



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

www.ncbarbers.com • info@ncbarbers.com  
Telephone (919) 981-5210 • Fax (919) 981-5068

### **Minutes for Public Meeting**

Held October 24, 2016, at 8:30 a.m.  
5809 Departure Drive, Suite 102  
Raleigh, North Carolina

#### **Board Members**

Don Beal, Chair  
Steffon Sharpless, Vice Chair  
Gary Gardner  
Jamie Norton  
Valerie Willis

#### **Executive Director**

Dennis Seavers

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

Palmer Sugg

The meeting of the North Carolina State Board of Barber Examiners was called to order at 8:34 a.m., on October 24, 2016 at the board's office at 5809 Departure Drive, Suite 102, Raleigh, North Carolina.

The following board members were present during the meeting: Don Beal, Steffon Sharpless (by telephone), Gary Gardner, Jamie Norton, and Valerie Willis.

Also in attendance were Dennis Seavers, Executive Director, and Palmer Sugg, Counsel to the Board.

### **Oath of office for new board member**

Mr. Beal administered the oath of office for Mr. Gardner, who was appointed effective August 24, 2016.

### **Evaluations by State Ethics Commission**

Mr. Beal read the evaluations of Statements of Economic Interests filed by Mr. Norton (see Attachment 1) and Mr. Gardner (see Attachment 2).

### **Ethics awareness and conflict of interest**

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

### **Minutes from previous meeting**

Mr. Sharpless made a motion to approve the minutes from the August 23, 2016 meeting. Mr. Norton seconded the motion, which passed, 5–0.

## **OPEN SESSION (PART 1)**

### **Administrative hearing**

The board conducted a hearing for Axel Rivera. Mr. Rivera had applied to take the apprentice-barber examination. However, the staff denied his application after determining that a signature by a school official had been forged. Mr. Rivera was present at the hearing. Mr. Sugg presented evidence to the board and asked Mr. Rivera questions. Mr. Rivera offered testimony.

### **Administrative hearing—show-cause**

The board conducted a hearing for John A. Jones, who appeared in person to show cause for failing to pay civil penalties and fees for barbering without first filing for a valid permit. Mr. Jones had previously been given notice for a show-cause hearing and had failed to appear. His notice was returned to the board as unable to forward, although the address matched his current address. Mr. Jones offered testimony and answered questions from Mr. Sugg and the board. Joanna Lewis, an inspector for the board, appeared in person and offered testimony about the notice of violation she issued. Ms. Lewis answered questions from Mr. Sugg and the board. Mr. Jones cross-examined Ms. Lewis.

## **Felony petitions**

The following applicants were given notice to appear before the board but failed to appear:

- a. Dominique R. Bunch
- b. Milton T. Matthews
- c. Joseph R. Mitchell
- d. Tony L. Patterson
- e. Michael Starks
- f. Jarvis J. Taylor

The North Carolina Department of Public Safety (NCDPS) had submitted documentation in support of Terrance Brown receiving a registered barber license. Sophia Feaster of NCDPS presented information about Mr. Brown's record and offered testimony in support of Mr. Brown.

NCDPS had submitted documentation in support of Gary Burnette receiving a registered barber license. Ms. Feaster presented information about Mr. Burnette's record and offered testimony in support of Mr. Burnette.

NCDPS had submitted documentation in support of Tracey L. Miller receiving a registered barber license. Ms. Feaster presented information about Mr. Miller's record and offered testimony in support of Mr. Miller.

NCDPS had submitted documentation in support of Lokie M. Stephenson, Jr, receiving a registered barber license. Ms. Feaster presented information about Mr. Stephenson's record and offered testimony in support of Mr. Stephenson.

Aaron Allen had applied for an apprentice barber license. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Allen questions. Mr. Allen offered testimony and answered questions from the board.

Raymark D. Bembury had applied for an apprentice barber license. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Bembury questions. Mr. Bembury offered testimony and answered questions from the board.

Allan Carson had applied for an apprentice barber license. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Carson questions. Mr. Carson offered testimony and answered questions from the board.

Joseph Greene had applied for an apprentice barber license. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Greene questions. Mr. Greene offered testimony and answered questions from the board.

Jared L. Miller had applied for an apprentice barber license. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Miller questions. Mr. Miller offered testimony and answered questions from the board.

Kenneth D. Moore had applied for an apprentice barber license. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Moore questions. Mr. Moore offered testimony and answered questions from the board.

Sherrod Ragland had applied for an apprentice barber license. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Ragland questions. Mr. Ragland offered testimony and answered questions from the board.

