 in G.S. 86A-22(2) to employ at least two instructors for the first 40 enrolled students.

8 (b) G.S. 86A-22(2) notwithstanding, barber schools may provide practical and theoretical training simultaneously  
9 with only one instructor if the barber school offers the theoretical training online.

10  
11 *History Note: Authority S.L. 2020-3, s. 4.38.(b);*

12 *Emergency Adoption Eff. May 20, 2020.*