



NORTH CAROLINA BOARD OF BARBER AND ELECTROLYSIS EXAMINERS

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Minutes for Public Meeting

Held February 28, 2023, at 8:30 a.m.
Hedrick Gardner Kincheloe & Garofalo

Board Members

Sherod Holloway, Board Chairperson, Barber Member
Craig N. Burkhart, MD, Physician Member
Kristina Proctor, Public Member
Michael T. Swinney, Barber Member
David L. Williams, Barber Member
Electrologist (Vacant)
Electrologist (Vacant)
Barber (Vacant)
Barber (Vacant)

Executive Director

Dennis Seavers

Counsel to the Board

M. Jackson Nichols

The meeting of the North Carolina Board of Barber and Electrolysis Examiners was called to order at 8:42 a.m., on April 2, 2023.

The following board members were present in person during the meeting: Sherod Holloway and Michael T. Swinney. The following board members were present by video- or teleconference: Craig N. Burkhart, MD; Kristina Proctor; and David L. Williams. No board members were absent. To ensure representation by all industries, the board also had the following individuals who are expected to be appointed to the board

participate as though they were board members, without voting or making motions: Stacy M. Miller, LE, CPE, and Margaret Wingate, LE.

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

OPEN SESSION

Ethics awareness and conflict of interest

Mr. Holloway read the statement required by G.S. § 138A-15(e) on ethics awareness and conflicts of interest. No board members indicated that they had any potential or actual conflicts.

Approval of minutes from the January 10, 2023 meeting

Dr. Burkhart made a motion to approve the minutes and closed-session narrative from the January 10, 2023 board meeting. Mr. Swinney seconded the motion, which passed, 5–0.

Vote	Sherod Holloway	Craig Burkhart	Kristina Proctor	Michael T. Swinney	David Williams
Yes	X	X	X	X	X
No					
Abstain					
Not present					

North Carolina Department of Adult Correction request for waiver

Mr. Holloway referred board members to Mr. Seavers’s February 21, 2023 memo on the request by the North Carolina Department of Adult Correction (NCDAC) for a waiver (see Attachment 1). Duane Cogdell from NCDAC presented the request on behalf of the department.

Administrative hearings

The board held a hearing for Weldon A. Jenkins (file #27521), who had been referred to the board for a show-cause hearing for alleged noncompliance with a Final Agency Decision adopted on August 23, 2022. Mr. Jenkins was present and offered testimony in response to claims in the hearing notice. Mr. Jenkins answered questions from Mr. Nichols and the board members.

Felony hearings

The board held a hearing for Carlos McCombs (file #49696) to determine whether his felony criminal history should prevent him from getting a license. Mr. McCombs was

present for the hearing and offered testimony. He answered questions from Mr. Nichols and the board members.

The board held a hearing for William R. Wallace (file #49696) to determine whether his felony criminal history should prevent him from getting a license. Mr. Wallace was present for the hearing and offered testimony. He answered questions from Mr. Nichols and the board members.

Rulemaking

Mr. Holloway referred board members to Mr. Seavers’s February 21, 2023 memo on rulemaking for the electrology apprenticeship program (see Attachment 2). The board acknowledged the hard work of the ad hoc committee, which prepared the draft rules, and thanked the members for their contributions. After discussion, Dr. Burkhart made a motion to propose the rules under temporary procedures. Mr. Swinney seconded the motion, which passed, 5–0.

Vote	Sherod Holloway	Craig Burkhart	Kristina Proctor	Michael T. Swinney	David Williams
Yes	X	X	X	X	X
No					
Abstain					
Not present					

Mr. Holloway referred board members to Mr. Seavers’s February 21, 2023 memo on rulemaking for online student hours reporting (see Attachment 3). Mr. Holloway shared his experience as a school administrator and the challenges with the current rules. Mr. Swinney made a motion to propose the rules under permanent procedures, and Mr. Williams seconded. The motion passed, 5–0.

Vote	Sherod Holloway	Craig Burkhart	Kristina Proctor	Michael T. Swinney	David Williams
Yes	X	X	X	X	X
No					
Abstain					
Not present					

Mr. Holloway referred board members to Mr. Seavers’s February 21, 2023 memo on rulemaking for online submission of temporary permits (see Attachment 4). After board discussion, Mr. Swinney made a motion to propose the rules under permanent procedures, and Ms. Proctor seconded. The motion passed, 5–0.

Vote	Sherod Holloway	Craig Burkhart	Kristina Proctor	Michael T. Swinney	David Williams
Yes	X	X	X	X	X
No					

<i>Abstain</i>					
<i>Not present</i>					

Mr. Seavers offered an update on the status of the board’s other, pending rulemaking activity.

Barber apprentice licenses

The board considered a presentation by Amber Marchio, who had previously addressed the board about changes she recommended about how apprentices are licenses in North Carolina. Ms. Marchio offered additional testimony and answered questions from the board members. The board thanked Ms. Marchio for her comments and later determined that it should wait until the board is fully appointed, including the appointments from the General Assembly, before making any significant policy decisions on this topic.

Appointment of electrolysis exam ad hoc committee

Mr. Holloway created an ad hoc committee to assess whether the electrolysis written exam should be revised and to recommend any changes to the board. He appointed the following members:

- Ronda Jones
- Stacy M. Miller, LE, CPE
- Charlene Poole, LE, CPE
- Lesa Wingate, LE
- Margaret Wingate, LE

CLOSED SESSION

Mr. Swinney made a motion to go into closed session under G.S. § 143–318.11. Mr. Swinney noted that the board would discuss the case before the North Carolina Industrial Commission, Rodney Bullock c/o Altitude Academy, LLC, v. North Carolina Board of Barber Examiners and Pitt Community College. Dr. Burkhart seconded the motion, which passed, 5–0.

Vote	Sherod Holloway	Craig Burkhart	Kristina Proctor	Michael T. Swinney	David Williams
Yes	X	X	X	X	X
No					
<i>Abstain</i>					
<i>Not present</i>					

The board entered closed session at 10:33 a.m. The board emerged from closed session at 11:13 a.m.

OPEN SESSION

Determinations

Mr. Swinney made a motion for the following determinations, and Mr. Williams seconded. The motion passed, 5–0.

- Weldon A. Jenkins would be allowed to pay \$85 to get his license as set forth in 21 NCAC 06N .0101, and he would be able to resolve his outstanding obligations with monthly payments of \$30.
- Carlos McCombs would be able to be licensed as an apprentice after meeting all other application and licensure requirements. He would be placed on a period of probation to run concurring with the remainder of his sex-offender registration.
- The criminal history of William R. Wallace would not prevent him from being licensed.

Vote	Sherod Holloway	Craig Burkhart	Kristina Proctor	Michael T. Swinney	David Williams
Yes	X	X	X	X	X
No					
Abstain					
Not present					

Mr. Holloway adjourned the meeting at 11:21 a.m.

Minutes approved on April 18, 2023

Sherod Holloway
Board Chairperson



NORTH CAROLINA BOARD OF BARBER AND ELECTROLYSIS EXAMINERS

Memo

TO: Board members and anticipated board appointees

FROM: Dennis Seavers

DATE: February 21, 2023

SUBJECT: Waiver request from NCDAC

The North Carolina Department of Adult Corrections (“NCDAC”) submitted the attached waiver request.¹ The purpose of this memo is to explain how waivers work, since the rule that allows them is new, and to clarify the background situation that led to NCDAC’s request.