Calib S. Thomas had applied for an apprentice barber license. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Thomas questions. Mr. Thomas offered testimony and answered questions from the board.

Damon E. Thomas had applied for an apprentice barber license. He appeared and was sworn in. Mr. Sugg presented evidence to the board and asked Mr. Thomas questions. Mr. Thomas offered testimony and answered questions from the board.

The board recessed at 11:24 a.m. and reconvened at 11:53 a.m.

### **Executive director's report**

Mr. Beal referred board members to Mr. Seavers's October 14, 2016 report (see Attachment 3), and Mr. Seavers answered questions from board members.

Ms. Willis asked about the impact of the changes in federal regulations for the Fair Labor Standards Act. Mr. Seavers provided information about the effect on the board staff.

### **Financial audit**

Mr. Beal referred board members to the board's financial statements and related audit reports for fiscal year 2016. Mr. Seavers answered questions from board members.

The board members asked about the bill to increase fees, and Mr. Sugg explained the future steps for the board to increase its fees. Mr. Seavers said that even if bill passed in 2017, the board would probably not see any revenues from the increase until 2019.

### **Rulemaking and proposed rules**

Mr. Beal referred board members to Mr. Seavers's October 14, 2016 memo on proposed rules dealing with mandatory online renewals, complaints, licensing processes for veterans and members of the military and their spouses, and technical changes (see Attachment 4).

For the proposal to mandate online renewals, Mr. Seavers noted that the board would lose revenues from late fees but said that the board should not rely on late fees as a source of regular revenue. Mr. Seavers answered questions from board members.

Mr. Norton made a motion to adopt the rules as proposed, and Mr. Sharpless seconded. The motion passed, 5–0.

### **Online classes for barber schools**

Mr. Beal referred board members to Mr. Seavers's October 14, 2016 memo about online classes for barber schools (see Attachment 5). Mr. Seavers answered questions from board members.

The board members discussed some benefits of online classes, such as flexibility for students. Mr. Seavers noted that allowing online classes would require a significant amount of regulatory change, so he recommended that the board only consider online classes if there was demand from the barber schools.

Ms. Willis made a motion for the board staff to conduct a survey of schools to assess their interest in offering online classes. Mr. Norton seconded the motion, which passed, 5–0.

### **CLOSED SESSION**

Mr. Sharpless made a motion to go into closed session under N.C.G. S. § 143–318.11, and Mr. Norton seconded. The motion passed, 5–0. Mr. Beal reminded board members that matters discussed in closed session are confidential and must not be discussed outside of the closed session. The board went into closed session at 12:47 p.m. and returned to open session at 2:30 p.m.

### **DETERMINATIONS**

The board upheld the staff decision to deny Axel Rivera's application to take the apprentice-barber exam.

The board ordered John A. Jones to pay \$365 in civil penalties and fees for barbering without first filing for a valid permit.

The board ordered that Terrance Brown be offered a consent order with terms and conditions, including five years of probation and proof of completing a 40-hour substance-abuse program.

The board ordered that Gary Burnette be offered a consent order with terms and conditions, including five years of probation.

The board ordered that Tracy L. Miller be offered a consent order with terms and conditions, including five years of probation and proof of completing a 40-hour substance-abuse program.

The board ordered that Lokie M. Stephenson, Jr., be offered a consent order with terms and conditions, including seven years of probation and proof of completing a 40-hour substance-abuse program.

The board ordered that Aaron Allen be offered a consent order with terms and conditions, including five years of probation.

The board ordered that Raymark D. Bembury be offered a consent order with terms and conditions, including seven years of probation and proof of completing a 40-hour substance-abuse program.

The board ordered that Allan Carson be offered a consent order with terms and conditions, including seven years of probation.

The board ordered that Joseph Greene be offered a consent order with terms and conditions, including five years of probation and proof of completing a 40-hour substance-abuse program.

The board ordered that Jared L. Miller be offered a consent order with terms and conditions, including five years of probation.

The board ordered that Kenneth D. Moore be offered a consent order with terms and conditions, including five years of probation and proof of completing a 40-hour substance-abuse program.

The board ordered that Sherrod Ragland be offered a consent order with terms and conditions, including seven years of probation and proof of completing a 40-hour substance-abuse program, which could not include a previously completed program.

The board ordered that Calib S. Thomas be offered a consent order with terms and conditions, including five years of probation.

The board ordered that Damon E. Thomas be offered a consent order with terms and conditions, including five years of probation and proof of completing a 40-hour substance-abuse program.

## OPEN SESSION (PART 2)

Mr. Norton suggested that the board consider requiring continuing education for instructors. He said that it would not necessarily need to be a yearly requirement. Mr. Seavers said the General Assembly would have to pass a bill in order for the board to have the authority to require continuing education. The board requested that the staff provide information about the issues to consider for instructor continuing education.