Waivers

In 2022, the Board of Electrolysis Examiners adopted a waiver rule that some other boards had also adopted and which staff at Nichols, Choi & Lee had developed. The rule allows **rule-based** requirements to be waived under certain conditions. (I emphasize “rule-based” because this waiver rule doesn’t allow agencies to waive requirements in statute.) When the merger occurred and the rule was recodified, it applied to the new Board of Barber and Electrolysis Examiners.

I’ve attached a copy of the rule. Please note the conditions under which the waiver may be granted and the criteria the board must consider.

NCDAC request

The issue that NCDAC is addressing is a requirement in statute for licensees to disclose whether they’ve been investigated for employee misclassification. This misclassification occurs when a business treats an individual as a contractor or vendor when the individual should have been classified as an employee. Normally, licensees would complete a form online or by paper (if they get a waiver) when they renew, and that form requires them to disclose whether they’ve been investigated for employee misclassification.

¹ NCDAC was formerly part of the North Carolina Department of Public Safety.

NCDAC has indicated that it would be impractical to distribute these forms to the inmates who are licensed, given the number of licensees and their distribution across the state. The agency would like to have the licenses renewed without having to send forms to inmates and collect the completed forms. The board staff will be available to discuss options with the board at the February meeting.

Seavers, Dennis

From: Cogdell, Duane E
Sent: Friday, February 3, 2023 5:12 PM
To: Seavers, Dennis
Cc: Cogdell, Duane E
Subject: North Carolina Board of Barbers Examiners License Renewal

Greetings, Mr. Seavers, and the North Carolina Board of Barbers Examiners,

Thank you to the Barber Board of Examiners for taking the opportunity to hear this request of the North Carolina Department of Adult Corrections (NCDAC) Education Services.

This letter serves as a request for a waiver for the following individuals to have their Barber Licenses Renewed.

Chico Talbert – License #36286
Buddy Mckay – License #36271
Kenneth Stanley – License #36283
Bryan Gale – License #36261
John Holden-El – License #34150
James A Parker -- #38723

We request this waiver because most of the people listed above are housed in prison facilities across North Carolina.

If a waiver is granted, NCDAC will ensure that each person receives their license and that all fees are paid.

Thank you for supporting the population that we serve.

For questions, do not hesitate to contact Duane Cogdell by phone or email.

Duane E. Cogdell
Education and Program Consultant II
Division of Adult Correction & Juvenile Justice
3070 Hammond Business Place
Raleigh, NC 27603

21 NCAC 06Y .0106 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 to the address in 21 NCAC 06A .0102. 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, provided that this notice does not conflict with laws that would prohibit disclosure of information, such as the Health Insurance Portability and Accountability Act or the North Carolina Identity Theft Protection Act;
- (6) need for the waiver; and
- (7) previous requests for waivers submitted from the requesting party.

*History Note: Authority G.S. 88A-6; 150B-19(6);
Eff. November 1, 2022;
Recodified from 21 NCAC 19 .0706 Eff. January 1, 2023.*



NORTH CAROLINA BOARD OF BARBER AND ELECTROLYSIS EXAMINERS

Memo

TO: Board members and anticipated board appointees

FROM: Dennis Seavers

DATE: February 21, 2023

SUBJECT: Rulemaking—electrology apprenticeship program

Session Law 2022-72, which created the North Carolina Board of Barber and Electrolysis Examiners (the “board”), also established an electrology apprenticeship program. Under G.S. § 86B-65, a copy of which is attached to this memo, this program offers an alternative pathway to licensure, rather than requiring a person to attend an electrology apprenticeship school.

The purpose of this memo is to explain the background of the proposed rulemaking, including the reason for the rules and how they were developed. The memo also explains the provisions in the rules, including a few rules that aren’t directly related to the apprenticeship program.

BACKGROUND

Purpose of the electrology apprenticeship program

The former Board of Electrology Examiners proposed that House Bill 792 include provisions for an electrology apprenticeship program. Currently, there are no electrology schools in North Carolina, although we’re working with stakeholders with the hopes of establishing a school. North Carolinians who want to become electrologists must attend an approved school out of state; presently, those schools are in Tewksbury, Massachusetts; Forest Hills, New York; and Lexington, Kentucky.

Work of the Electrolysis Board

After the passage of HB 792, the Board of Electrolysis Examiners established an ad hoc committee to develop a set of recommended rules for the new board to propose. The idea was similar to the ad hoc committee to develop rules for mobile barber shops: the committee would give the new board a set of rules to work from, rather than requiring the board to start from scratch. The committee included a set of experts on electrology

and electrology-related pedagogy (a school administrator and North Carolina electrologists), as well as the former administrative assistant for the Electrolysis Board, who had expertise in electrology licensing. I also participated as an expert in rulemaking.

The committee spent several months developing the program and refining the draft rules. The attached rules represent the recommendations of the ad hoc committee.

Responsibility of the board

Board members should regard the attached rules as a recommendation based on the Electrolysis Board's expertise, but you are not bound by the actions of that board. Ultimately, this board is responsible for the proposed rules and implementation of the legislation.

Organization of this memo

This memo is organized according to the subchapters in Title 21, Chapter 06, which is the chapter that deals with matters under the board's jurisdiction. Board members can locate the specific rules by referring to these subchapters. For example, the attached rule 21 NCAC 06O .0201 is in Title 21, Chapter 06, Subchapter O, and the rules are consecutive according to the number after the decimal point.

RULEMAKING PROVISIONS

As indicated above, this memo is organized according to subchapters. For the most part, the subchapters are presented in alphabetical order, as they appear in the code. However, I discuss subchapter O last because it deals with civil penalties for violating the other rules; it will be easiest to understand this subchapter after first discussing the other rule provisions.

Subchapter U – electrolysis fees and forms

21 NCAC 06U .0101 – fees

A rule that previously had been adopted by the Electrolysis Board establishes the schedule of electrology-related fees. The amendment to this rule would increase the fee for electrology exams from \$125 to \$150, since HB 792 increased the maximum fee for these exams. The amendment also establishes a new fee of \$100 for inspection of an electrology apprenticeship program facility.

The amendment would also allow individuals to make other forms of payment besides checks or money orders, including cashier check, official check, or teller check. The name of the agency in the rule has also been updated.

21 NCAC 06U .0106 – student permit for electrology apprenticeship program

This new rule sets the requirements for student permits, which allow individuals to enroll in an approved electrology apprenticeship program. The rule lists the application requirements and indicates how the form must be submitted.

21 NCAC 06U .0107 – monthly reports for electrology apprenticeship program

Electrology apprenticeship programs will need to submit monthly reports that include information about the students, their attendance, and the hours accrued. This rule lists the requirements for the monthly reports.

21 NCAC 06U .0108 – application for instructor in electrology apprenticeship program

Instructors for electrology apprenticeship programs must apply to the board for authorization. This rule sets forth the application requirements and specifies that continuing education required for instructors must be separate from continuing education received for other licenses issued by the board (such as an electrology license).

The board should note the use of the word “authorization” for instructors in electrology apprenticeship programs. After considering the wording of G.S. § 86B-65, it appears that the board has the authority to issue licenses to instructors for these programs. (The board should note that these instructors are separate from the instructor for schools who require licenses.) Although the individuals still must be authorized by the board, this terminology has significance for questions of discipline, the applicability of the Administrative Procedures Act, and the applicability of requirements to collect Social Security numbers under G.S. 93B-14 for the purpose of enforcing tax and child-support laws.

21 NCAC 06U .0109 – post-apprenticeship application for licensure

There will be separate applications for individuals who want to get licensed after completing an apprenticeship program, compared with individuals who attend electrology schools. This separate application process captures differences in the way individuals received their training, even though the eventual outcome (an electrology license) will be the same.