Mr. Norton recommended that the board change the renewal due date for licenses from May 31 each year to the licensee's birthday. The board requested that the staff provide information about the issues to consider for this change in renewal date.

Mr. Beal adjourned the meeting at 2:41 p.m.

Minutes approved on November 15, 2016

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Don Beal

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Steffon Sharpless

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Gary Gardner

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Jamie Norton

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Valerie Willis



## STATE ETHICS COMMISSION

1324 MAIL SERVICE CENTER  
RALEIGH, NC 27699-1324  
WWW.ETHICSCOMMISSION.NC.GOV

GEORGE L. WAINWRIGHT, JR.  
CHAIRMAN

PERRY Y. NEWSON  
EXECUTIVE DIRECTOR

July 7, 2016

The Honorable Patrick L. McCrory  
Governor of North Carolina  
20301 Mail Service Center  
Raleigh, NC 27699-0301

*Via email*

Re: Evaluation of Statements of Economic Interest Filed By **Mr. James B. Norton**  
**Prospective Appointee – NC State Board of Barber Examiners**

Dear Governor McCrory:

Our office is in receipt of **Mr. James B. Norton's** 2016 Statement of Economic Interest as a prospective appointee to the **North Carolina State Board of Barber Examiners**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

**We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.**

The North Carolina State Board of Barber Examiners is responsible for the registration, oversight, and discipline of barbers, apprentices, barber school instructors, barbershops, and barber schools. In connection with its oversight responsibilities, the Board has the authority to administer examinations and inspections, issue, renew, and revoke certificates of registration, establish sanitary regulations, and issue permits for the establishment of barbershops and barber schools.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Mr. Norton will fill the role of a licensed barber on the Board. He is employed by South Hills Barber Shop and is a licensed barber. As such, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should his license, the licenses of his co-workers or South Hills Barber Shop come before the Board for official action.

The Honorable Patrick L. McCrory  
July 7, 2016  
Page Two

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,



Beth Carpenter  
SEI Unit

cc: Mr. James B. Norton

Attachment: Ethics Education Flyer



## STATE ETHICS COMMISSION

1324 MAIL SERVICE CENTER  
RALEIGH, NC 27699-1324  
WWW.ETHICSCOMMISSION.NC.GOV

GEORGE L. WAINWRIGHT, JR.  
CHAIRMAN

PERRY Y. NEWSON  
EXECUTIVE DIRECTOR

August 23, 2016

The Honorable Patrick L. McCrory  
Governor of North Carolina  
20301 Mail Service Center  
Raleigh, NC 27699-0301

*Via email*

Re: Evaluation of Statements of Economic Interest Filed By **Mr. Gary D. Gardner**  
**Prospective Appointee – NC State Board of Barber Examiners**

Dear Governor McCrory:

Our office is in receipt of **Mr. Gary D. Gardner's** 2016 Statement of Economic Interest as a prospective appointee to the **North Carolina State Board of Barber Examiners**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

**We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.**

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The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Mr. Gardner will fill the role of a licensed barber on the Board. He is self-employed as a licensed barber. As such, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should his license or the licenses of his co-workers come before the Board for official action.

The Honorable Patrick L. McCrory  
August 23, 2016  
Page Two

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

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Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,



Beth Carpenter  
SEI Unit

cc: Mr. Gary D. Gardner

Attachment: Ethics Education Flyer



# NORTH CAROLINA BOARD OF BARBER EXAMINERS

## Memo

TO: Board members

FROM: Dennis Seavers

DATE: October 14, 2016

**SUBJECT: Executive director's report**

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Below is the executive director's report for the board's August 23, 2016 meeting. If there are other areas of finances or operations that the board is interested in, or if board members have questions about this report, please feel free to contact me.

### **Financial statements**

The board has completed its yearly audit, and the report with the agency's financial statements is being finalized. The financial statements will be available to the board before the meeting. The report will demonstrate that even though the board made significant improvement in its financial outlook with the October 2015 budget cuts, the board will need to remain disciplined about spending in order to reach its long-term goal for operating reserves.

### **Point-of-service terminal**

The board now has the ability to accept payments by credit and debit card in the office. Licensees and others can make any type of payments at the office with a Visa, MasterCard, or Discover credit or debit card.

The terminal also allows for better tracking and management of receipts for other types of payments (such as money order, check, or cashier's check), compared to the generic receipts that the board was previously issuing.

### **Mobile inspections**

When the board originally opted to use GL Solutions for its licensing software, one of the features the board was interested in was a mobile-inspection module that would allow inspectors to conduct inspections using a mobile form on a tablet. This would

reduce paper, improve tracking of inspections, and generate reports for both internal use and public interest. Internal reports would allow the board to focus on shops with consistent problems, an important consideration now that resources are limited.

As the board knows, this was a long-delayed project that began in 2013, but it is now complete and the inspectors will begin using this feature this month.

### Barber exams

Below is information about the pass rates for barber exams for the first quarter of fiscal year 2017. The October exams are not reflected in these rates, but the board should be aware that Hurricane Matthew prevented a large number of applicants from appearing that month. We are scheduling an additional exam day in November to accommodate the individuals who were unable to appear.

### *Apprentice exams*

The two tables below show the results by number and percentage for written and practical exams. (The total counts won't match because some apprentices only needed to retake one or the other exam.)

**Apprentice Written Exams**  
July 2016 to September 2016

Result	Count	Percentage
Did not appear	25	14.37%
Fail	50	28.74%
Pass	99	56.90%
<b>Total</b>	<b>174</b>	

**Apprentice Practical Exams**  
July 2016 to September 2016

Result	Count	Percentage
Model rejected	21	10.71%
Fail	13	6.63%
No model	23	11.73%
Improper dress	3	1.53%
Did not appear	35	17.86%
Did not take	1	0.51%
Pass	100	51.02%
<b>Total</b>	<b>196</b>	

### *Registered exams*

The table on the next page shows the results by number and percentage for practical exams.

**Registered Practical Exams**  
July 2016 to September 2016

<b>Result</b>	<b>Count</b>	<b>Percentage</b>
Model rejected	10	10.75%
Fail	3	3.23%
Did not appear	23	24.73%
Did not take	1	1.08%
Pass	56	60.22%
<b>Total</b>	<b>93</b>	



# NORTH CAROLINA BOARD OF BARBER EXAMINERS

## Memo

TO: Board members  
FROM: Dennis Seavers  
DATE: October 14, 2016  
**SUBJECT: Rule proposals**

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At its October 23, 2016 meeting, the board will be considering proposals to amend existing rules or adopt new ones. These amendments or adoptions are in response to business needs, board directives, or changes in law. In addition, there are some minor technical changes.

The text of the proposed rules is in Attachment A. The rules are in the order they appear or would appear in the administrative code and not necessarily in the order they are discussed in this memo. However, each section in this memo refers to the rule numbers so that you can easily find the relevant rules.

### **Fees, forms, and renewals (including mandatory online renewals) 21 NCAC 06N .0101**

There are two proposed amendments to Rule 06N .0101. The first is simply technical to place language from Rule 06N .0112 in a more appropriate place.

The second amendment would mandate online renewals of the following licenses, effective January 1, 2018.

- Apprentice barber
- Registered barber
- Barber instructor
- Barber shop
- Barber school

The primary benefits of this rule would be to:

- Substantially reduce staff workload;
- Increase how quickly the board issues licenses (and not just renewals, since cutting workload in one area would allow the staff to process other work faster);

- Reduce data-entry errors, such as associating payments with the wrong records; and
- Avoid the risks associated with money coming through the office.

On the other hand, the rule would place burdens on applicants.

- Some licensees will have limited or no immediate computer access, although they have five months to renew the licenses. There are alternatives for people who don't have computer access, such as taking payment by phone, but they have substantial risks and may not be suitable options.
- Not everyone will have credit-cards and debit-cards, and some barbers prefer to deal exclusively in cash; on the other hand, prepaid credit cards are available at retailers.

Especially in the first few years, there will be barbers who attempt to pay by check, cashier's check or money order, despite the rule. Other agencies that mandate online license renewals have different practices when dealing with licensees who attempt to pay in other ways. Some simply refuse to accept the payment or return it, while others accept the payment and aim instead to maximize the number of online renewals. The board should consider how it wants to respond in these circumstances.

There would be direct and indirect costs for implementing this regulation, and the board should carefully consider whether these costs can fit within its long-term goal of increasing the fund balance.

- *Late fees.* Agencies that move to online renewals have a significant reduction in late renewals. Since the board receives additional fees for late renewals, this change will substantially reduce one area of the board's revenues. The board recorded late fees in the state accounting system of \$68,270 in fiscal year 2016 and \$83,415 in fiscal year 2015. As reflected in your financials, simply having an online system this year—even though its use wasn't mandatory—caused late-renewal collections to decrease. Although the board would continue to receive late fees even after mandating online renewals, this source of revenue would start to become negligible. There are important policy reasons for not wanting to rely on late fees. First, as a source of revenue, they are unreliable; and second, the purpose of the late fee is to penalize licensees and encourage them to renew on time, not to provide the board with a steady source of income. Nonetheless, the board should be aware of the financial impact of mandating online renewals.
- *Mailing and advertising costs.* In fiscal year 2016, the board spent about \$4,200 to promote the new online-renewal system through mailings and other advertising. The board would probably need to spend even more to notify barbers not just that there is an online system but that they must use it to renew. Otherwise, the board would continue to receive a considerable number of mailed renewals.