This rule lists the application requirements for individuals who attended an electrology apprenticeship program and who want to get licensed.

21 NCAC 06U .0110 – application for approval as an electrology apprenticeship program

Facilities that wish to offer apprenticeship programs must get approval by submitting an application to the board. This new rule lists the application requirements and requires an attestation that the information in the application is correct.

The board should note that the former Board of Barber Examiners had moved away from notarized forms, which make it difficult to have an electronic business process, and toward forms with attestations. The board won't be prohibited from taking disciplinary action against individuals who falsify applications simply because the form has an attestation instead of a notarization.

Subchapter Z – electrology apprenticeship program

21 NCAC 06Z .0101 – enrollment requirements and student permits

A rule discussed earlier in this memo dealt with student permits, but only with the application requirements. This rule deals with the requirements for enrolling students. It has the following provisions:

- Programs can't accept tuition from students or enroll them unless a student permit has been issued.
- Student permits are only valid for a specific program and can't be transferred to another program. If a student transfers, he or she would need to get a new permit for the new facility.
- Programs must notify the students of the minimum requirements to get an electrology license, including the requirement to be at least 21 years old. The committee originally planned to establish requirements for programs to verify age and license eligibility but felt that it would be burdensome for schools. Instead, the schools simply need to notify the student so he or she is aware of any issues that may exist in the future. This rule also sets the retention requirement for the notice.

21 NCAC 06Z .0102 – curriculum

This rule sets the curriculum for the electrology apprenticeship program. The rule lists the topics that must be covered and the number of hours for each topic. The program is a hybrid of classes and hands-on training.

The curriculum is broken into three main parts:

1. Electrology Fundamentals I. This portion must be completed before the other sections.

2. Electrology Fundamentals II. This section can only begin after Electrology Fundamentals I, although it can be done at the same time as Onsite Practical Training.
3. Onsite Practical Training. This section can only begin after Electrology Fundamentals I, though it can be done at the same time as Electrology Fundamentals II. It can't begin before Electrology Fundamentals II.

Below are two examples of how the order in the curriculum works:

- A student could complete Electrology Fundamentals I, and then start the remaining two sections at the same time.
- A student **cannot** complete Electrology Fundamentals I, start Onsite Practical Training, and then start Electrology Fundamentals II after Onsite Practical Training has begun.

The student will have 25 weeks to complete Electrology Fundamentals I. Both Electrology Fundamentals II and Onsite Practical Training must together be completed within 52 weeks (the student won't have 52 weeks for each part, but must complete them both 52 weeks after they start Electrology Fundamentals II).

The two Electrology Fundamentals sections may be offered online, but Onsite Practical Training must be offered in person.

The program must administer exams for each of the topics listed under the two Electrology Fundamentals sections. The purpose of the exams is to assess the student's understanding of the material and avoid situations where the student graduates and is unable to pass the license exam.

Finally, the rule specifies the textbooks that must be used. Although a program could use another textbook in addition to the ones below, it must at least use the following:

- *Milady's Hair Removal Techniques: A Comprehensive Manual*; and
- *Milady's Standard Esthetics*.

21 NCAC 06Z .0103 – facility requirements

The committee developed the minimum requirements for the facility where an electrology apprenticeship program takes place. There are a number of pieces of equipment related to electrology that the program must have. The program must also have a sink with running hot and cold water in the office or suite, one that isn't shared with other businesses (e.g., a shared sink in an office building wouldn't be suitable). The facility must also have an electronic or punch-card time clock to record student hours.

The rule prohibits animals, apart from service dogs. It sets the vestimentary requirements for electrology personnel and students, including:

- Scrubs, lab coats, or medical-grade clothing;
- Soft-soled shoes;
- Surgical or N95 masks; and
- Latex or nitrile gloves.

The board already has infection-control rules for electrology facilities. Similarly, facilities where apprenticeship programs occur must comply with those rules. They must also post the rules in a conspicuous place, which is defined as a place easily seen by individuals receiving electrology services.

21 NCAC 06Z .0104 – student hours and permits

This rule sets the conditions under which hours can be accrued and lists the requirements for schools to track hours. Below are the provisions in the rule:

- A student permit must be displayed at the electrology station before practical training can occur.
- Student hours can only be accrued if an instructor authorized under G.S. § 86B-65 is present.
- Schools must track student hours with a time clock. If students participate in online classes, the software must be able to track students' hours of attendance. No hours can be credited that aren't reflected in the time-clock or online-tracking records, and these records must be maintained at least one year after the student leaves the program.
- The school must submit a monthly report with information about student hours by the 15th day of each month.

21 NCAC 06Z .0105 – program handbooks and enrollment agreements

The programs must have a handbook and provide it to students upon enrollment. The rule specifies the minimum contents of the handbook (the program could include additional information if it wishes). Some of the topics the handbook must cover include the schedule of fees, monetary penalties, absenteeism policies, and the grading system. The program must submit a copy of the handbook for review by the board before enrolling any students, and the program must submit an updated copy of the handbook within 30 days of any amendment or revision.

21 NCAC 06Z .0106 – instructors in an electrology apprenticeship program

This rule sets the requirements for an individual to be authorized as an instructor for an electrology apprenticeship program. The board must authorize the individual if he or she submits a complete application (the contents of which were specified in an earlier rule) and makes a score of at least 85 on the written exam.

This rule limits the instructor authorization to a specific program. In this sense, it's quite different from a license, which usually allows a license-holder to practice anywhere. An

authorization can't be "transferred" to another program, and an individual would need to submit a new application if he or she wishes to be an instructor at another program. If the instructor no longer works at the program, he or she must notify the board in writing within 15 days of the end of work.

The rule lists circumstances under which the instructor authorization would be revoked, including actions such as falsification of documents or failure to maintain an electrology license.

21 NCAC 06Z .0107 – transfers

This rule clarifies that students who transfer from one program to another will still receive credit for the hours they already accrued and won't need to start over.

21 NCAC 06Z .0108 – program completion

This rule deals with the requirements when a student completes an electrology apprenticeship program. It requires the instructor to submit the student hours within 15 days of a student completing the program, despite the normal requirement to submit the hours by the 15th day of the following month. (This provision helps get the hours in to the board faster and helps the student start the licensure process sooner.) The final report must also include a sworn statement that the hours are accurate and that the student has completed the curriculum.

21 NCAC 06Z .0109 – post-apprenticeship electrology license

This rule requires an individual who completes a program to submit the application (the requirements of which were set forth in a previous rule) and make a score of at least 70 on the clinical exam.

The board should note that it will need to develop the clinical exam, perhaps modeled after existing electrology exams. The board may wish to have an ad hoc committee begin that work and bring a proposal back to the board.

21 NCAC 06Z .0110 – approval as an electrology apprenticeship program

Businesses that wish to offer an electrology apprenticeship program must meet the requirements in this rule. The business must:

- Submit a complete application;
- Pass an inspection that assesses compliance with 21 NCAC 06Z .0103; and
- Employ an instructor for the program.

The board is required to issue approval to a program within five business days of determining that the program meets the requirements above. A program can't operate unless it receives this approval.

The rule requires a business owner or instructor to notify the board if the facility won't be ready for inspection on the scheduled date. This notification must be at least one business day before the inspection. Otherwise, the business will forfeit the inspection fee.

The rule lists the circumstances under which the board will terminate the program's approval, including a lack of required personnel or failing to comply with the facility requirements after receiving a warning.