**Apprentice barber  
21 NCAC 06I .0105**

The proposed amendments to this rule are purely technical. The changes would remove a requirement that simply duplicates a provision in another rule and would fix two erroneous cross-references.

**Complaints  
21 NCAC 06C .0912**

This proposed new rule would determine how the board handles complaints. Although the board has existing complaint-handling procedures, they don't appear in rule. There have been inconsistent practices in how the board has handled complaints over the years, although these inconsistencies have largely been addressed by creating a centralized complaint-management system. There also has been little opportunity for reporting to the board on how complaints are handled, apart from complaints that result in violations and civil penalties.

Occupational licensing agencies have taken various approaches to handling complaints, and the proposed rule is simply one possible approach. I believe the main advantage to this approach is that it adds a reporting mechanism to the board and allows the board to reopen a complaint that has been dismissed by the executive director. Although most of the work related to complaints will still be handled by the staff, this reporting mechanism allows the board to have oversight of and involvement in the complaint process without creating an unnecessary workload burden for the board members.

**Extensions for members of the armed forces  
21 NCAC 06N .0114**

N.C.G.S. 93B-15 allows certain individuals who are serving in the military to receive an extension of time to pay any license fee. The statute also requires occupational licensing boards to adopt rules to "postpone or waive continuing education, payment of renewal and other fees, and any other requirements or conditions relating to the maintenance of licensure ..."

The proposed rule would require the board to waive certain late fees if the individual has received a tax-filing extension under the relevant Department of Revenue statute. The board has been granting these waivers since the statute was enacted, but it never adopted the required rule.

## **Applicants with military training and expertise; military spouses**

**21 NCAC 06K .0112, .0113**

**21 NCAC 06N .0112, .0113**

**21 NCAC 06P .0103**

The five proposed rules for adoption or amendment deal with efforts by the General Assembly to ease the licensure requirements for:

- Individuals who received training in the military in the professions regulated by occupational licensing agencies; and
- Individuals who are licensed in another state and whose spouses are in the military.

The General Assembly passed N.C.G.S. 93B-15.1 and amended it in later years to make it easier for individuals who served in the military to be licensed based on training they received while serving. The same statute also tries to make it easier for the spouses of current members of the military to transfer their license to North Carolina. Although the board staff has streamlined the application process to comply with the statute, the board should still adopt rules—either the ones proposed or similar ones.

The guiding consideration in drafting these rules was generally to make the licensure process as easy as possible for qualifying individuals.

### *Applicants with military training and expertise*

Under two proposed rules—Rules 06K .0112 and 06N .0112—qualifying individuals could be licensed with or without an examination, depending on what documentation they could provide of their training and experience. If they could document that they received at least 1,500 hours of training and practiced at least two of the five years preceding the application date, they could be licensed without examination. In contrast, individuals who did not receive military training and applied from out of state must hold a valid license and need to have practiced at least three of the five years preceding the application date.

One of the proposed rules also allows individuals to receive temporary permits that would allow them to work while they are going through the application process. In theory, an individual who has to take the exam could be authorized to work under these temporary permits for up to 360 days, although most individuals will have their license denied or approved sooner.<sup>1</sup>

The proposed amendment to Rule 06N .0112 would strike language about access to forms, but this language would be placed in another rule (see “Fees, forms and renewals” above). The change is merely technical to improve the codification of our rules and make room for the newly proposed rules.

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<sup>1</sup> For clarification to members of the public who may read this memo, this time frame represents the time it might take an individual to get licensed if he or she fails the exam multiple times and doesn't represent the time it takes the board to process licenses.

### *Military spouses*

Under two proposed rules—Rules 06K .0113 and 06N .0113—the spouses of individuals who are currently in the military would be able to receive a license by endorsement if they are licensed in another state, completed 1,500 hours of barber school training, and have been licensed at least one of the five years preceding the application. In contrast, individuals whose spouse is not in the military would need to have been licensed at least three of the five years preceding the application.

Under the statute, the board could adopt a shorter time frame than one of the five years preceding the application. But in theory—though it's unlikely—an individual could bypass North Carolina's year of apprenticeship and become a registered barber.

The proposed rule also has a provision that would allow the military spouse to get a temporary permit for 90 days, allowing him or her to work while collecting the documents necessary to be licensed.

1 21 NCAC 06C .0912 is proposed for adoption as follows:

2

3 **21 NCAC 06C .0912 COMPLAINTS**

4 (a) An individual who wishes to make a complaint alleging a violation of G.S. 86A or the Board's rules shall submit  
5 the complaint in writing to the address or through the website set forth in 21 NCAC 06A .0102.

6 (b) Upon receipt of a complaint, the Board's Executive Director shall review the complaint and assign a staff member  
7 to investigate the complaint, except for complaints that are dismissed as set forth in Paragraph (c).

8 (c) The Executive Director shall dismiss the complaint and notify the complainant if the complaint:

9 (1) alleges conduct that is not prohibited by G.S. 86A or the Board's rules;

10 (2) lacks information, such as barbershop location or a description of the alleged conduct, necessary to  
11 investigate the complaint, except that the Executive Director shall attempt to collect additional  
12 information from the complainant; or

13 (3) alleges conduct not within the Board's jurisdiction, except that the Executive Director shall direct  
14 the complainant to any other agency that may have jurisdiction.

15 (c) After conducting an investigation, the assigned staff member shall:

16 (1) recommend to the Executive Director that the board counsel issue a probable cause letter for  
17 violations of G.S. 86A or the Board's rules; or

18 (2) recommend that the Executive Director dismiss the complaint because there is insufficient evidence  
19 of a violation of G.S. 86A or the Board's rules.

20 (d) After receiving a recommendation required by Paragraph (c), the Executive Director shall:

21 (1) request additional investigation by the assigned staff member;

22 (2) recommend that the board counsel issue a probable cause letter for violations of G.S. 86A or the  
23 Board's rules; or

24 (3) dismiss the complaint and notify the complainant.

25 (e) At each regularly scheduled Board meeting, the Executive Director shall submit to the Board a report of dismissed  
26 complaints that he or she has not previously reported, with a summary of the allegations and a justification for the  
27 dismissal. If the complaint was dismissed within 30 days of the Board meeting, the Executive Director may instead  
28 include the dismissal in the report for the following regularly scheduled Board meeting.

29 (f) By a majority vote, the Board may reopen any complaint that the Executive Director has dismissed, in which case  
30 the complaint shall be handled as if the Executive Director had not dismissed the complaint.

31

32 *Authority G.S. 86A-5*

1 21 NCAC 06I .0105 is proposed for amendment as follows:

2

3 **21 NCAC 06I .0105 APPRENTICE BARBER**

4 A student who has trained in another state may take the examination to become a registered apprentice barber  
5 provided:

6 (1) his or her hours of training in the out-of-state barber school have been credited under 21 NCAC 06I  
7 .0101;

8 ~~(2) he or she provides proof of completion of barber school training;~~

9 ~~(3)~~(2) he or she completes and furnishes to the Board the Form ~~BAR-7~~BAR-4 that meets the requirements  
10 of ~~21 NCAC 06N .0108; 21 NCAC 06N .0105;~~ and

11 ~~(4)~~(3) he or she pays the required fee in 21 NCAC 06N .0101(a)(5).

12

13 *Authority G.S. 86A-5; 86A-18; 86A-24; 86A-25*

1 21 NCAC 06K .0112 is proposed for adoption as follows:

2  
3 **21 NCAC 06K .0112 APPLICANTS WITH MILITARY TRAINING AND EXPERTISE**

4 (a) Except for individuals who want to apply under another provision in G.S. 86A for licensure as a registered barber,  
5 an individual who has military training and expertise and wants to apply to become a registered barber in this State  
6 shall:

7 (1) meet the requirements of G.S. 93B-15.1(a) or (a2);

8 (2) submit the Form BAR-11 as set forth in 21 NCAC 06N .0112; and

9 (2) provide copies of the military service records that show the applicant's military specialty  
10 certification and experience in barbering.

11 (b) The applicant shall submit with the Form BAR-11 a certification letter from the applicant's out-of-state agency  
12 of the applicant's licensure in that state if the following apply:

13 (1) the applicant has been licensed in another state;

14 (2) the applicant wants to be licensed without examination;

15 (3) the military service records do not show that the applicant received at least 1,500 hours of military  
16 training and that the applicant practiced at least two of the five years preceding the date of  
17 application; and

18 (4) the combination of the certification letter and the military service records show that the applicant  
19 received at least 1,500 hours of training and practiced at least two of the five years preceding the  
20 date of application.