Subchapter O – civil penalty

A new section of civil penalties would be created, since there currently aren't any rules setting the civil penalties for violation of electrology-related laws. In most cases, there will be a range of penalties for each violation, depending on whether it's a repeat offense. The offenses include:

- Operating an electrology apprenticeship program without board approval;
- Accepting tuition from or enrolling a student before the board has issued a student permit;
- Engaging as a student in an electrology apprenticeship program before the board has issued a student permit;
- A program:
 - Failing to comply with the facility requirements;
 - Providing practical training without the student permit displayed at the electrology station;
 - Providing training without an instructor present;
 - Failing to maintain records required by board rules;
 - Falsifying records required by board rules;
 - Failing to submit records required by board rules;
 - Allowing an individual to instruct without an instructor authorization;
- Instructing without authorization from the board at an electrology apprenticeship program; and
- An instructor failing to notify the board that he or she no longer is working at an electrology apprenticeship program.

The board should be aware that it doesn't keep any civil penalties it collects, except for a partial reimbursement of expenses. Instead, the monies go to the Civil Penalties Forfeiture Fund for distribution to local school districts.

21 NCAC 06O .0201 – electrology apprenticeship program

This rule lists the range of civil penalties to be assessed for violations of laws related to electrology apprenticeship programs.

21 NCAC 06O .0202 – unlicensed practice

The Electrolysis Board didn't have civil penalties established for unlicensed practice by electrologists or laser hair practitioners. Instead, that board handled matters through injunctions (or the threat of injunctions). This rule would set a civil penalty for unlicensed practice. Given the seriousness of the offense, the rule sets the penalty at the maximum allowed by law, \$5,000. Please note that the penalty would be for each instance of an individual engaging in unlicensed practice for each license type.

21 NCAC 06O .0203 – schools

As with the previous rule, there isn't currently a rule for violations of laws that govern schools of electrology or laser hair practice. Although there currently aren't schools in North Carolina, these rules would apply whenever schools are established.

BOARD ACTION AND FUTURE STEPS

Once the board decides on the final form of the rules, it should propose them for adoption under temporary procedures.

1. Once the board decides on the final language of the rules (whether the attached language or something similar), it should make a motion to propose the rules.
2. I'll file these rules with the Office of Administrative Hearings under temporary procedures. This process, which allows rules to be put in place faster than permanent rulemaking, can only be used in limited circumstances, but new legislation is one of them.
3. There will be a comment period of 15 business days and a public hearing. (The board members don't need to attend the hearing.)
4. No sooner than 30 business days after the filing in Step 2, the board will need to meet again to adopt the rules. (This adoption can take place in the context of a regular board meeting. But given the importance of getting the rules in place, I recommend a special meeting solely for the purpose of adopting temporary rules.)
5. Within 15 business days, the Rules Review Commission will meet to review the rules. Assuming the commission approves them, they will be entered into the code six to eight business days later.¹

Board members should note that it will still be about two months before the temporary rules are in place, even under these accelerated procedures. In the meantime, I will work with the Office of State Budget and Management to get a fiscal note approved so the board can begin the permanent rulemaking process.

¹ The exception will be rules related to new fees, which will be entered into the code after the consultation with the Joint Legislative Commission on Governmental Operations or after 90 days, whichever is sooner.

§ 86B-65. Electrology apprenticeship program.

(a) Notwithstanding the requirements of G.S. 86B-53, the Board shall issue a license as an electrologist to any individual who meets all of the following requirements:

- (1) Completes a Board-approved electrology apprenticeship program consisting of 625 hours.
- (2) Visits two electrologist offices that are not the same office as the instructor of the program.
- (3) Successfully passes a clinical examination conducted by the Board.

(b) The Board shall not approve an electrology apprenticeship program until the Board has conducted an inspection of the facility where the program will be offered.

(c) An application for a student permit must be filed with the Board before the student enrolls in school. The application shall be on a form prescribed by the Board. No student may enroll without having obtained a student permit prior to enrollment.

(d) Instructors in the electrology apprenticeship program shall meet all of the following requirements:

- (1) Be licensed as an electrologist in this State.
- (2) Have more than five continuous years of experience as an electrologist.
- (3) Obtain at least one hour of Board-approved continuing education.
- (4) Successfully pass a written exam designated by the Board. The Board may charge the applicant the actual cost of preparing and administering the examination under this section.

(e) The Board shall adopt rules for the electrology apprenticeship program, including curriculum specifications, authorized textbooks, facility and equipment requirements, reporting and record-keeping requirements, assessment of students' progress in the program, school agreements, and qualifications of instructors, consistent with this section. (2022-72, s. 2.)

1 21 NCAC 06O .0201 is proposed for adoption under temporary procedures as follows:

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SECTION .0200 – ELECTROLYSIS

21 NCAC 06O .0201 ELECTROLOGY APPRENTICESHIP PROGRAM

(a) The presumptive civil penalty for operating an electrology apprenticeship program without Board approval:

- (1) 1st offense \$300.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$500.00

(b) The presumptive civil penalty for accepting tuition from or enrolling a student before the Board has issued a student permit:

- (1) 1st offense \$300.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$500.00

(c) The presumptive civil penalty for an individual engaging as a student in an electrology apprenticeship program before the Board has issued a student permit:

- (1) 1st offense \$200.00
- (2) 2nd offense \$300.00
- (3) 3rd offense \$500.00

(d) The presumptive civil penalty for an electrology apprenticeship program failing to comply with the facility requirements as set forth in 21 NCAC 06Z .0103:

- (1) 1st offense \$250.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$500.00

(e) The presumptive civil penalty for an electrology apprenticeship program providing practical training without the student permit displayed at the electrology station:

- (1) 1st offense \$100.00
- (2) 2nd offense \$150.00
- (3) 3rd offense \$250.00

(f) The presumptive civil penalty for an electrology apprenticeship program providing training without an instructor present:

- (1) 1st offense \$150.00
- (2) 2nd offense \$300.00
- (3) 3rd offense \$500.00

(g) The presumptive civil penalty for an electrology apprenticeship program failing to maintain records required by this Chapter:

- (1) 1st offense \$200.00

1 (2) 2nd offense \$250.00

2 (3) 3rd offense \$500.00

3 (h) The presumptive civil penalty for an electrology apprenticeship program falsifying records required by this
4 Chapter: \$500.00.

5 (i) The presumptive civil penalty for an electrology apprenticeship program failing to submit records required by this
6 Chapter:

7 (1) 1st offense \$200.00

8 (2) 2nd offense \$350.00

9 (3) 3rd offense \$500.00

10 (i) The presumptive civil penalty for an electrology apprenticeship program allowing an individual to instruct without
11 an instructor authorization:

12 (1) 1st offense \$200.00

13 (2) 2nd offense \$300.00

14 (3) 3rd offense \$500.00

15 (j) The presumptive civil penalty for an individual instructing without authorization from the Board at an electrology
16 apprenticeship program:

17 (1) 1st offense \$200.00

18 (2) 2nd offense \$300.00

19 (3) 3rd offense \$500.00

20 (j) The presumptive civil penalty for an individual failing to submit the required notification set forth in Paragraph
21 (c) of 21 NCAC 06Z .0106:

22 (1) 1st offense \$50.00

23 (2) 2nd offense \$100.00

24 (3) 3rd offense \$200.00

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26 *Authority G.S. 86B-10; 86B-65*

1 21 NCAC 06O .0202 is proposed for adoption under temporary procedures as follows:

2

3 **21 NCAC 06O .0202 UNLICENSED PRACTICE**

4 The presumptive civil penalty for an individual engaging in the practice of electrology or laser, light source, or pulsed-
5 light treatments without a license: \$5,000.00.

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7 *Authority Authority G.S. 86B-10; 86B-52*

1 21 NCAC 06O .0203 is proposed for adoption under temporary procedures as follows:

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21 NCAC 06O .0203 SCHOOLS

(a) The presumptive civil penalty for operating a school of electrology or laser, light source, or pulsed-light treatments without certification pursuant to G.S. 86B-67:

- (1) 1st offense \$300.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$500.00

(b) The presumptive civil penalty for a school of electrology or laser, light source, or pulsed-light treatments failing to maintain records required by this Chapter:

- (1) 1st offense \$200.00
- (2) 2nd offense \$250.00
- (3) 3rd offense \$500.00

(c) The presumptive civil penalty for a school of electrology or laser, light source, or pulsed-light treatments falsifying records required by this Chapter: \$500.00.

(d) The presumptive civil penalty for a school of electrology or laser, light source, or pulsed-light treatments failing to submit records required by this Chapter:

- (1) 1st offense \$200.00
- (2) 2nd offense \$350.00
- (3) 3rd offense \$500.00

(d) The presumptive civil penalty for a school of electrology or laser, light source, or pulsed-light treatments failing to comply with the facility requirements as set forth in 21 NCAC 06X .0106 and .0107:

- (1) 1st offense \$250.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$500.00

(d) The presumptive civil penalty for a school of electrology or laser, light source, or pulsed-light treatments failing to comply with the student-instructor ratio set forth in 21 NCAC 06X .0110:

- (1) 1st offense \$250.00
- (2) 2nd offense \$400.00
- (3) 3rd offense \$500.00

Authority G.S. 86B-10; 86B-67; 86B-68

1 21 NCAC 06U .0101 is proposed for amendment under temporary procedures as follows:

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3 **21 NCAC 06U .0101 FEES**

4 (a) The following fees are payable to the Board for licensure as an electrologist:

- 5 (1) Application for licensure \$150.00
- 6 (2) Initial licensure \$125.00
- 7 (3) Renewal of licensure \$125.00

8 (b) The following fees are payable to the Board for licensure as a laser hair practitioner:

- 9 (1) Application for licensure \$125.00
- 10 (2) Initial licensure \$125.00
- 11 (3) Renewal of licensure \$150.00

12 (c) The following fees are payable to the Board for certification as an instructor:

- 13 (1) Application for Electrology instructor \$150.00
- 14 (2) Renewal of Electrology instructor \$125.00
- 15 (3) Application for laser hair practitioner instructor \$150.00
- 16 (4) Renewal of laser hair practitioner instructor \$125.00

17 (d) The following fees are payable to the Board for certification as a Board approved school:

- 18 (1) IN STATE SCHOOL
 - 19 (A) Application for certification as an Electrology school \$250.00
 - 20 (B) Renewal of certification as an Electrology school \$150.00
 - 21 (C) Application for certification as a laser, light source,
 - 22 or pulse light treatment school \$250.00
 - 23 (D) Renewal of certification for a laser, light source,
 - 24 or pulse light treatment school \$150.00
- 25 (2) OUT-OF-STATE SCHOOL
 - 26 (A) Application for certification as an Electrology school \$400.00
 - 27 (B) Initial certification as an Electrology school \$100.00
 - 28 (C) Renewal of certification for an Electrology school \$100.00
 - 29 (D) Application for certification as a laser, light source,
 - 30 or pulse light treatment school \$350.00
 - 31 (E) Initial certification as a laser, light source,
 - 32 or pulse light treatment school \$75.00
 - 33 (F) Renewal of certification as a laser, light source,
 - 34 or pulse light treatment school \$100.00

35 (e) The following other fees are payable to the Board:

- 36 (1) Electrologist Examination or reexamination ~~\$125.00~~ \$150.00
- 37 (2) Office inspection or re-inspection

1	(A)	Electrologist – per licensee, for each office site	\$100.00
2	(B)	Laser Hair Practitioner – per licensee, for each office site	\$100.00
3	(C)	<u>Electrology Apprenticeship Program facility</u>	<u>\$100.00</u>
4	(3)	License by reciprocity	\$125.00
5	(4)	Late renewal charge	\$50.00
6	(5)	Reinstatement of expired license	\$250.00
7	(6)	Reinstatement of instructor licensure	\$250.00
8	(7)	Reactivation of license	\$150.00
9	(8)	Reactivation of instructor licensure	\$150.00
10	(9)	Duplicate license	\$25.00

11 (f) All fees shall be paid only by ~~check~~ check, cashier check, official check, teller check, or money order, made
 12 payable to "~~The North~~ "North Carolina Board of Barber and Electrolysis Examiners."

13 (g) Renewal fees required for Subparagraphs (a)(3), (b)(3), (c)(2), (c)(4), (e)(2), and (e)(9) of this Rule shall be waived
 14 for licensees under this Chapter ~~that~~ who are exempt from renewal fees under G.S. 93B-15.

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16 *Authority G.S. 86B-65; 86B-70; 93B-15*

1 21 NCAC 06U .0106 is proposed for adoption as under temporary procedures follows:

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3 **21 NCAC 06U .0106 STUDENT PERMIT FOR ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) The application for a student permit shall be filed for permission to enroll in an electrology apprenticeship program.

5 The application requires the following:

6 (1) the name, address, social security number, and birth date of the applicant;

7 (2) the name, address, email address, and website address of the electrology business where the
8 apprenticeship program will occur;

9 (3) the name and license number of the electrologist under whom the applicant will study;

10 (4) the name of the owner of the electrology business where the apprenticeship program will occur, if
11 the owner is different from the person listed in Subparagraph (3) of this Rule; and

12 (5) the date when the apprenticeship program will begin.

13 (b) The application shall be submitted to the Board at the address in 21 NCAC 06A .0102.

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15 *Authority G.S. 86B-65; 93B-14*

1 21 NCAC 06U .0107 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06U .0107 MONTHLY REPORTS FOR ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) The monthly report for an electrology apprenticeship program is a Board-prescribed form that shall be filed by
5 the program instructor or facility owner. The form shall be available at the website addresses listed in 21 NCAC 06A
6 .0102.

7 (b) The monthly report shall include the following information:

8 (1) the name of the electrology apprenticeship program;

9 (2) the name of the student;

10 (3) the month and year for which the report is filed; and

11 (4) the dates and number of hours of the student's attendance, with the hours broken down by the topics
12 in the curriculum set forth in 21 NCAC 06Z .0102.

13 (c) The monthly report shall be signed by the instructor, who shall attest that the contents of the report are accurate.

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15 *Authority G.S. 86B-65*

1 21 NCAC 06U .0108 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06U .0108 APPLICATION FOR INSTRUCTOR IN ELECTROLOGY APPRENTICESHIP**
4 **PROGRAM**

5 (a) An application shall be filed by an individual who seeks Board authorization as an instructor in an electrology
6 apprenticeship program. The application requires the following:

7 (1) the name, address, and birth date of the applicant;

8 (2) the current electrology license number; and

9 (3) Evidence of completing the Board-approved continuing education as set forth in G.S. 86B-65(d)(3).

10 This continuing education shall be separate from continuing education received for other licenses
11 issued by the Board.

12 (b) The form shall include the applicant's attestation that the information in the form is correct.