21 (c) If the applicant does not meet the requirements in Paragraph (a) and, if applicable, Paragraph (b) of this Rule, the  
22 applicant shall:

23 (1) submit the fee as set forth in 21 NCAC 06N .0101(a)(4); and

24 (2) make a score of at least 70 percent on the practical examination.

25 (d) The applicant shall submit the following fee:

26 (1) if the applicant meets the requirements of this Rule for licensure without examination, the fee as set  
27 forth in 21 NCAC 06N .0101(a)(21); or

28 (2) if the applicant meets the requirements of Paragraph (c) of this Rule, the fee as set forth in 21 NCAC  
29 06N .0101(a)(1).

30 (e) The Board shall issue a temporary permit for the applicant to work as a registered barber while he or she complies  
31 with the requirements of this Rule under the following circumstances:

32 (1) if the applicant has submitted the Form BAR-11 and at least part of the documentation required by  
33 Subparagraph (a)(3), and this partial documentation establishes that he or she served in the military  
34 and has certification or experience in barbering, the Board shall issue a temporary permit that lasts  
35 90 days or until the Board denies the application, whichever is earlier; or

36 (2) if the applicant is required to take the practical examination and has met the requirements in  
37 Paragraph (a) and Subparagraph (c)(1), the Board shall issue a temporary permit that last 90 days or

1                   until the Board denies the application, whichever is earlier. Upon written request by the applicant,  
2                   this temporary permit shall be extended for 90 days no more than twice, unless the Board denies the  
3                   application.

4  
5    *Authority G.S. 86A-1; 86A-11; 86A-12; 86A-25; 93B-14; 93B-15.1*

1 21 NCAC 06K .0113 is proposed for adoption as follows:

2

3 **21 NCAC 06K .0113 MILITARY SPOUSES**

4 (a) An individual who is currently licensed as a barber in another state, is the spouse of a person serving in the military,  
5 and wants to apply to become a registered barber in this State shall provide the following, unless he or she wants to  
6 apply under another provision in G.S. 86A for licensure as a registered barber:

7 (1) the Form BAR-12 as set forth in 21 NCAC 06N .0113;

8 (2) the fee set forth in 21 NCAC 06N .0101(a)(21); and

9 (3) a certification letter from the applicant's out-of-state agency of the applicant's licensure in that state.

10 (b) The applicant shall instead apply for out-of-state licensure under G.S. 86A-12 and Rule .0104 of this Section if  
11 the certification letter required by Subparagraph (a)(3) of this Rule does not show that the applicant:

12 (1) completed at least 1,500 hours of barber school training; and

13 (2) has been licensed as a barber for at least one of the five years preceding the date of application.

14 (c) Upon request by the applicant, the Board shall issue a temporary permit for the applicant to work as a registered  
15 barber for 90 days while the applicant gathers the documents required by this Rule.

16

17 *Authority G.S. 86A-1; 86A-3; 86A-11; 86A-25; 93B-14; 93B-15.1*

1 21 NCAC 06N .0101 is proposed for amendment as follows:

2

3 **21 NCAC 06N .0101 ~~FEES~~ FEES, ACCESS TO FORMS, AND RENEWALS**

4 (a) The Board charges the following amounts for the fees authorized by G.S. 86A-25:

5	(1)	Certificate of registration or renewal as a barber	\$50.00
6	(2)	Certificate of registration or renewal as an apprentice barber	\$50.00
7	(3)	Barbershop permit or renewal	\$50.00
8	(4)	Examination to become a registered barber	\$85.00
9	(5)	Examination to become a registered apprentice barber	\$85.00
10	(6)	Late fee for restoration of an expired barber certificate within first year after expiration	\$35.00
11	(7)	Late fee for restoration of an expired barber certificate after first year after expiration but within five years after expiration	\$70.00
12			
13	(8)	Late fee for restoration of an expired apprentice certificate within the first year after expiration	\$35.00
14			
15	(9)	Late fee for restoration of an expired apprentice certificate after first year after expiration but within three years of first issuance of the certificate	\$45.00
16			
17	(10)	Late fee for restoration of an expired barber shop certificate	\$45.00
18	(11)	Examination to become a barber school instructor	\$165.00
19	(12)	Student permit	\$25.00
20	(13)	Issuance of any duplicate copy of a license, certificate, or permit	\$10.00
21	(14)	Barber school permit or renewal	\$130.00
22	(15)	Late fee for restoration of an expired barber school certificate	\$85.00
23	(16)	Barber school instructor certificate or renewal	\$85.00
24	(17)	Late fee for restoration of an expired barber school instructor certificate within first year after expiration	\$45.00
25			
26	(18)	Late fee for restoration of an expired barber school instructor certificate after first year after expiration but within three years after expiration	\$85.00
27			
28	(19)	Inspection of newly established barbershop	\$120.00
29	(20)	Inspection of newly established barber school	\$220.00
30	(21)	Issuance of a registered barber or apprentice certificate by certification	\$120.00
31	(22)	Charge for certified copies of public documents \$10.00 for first page, \$0.25 per page thereafter	
32	(23)	Charge for duplication services and material shall be as set forth in 26 NCAC 01 .0103(a), including any subsequent amendments and editions of the Rule	
33			
34	(24)	Certificate of registration or renewal as a barber for barbers over 70 years of age	\$0.00
35	(25)	Administrative fee under G.S. 86A-27(d) for paying any required fee for renewal or restoration, or a civil penalty and attorney fee, where the apprentice barber or registered barber is subject to a pick-up order issued to an inspector.	\$70.00
36			
37			