13

14 *Authority G.S. 86B-65*

1 21 NCAC 06U .0109 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06U .0109 POST-APPRENTICESHIP APPLICATION FOR LICENSURE**

4 (a) The post-apprenticeship application for licensure shall be filed by an individual who has completed an
5 electrology apprenticeship program as set forth in S.L. 2022-72, s. 2, and this Section. The application requires the
6 following information:

- 7 (1) the name, address, social security number, and birthdate of the applicant;
- 8 (2) the name and address of the electrology apprenticeship program;
- 9 (3) the name of the instructor of the electrology apprenticeship program;
- 10 (4) the names and addresses of the two electrologist offices where the applicant visited, as well as the
11 dates when the visits occurred, as required by S.L. 2022-72, s. 2;
- 12 (5) a passport-acceptable photograph taken within the past two years; and
- 13 (6) proof of age as evidenced by a copy of a current:
 - 14 (A) driver license or identification card issued by a state or territory in the United States;
 - 15 (B) United States passport or passport card;
 - 16 (C) United States permanent resident card;
 - 17 (D) United States employment authorization document card;
 - 18 (E) birth certificate issued by a state, county, municipal authority, or outlying territory of the
19 United States;
 - 20 (F) consular report of birth abroad, certification of birth abroad issued by the United States
21 Department of State, or certification of report of birth issued by the United States
22 Department of State; or
 - 23 (G) Native American tribal document.

24 (b) The fee in Rule .0101 of this Section shall be submitted with the application.

25 (c) The application form shall include the applicant's attestation that the information in the form is correct.

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27 *Authority G.S. 86B-65; G.S. 93B-14*

1 21 NCAC 06U .0110 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06U .0110 APPLICATION FOR APPROVAL AS AN ELECTROLOGY APPRENTICESHIP**
4 **PROGRAM**

5 (a) An application shall be filed by a facility that wishes to offer an electrology apprenticeship program. The
6 application requires the following:

- 7 (1) the name and address of the business;
- 8 (2) the names, addresses, and authorization numbers of the instructors for the electrology apprenticeship
9 program;
- 10 (3) the names and addresses of the owners of the electrology apprenticeship program, if different from
11 the information provided under Item (2) of this Rule;
- 12 (4) the business hours;
- 13 (5) the physical dimension of the training area;
- 14 (6) the number of treatment tables; and
- 15 (7) the date the business will be ready for inspection.

16 (b) The fee required by Rule .0101 of this Section shall accompany the application.

17 (c) The application shall include the applicant’s attestation that the information in the form is correct.

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19 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0101 is proposed for adoption under temporary procedures as follows:
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3 **SUBCHAPTER 06Z – ELECTROLOGY APPRENTICESHIP PROGRAM**
4

5 **21 NCAC 06Z .0101 ENROLLMENT REQUIREMENTS AND STUDENT PERMITS**

6 (a) An electrology apprenticeship program shall not accept tuition from or enroll a student unless the student has
7 submitted the application for a student permit required by 21 NCAC 06U .0106 and been issued a student permit by
8 the Board.

9 (b) The student permit shall only be valid for a specific electrology apprenticeship program and cannot be used in
10 another location.

11 (c) A new application for a student permit shall be filed with the Board for a student who drops out of the program
12 and later re-enrolls.

13 (d) Before accepting tuition or enrolling a student, the apprenticeship program shall notify a student applicant of the
14 minimum qualifications for licensure as an electrologist as set forth in G.S. 86B-53, including the minimum-age
15 requirement. The apprenticeship program shall have the applicant sign and date the notice indicating that the applicant
16 has been informed of the qualifications. The apprenticeship program shall retain the signed and dated notice for at
17 least one year after the student terminates from the program.

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19 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0102 is proposed for adoption under temporary procedures as follows:

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21 NCAC 06Z .0102 CURRICULUM

(a) The curriculum for an electrology apprenticeship program shall consist of 625 hours of technical instruction and practical training as set below:

	<u>Hours</u>
<u>Electrology Fundamentals I</u>	
<u>Clinical techniques</u>	50
<u>Infectious agents and sterilization</u>	24
<u>Histology of the cell and skin</u>	24
<u>Histology of the hair</u>	24
<u>Modalities: galvanic, thermolysis, blend, and epilators</u>	44
<u>Electrology Fundamentals II</u>	
<u>Endocrine system</u>	20
<u>Disease and disorders of the skin</u>	24
<u>Electricity</u>	10
<u>Anatomy and physiology</u>	20
<u>Business procedures and regulations</u>	10
<u>Onsite Practical Training</u>	
<u>General orientation</u>	
<u>Rules of the program</u>	1
<u>Personal hygiene and dress</u>	1
<u>Professional ethics and office rules</u>	1
<u>Laws governing electrolysis</u>	1
<u>Pathology</u>	
<u>Sanitation, sterilization, and disinfection</u>	2
<u>State regulations on pathogen control</u>	1
<u>Variables</u>	
<u>Probes</u>	1
<u>Intensity</u>	2
<u>Timing</u>	2
<u>Depth of insertion</u>	5
<u>Angle of insertion</u>	15
<u>General Treatment Procedures</u>	
<u>Consultations</u>	5
<u>Positioning and draping of the client while working</u>	2
<u>Observation of modalities</u>	

1	<u>Electrolysis (DC – galvanic)</u>	<u>5</u>
2	<u>Thermolysis (SW – shortwave)</u>	<u>15</u>
3	<u>Blend (combination of galvanic and shortwave)</u>	<u>10</u>
4	<u>Hands-on experience with modalities</u>	
5	<u>Electrolysis (DC – galvanic)</u>	<u>25</u>
6	<u>Thermolysis (SW – shortwave)</u>	<u>200</u>
7	<u>Blend (combination of galvanic and shortwave)</u>	<u>75</u>
8	<u>Equipment maintenance and upkeep</u>	<u>1</u>
9	<u>Development of practice: public relations and advertisement, office procedure and management,</u>	
10	<u>financial recordkeeping, customer service, and office upkeep</u>	<u>5</u>
11		<u>Total Hours 625</u>

12 (b) The student shall complete Electrology Fundamentals I before beginning other parts of the curriculum. The student
 13 shall not begin Onsite Practical Training before Electrology Fundamentals II, although the student may do Onsite
 14 Practical Training at the same time as Electrology Fundamentals II.

15 (c) The student shall complete Electrology Fundamentals I within a 25-week time frame. The student shall complete
 16 both Electrology Fundamentals II and Onsite Practical Training within a 52-week time frame.

17 (d) The electrology apprenticeship program may offer Electrology Fundamentals I and Electrology Fundamentals II
 18 online. The program shall only offer Onsite Practical Training, as described in Paragraph (a) of this Rule, in person.

19 (e) The electrology apprenticeship program shall administer exams for each topic under Electrology Fundamentals I
 20 and Electrology Fundamentals II, as set forth in Paragraph (a) of this Rule, to determine whether a student has an
 21 understanding of the material that is satisfactory to the program.

22 (f) The electrology apprenticeship program shall use the following textbooks:

- 23 (1) “Milady’s Hair Removal Techniques: A Comprehensive Manual”; and
- 24 (2) “Milady’s Standard Esthetics.”

25
 26 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0103 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06Z .0103 FACILITY REQUIREMENTS**

4 (a) A North Carolina electrology facility that offers an electrology apprenticeship program shall have the following
5 equipment onsite:

- 6 (1) A high frequency or thermolysis (short wave) machine;
- 7 (2) A galvanic/thermolysis (blend) machine;
- 8 (3) A 13.5 MHz epilator;
- 9 (4) A 27 MHz epilator;
- 10 (5) A treatment table;
- 11 (6) Two stools or adjustable chairs for each treatment table;
- 12 (7) A supply cabinet for each treatment table;
- 13 (8) Six dozen epilation forceps (tweezers) that meet the requirements set forth in 21 NCAC 06V
14 .0105(c)(2);
- 15 (9) At least one holding tank for epilation forceps (tweezers) at each electrology station;
- 16 (10) A sharps container for each electrology station;
- 17 (11) At least one FDA-approved dry heat sterilizer or autoclave;
- 18 (12) At least one ultrasonic cleaner;
- 19 (13) Illumination and magnification equipment to aid with electrology services;
- 20 (14) A sink with running hot and cold water within the office or suite where the electrology
21 apprenticeship program is located and not shared with other businesses;
- 22 (15) Toilet facilities on the same floor as the practical training area;
- 23 (16) An electronic or punch-card time clock to record student hours.

24 (b) With the exception of service dogs, no animals shall be permitted in an electrology facility.

25 (c) All bottles and containers that contain electrology equipment and supplies shall have labels that indicate the
26 contents.

27 (d) All electrology personnel and students shall wear the following during training and services:

- 28 (1) Scrubs, lab coats, or medical-grade clothing;
- 29 (2) Soft-soled shoes;
- 30 (3) Surgical or N95 masks; and
- 31 (4) Latex or nitrile gloves.

32 (f) The electrology facility shall comply with the infection-control rules in Subchapter V of this Chapter and post
33 them in a conspicuous place. For the purposes of this Rule, "conspicuous place" means a place easily seen by the
34 individuals receiving electrology services.

35
36 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0104 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06Z .0104 STUDENT HOURS AND PERMITS**

4 (a) No practical training shall occur unless the student permit required by Rule .0101 of this Section is displayed at
5 the electrology station.

6 (b) Students shall not earn hours in Onsite Practical Training, as described in Rule .0102 of this Section, unless an
7 instructor is present. This instructor must be authorized under G.S. 86B-65.

8 (c) The school shall track student hours:

9 (1) by having the students record their start and end time with the time clock required by

10 Subparagraph (a)(16) of Rule .0103 of this Section; or

11 (2) for online classes, by having software track the student's online attendance.

12 (d) The electrology apprenticeship program shall not credit hours except as reflected in time-clock or online-
13 tracking records as provided in Paragraph (c) of this Rule.

14 (e) The electrology apprenticeship program shall maintain time-clock records during the student's enrollment and at
15 least one year after the student drops, transfers, or completes the program.

16 (f) For each electrology student, the instructor shall submit the monthly report as set forth in 21 NCAC 06U .0107
17 to the Board at the address listed in 21 NCAC 06A .0102 by the 15th day of each month. The monthly report shall
18 include the hours accrued for the previous month.

19

20 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0105 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06Z .0105 PROGRAM HANDBOOKS AND ENROLLMENT AGREEMENTS**

4 (a) Every electrology apprenticeship program shall provide a program handbook to its students upon enrollment.

5 The program handbook shall contain the following information:

6 (1) Enrollment agreement;

7 (2) Schedule of fees, including any monetary penalties;

8 (3) Reimbursement policies;

9 (4) School rules and requirements;

10 (5) Tardiness and absenteeism policies;

11 (6) A copy of the curriculum as set forth in Rule .0102 of this Section;

12 (7) An explanation of how the curriculum content will be delivered, such as through online modules;

13 and

14 (8) The grading system for the curriculum.

15 (b) The electrology apprenticeship program shall submit a copy of the program handbook to the Board at the
16 address listed in 21 NCAC 06A .0102 before enrolling students. An updated copy of the handbook shall be
17 submitted to the Board within 30 days of any amendment or revision.

18

19 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0106 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06Z .0106 INSTRUCTORS IN AN ELECTROLOGY APPRENTICESHIP PROGRAM**

4 (a) The Board shall issue an authorization to an instructor in an electrology program if he or she:

5 (1) meets the requirements in G.S. 86B-65, and 21 NCAC 06U .0108; and

6 (2) makes a score of at least 85 on the written exam.

7 (b) The authorization in Paragraph (a) of this Rule shall only apply to a specific electrology apprenticeship program
8 and cannot be transferred to another program.

9 (c) An instructor in an electrology apprenticeship program shall notify the Board in writing at the address in 21
10 NCAC 06A .0102 if he or she is no longer working as an instructor in the electrology apprenticeship program. The
11 instructor shall submit this notification within 15 days of the end of his or her work as an instructor in the program.

12 (d) The Board shall revoke the authorization in Paragraph (a) for the following reasons:

13 (1) falsification of documents related to the electrology apprenticeship program;

14 (2) failure to maintain an electrology license;

15 (3) failure to provide oversight required by Board statute and rule to students enrolled in an
16 electrology apprenticeship program; or

17 (4) termination of the electrology apprenticeship program.

18

19 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0107 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06Z .0107 TRANSFERS**

4 Students attending electrology apprenticeship programs in North Carolina may transfer to another program and
5 receive credit for attendance at each of the programs where the student was enrolled.

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7 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0108 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06Z .0108 PROGRAM COMPLETION**

4 (a) Within 15 days of a student completing an electrology apprenticeship program, the instructor shall submit the
5 report set forth in 21 NCAC 06U .0107, notwithstanding the requirement in Rule .0104(e) of this Section to submit
6 the report by the 15th day of the following month.

7 (b) The report in Paragraph (a) shall be accompanied by a sworn statement that the hours reported are accurate and
8 that the student has completed the requirements of the curriculum set forth in Rule .0102 of this Section.

9 (c) The documentation required by this Rule shall be submitted to the Board at the address listed in 21 NCAC 06A
10 .0102.

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12 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0109 is proposed for adoption under temporary procedures as follows:

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3 **21 NCAC 06Z .0109 POST-APPRENTICESHIP ELECTROLOGY LICENSE**

4 An individual who attended an electrology apprenticeship program and wishes to be licensed shall:

5 (1) submit the post-apprenticeship application as set forth in 21 NCAC 06U .0109 to the Board at the
6 address listed in 21 NCAC 06A .0102; and

7 (2) make a score of at least 70 on the clinical examination.

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9 *Authority G.S. 86B-65*

1 21 NCAC 06Z .0110 is proposed for adoption under temporary procedures as follows:

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21 NCAC 06Z .0110 APPROVAL AS AN ELECTROLOGY APPRENTICESHIP PROGRAM

- (a) To receive approval as an electrology apprenticeship program, a business must:
- (1) submit the application as set forth in 21 NCAC 06N .0110;
 - (2) pass a facility inspection that assesses whether the program complies with requirements set forth in Rule .0103 of this Section; and
 - (3) employ an instructor for an electrology apprenticeship program who is approved under Rule .0106 of this Section.
- (b) Within five business days of determining that an electrology apprenticeship program meets the requirements in Paragraph (a) of this Rule, the Board shall issue an approval to the program.
- (c) No electrology apprenticeship program shall operate without first receiving the approval in Paragraph (b) of this Rule.
- (d) If a business is not ready for the facility inspection on a scheduled date, the owner or instructor shall notify the Board at the address listed in 21 NCAC 06A .0102 at least one business day before the scheduled inspection. The business shall forfeit the inspection fee if it fails to provide timely notice to the Board.
- (e) The Board shall terminate approval of an electrology apprenticeship program for the following reasons:
- (1) the program no longer has an instructor;
 - (2) after receiving a written warning, the facility fails to comply with the requirements in Rule .0103 of this Section;
 - (3) the Board determines that the program has falsified documents related to the program, and revocation of the instructor authorization as set forth in Paragraph (d) of Rule .0106 of this Section will not prevent further falsification of documents; or
 - (4) the Board determines that the program has failed to provide the oversight required by Board statute and rule to students enrolled in the program, and revocation of the instructor authorization as set forth in Paragraph (d) of Rule .0106 of this Section will not prevent further failures.

Authority G.S. 86B-65



NORTH CAROLINA BOARD OF BARBER AND ELECTROLYSIS EXAMINERS

Memo

TO: Board members and anticipated board appointees

FROM: Dennis Seavers

DATE: February 21, 2023

SUBJECT: Rulemaking—online student hours reporting

Within a few months, the board will have a system for barber schools to submit student hours online directly into our licensing database. This project will drastically reduce work for the board staff and reduce data entry for the schools. It also will help us more quickly identify errors (whether ours or the school's) in the hours recorded. Finally, the system will automatically notify schools that have missed their deadlines to improve school compliance with reporting requirements.

Since the project will drastically reduce staff work and help reduce errors, I believe it's in the board's interest to require schools to enter data through the online system. The primary purpose of the attached rule is to set this requirement. By the time the board goes through the permanent rulemaking process, the project should be complete, any issues should have been resolved, and the schools will have had training opportunities. If there are any remaining issues, the effective date of the rule can be delayed. That way, schools have ample time to become accustomed to the new system.

The board should keep in mind that there's a waiver rule that would allow schools with special circumstances to request authorization to submit hours in paper form. However, I believe the project has been designed in such a way that schools will find the online reporting to be much easier than paper forms.

The amendment makes a few additional changes:

- The amendment reduces the amount of data that schools must provide. Although schools still must maintain much of the data, the amendment focuses on essential data and thus helps reduce time that schools spend entering data.
- Schools will still submit paper forms for instances when students terminate enrollment. That way, the data can be entered into our system quickly, without waiting for the monthly report.

Board action

If the board agrees with the policy represented in this amendment, below is what would happen:

1. The board would pass a motion to propose the rule at the February 28, 2023 meeting.
2. I would file the rule with the Office of Administrative Hearing under the permanent rulemaking process.
3. The rule would be published in the North Carolina Register.
4. There would be a 60-day comment period and a public hearing.
5. Following the comment period, the board would consider the rule and any public comments submitted.
6. If the board decided to continue with the rule after considering public comments, it would pass a motion to adopt it.
7. I would file the rule with the Rules Review Commission for approval.
8. The rule would go into effect on the date decided by the board, in accordance with the time frames in the Administrative Procedure Act.

1 21 NCAC 06N .0111 is proposed for amendment 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;~~ student's name;

8 (3) the month and year for which the report is filed; and

9 ~~(4) the dates and hours of the student's absences;~~

10 ~~(5)(4) the dates and number of hours of the student's attendance;~~ student attended during the month and
11 year for which the report is filed.

12 ~~(6) the number of patrons served for clinical services; and~~

13 ~~(7) the subject matter covered in practical and theory courses.~~

14 (b) The school shall submit Form BAR-10 ~~shall be submitted~~ to the Board ~~over the signature of the manager of the~~
15 ~~school and co-signed by the student.~~ online at the website address listed in 21 NCAC 06A .0102.

16 (c) ~~If~~ Notwithstanding the requirement in Paragraph (b) of this Rule to submit the Form BAR-10 online, if a student
17 completes his or her course of study, drops out of school, or transfers to another school, the barber school shall ~~return~~
18 submit a paper version of the Form BAR-10 to the Board:

19 (1) within five business days; or

20 (2) within 30 days if the student's enrollment ends during the effective period of a state of emergency
21 declared by the Governor.

22

23 *Authority G.S. 86B-38*



NORTH CAROLINA BOARD OF BARBER AND ELECTROLYSIS EXAMINERS

Memo

TO: Board members and anticipated board appointees

FROM: Dennis Seavers

DATE: February 21, 2023

SUBJECT: Rulemaking—online submission of temporary permits

Under G.S. § 86B-27, the Board can issue temporary permits for barber-related applications in various circumstances, including the following:

- An individual has graduated from barber school and wishes to work while attempting to pass the exams. There are some limits on these permits, such as how long they're effective or how many can be issued.
- An individual formerly held a barber license (what used to be called a "registered barber license"), but the license expired more than five years ago. These individuals must apply to restore their licenses but can get a temporary permit while they attempt to pass the exams.
- An individual holds a barber license in another state and is trying to get a North Carolina license, but doesn't qualify for reciprocity. These individuals can get a temporary permit while they attempt to pass the exams.

In 2022, the Board unveiled an online system for requesting and issuing temporary permits. Under this system:

- Individuals can use an easy-to-use online form, which is optimized for mobile devices, to submit a request.
- Individuals can decide whether they want to receive their temporary permits by mail or email.
- The staff has an online workflow for tracking requests and making determinations about whether to approve or deny them.
- An automated process notifies requestors that the requests have been received and, after the determination is made, what the outcome is. If an individual asks to receive the temporary permit by email, the automated approval email will attach a PDF copy of the temporary permit, which the individual can print out.
- There's a tracking system that allows staff members, including inspectors in the field, to determine whether temporary permits have been altered or counterfeited.

The rollout of the system was very successful, and the system has worked well. However, we currently receive some requests online and others by paper. The attached rule would require online submissions and mostly prohibit paper requests. The rule also has a provision to allow individuals to submit a paper form if they have legitimate reasons not to submit online, such as a disability.

There are several advantages to having all requests received online, including:

- Improved tracking by the office staff, allowing them to look up requests and permits more easily;
- Having all requests and permits in a single repository;
- More efficient handling of requests;
- Faster response time; and
- Easier access to information by field inspectors.

Board action

If the board agrees with the policy represented in this amendment, below is what would happen:

1. The board would pass a motion to propose the rule at the February 28, 2023 meeting.
2. I would file the rule with the Office of Administrative Hearing under the permanent rulemaking process.
3. The rule would be published in the North Carolina Register.
4. There would be a 60-day comment period and a public hearing.
5. Following the comment period, the board would consider the rule and any public comments submitted.
6. If the board decided to continue with the rule after considering public comments, it would pass a motion to adopt it.
7. I would file the rule with the Rules Review Commission for approval.
8. The rule would go into effect on the date decided by the board, in accordance with the time frames in the Administrative Procedure Act.

1 21 NCAC 06N .0116 is proposed for adoption as follows:

2

3 **21 NCAC 06N .0116 REQUEST FOR TEMPORARY PERMIT**

4 (a) An individual who wishes to request a temporary permit shall submit the following information using the form
5 available at the website listed in 21 NCAC 06A .0102:

- 6 (1) the requester’s name, mailing address, phone number, and email address;
- 7 (2) if the requester attended a North Carolina barber school, the name of the school;
- 8 (3) the type of license application the requester has submitted; and
- 9 (4) the name, permit number, and physical address of the barbershop where the requester would like to
10 work.

11 (b) Except as set forth in Paragraph (c) of this Rule, the Board shall not accept requests for temporary permits
12 submitted in paper form.

13 (c) If an individual wishes to submit a request for a temporary permit in paper form because he or she cannot submit
14 the request online, the individual shall submit a paper form to the address listed in 21 NCAC 06A .0102, along with
15 an explanation for why the request cannot be submitted online. The Board shall determine whether good cause exists
16 for the individual not to submit a request online. For the purpose of this Rule, “good cause” means that the applicant
17 could not have submitted the request online as set forth in Paragraph (a) of this Rule due to circumstances such as
18 disability or lack of access to a computer or mobile device.

19

20 *Authority G.S. 86B-2; 86B-27*