1 (b) In the event the Board's authority to expend funds is suspended pursuant to G.S. 93B-2, the Board shall continue  
2 to issue and renew licenses and all fees tendered shall be placed in the escrow account maintained by the Board for  
3 this purpose.

4 (c) The forms set forth in this Subchapter may be obtained on the website or at the address listed in 21 NCAC 06A  
5 .0102.

6 (d) Beginning January 1, 2018, all renewals of licenses, permits, or certificates of registration shall be submitted  
7 online at the website listed in 21 NCAC 06A .0102, along with any fees required by this Rule.

8

9 *Authority G.S. 86A-5; 86A-13; 86A-17; 86A-23; 86A-24; 86A-25; 86A-27(d); 93B-2; 150B-19.1*

1 21 NCAC 06N .0112 is proposed for amendment as follows:

2

3 **21 NCAC 06N .0112 ACCESS TO FORMS FORM BAR-11**

4 (a) ~~The forms set forth in this Subchapter may be accessed on the Board's website, www.ncbarbers.com, or may be~~  
5 ~~obtained at the Board's address listed in 21 NCAC 06A .0102.~~ The Form BAR-11 shall be filed by an individual who  
6 has military training and expertise and who wants to apply to become a registered barber in this State, unless he or she  
7 wants to apply under another provision in G.S. 86A for licensure as a registered barber. It requires the following:

8 (1) the name, address, social security number, and birthdate of the applicant; and

9 (2) the military service records showing the applicant's military certification and experience in  
10 barbering.

11 (b) The applicant shall submit with the Form BAR-11 a certification letter from the applicant's out-of-state agency  
12 of the applicant's licensure if the conditions set forth in 21 NCAC 06K .0112(b) apply.

13 (c) The Form BAR-11 shall be notarized.

14

15 *Authority G.S. 86A-1; 86A-25; 93B-14; 93B-15.1*

1 21 NCAC 06N .0113 is proposed for adoption as follows:

2

3 **21 NCAC 06N .0113 FORM BAR-12**

4 (a) The Form BAR-12 shall be filed by one who has practiced as a barber in a state other than North Carolina and is  
5 the spouse of an individual serving in the military. It requires the following:

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

7 (2) the military service records showing the applicant's spouse is serving in the military, along with  
8 evidence of the marriage, such as a copy of the marriage license.

9 (b) The applicant shall submit with the Form BAR-12 a certification letter from the applicant's out-of-state agency  
10 of the applicant's licensure.

11 (c) The fee required by Rule .0101(a)(21) of this Section shall accompany the Form BAR-12.

12 (d) The Form BAR-12 shall be notarized.

13

14 *Authority G.S. 86A-1; 86A-25; 93B-14; 93B-15.1*

1 21 NCAC 06N .0114 is proposed for adoption as follows:

2

3 **21 NCAC 06N .0114 EXTENSIONS FOR MEMBERS OF THE ARMED FORCES**

4 (a) If an individual is licensed or owns a business licensed under G.S. 86A, is serving in the Armed Forces of the  
5 United States, and has received an extension of time to file a tax return under G.S. 105-249.2, the board shall waive  
6 the following fees for the same period that would apply if the license fee were a tax:

7 (1) the late fee for restoration of an expired barber certificate within the first year after expiration as set  
8 forth in 21 NCAC 06N .0101(a)(6);

9 (2) the late for fee restoration of an expired barber certificate after the first year after expiration but  
10 within five years after expiration as set forth in 21 NCAC 06N .0101(a)(7);

11 (3) the late fee for restoration of an expired apprentice certificate within the first year after expiration  
12 as set forth in 21 NCAC 06N .0101(a)(8);

13 (4) the late fee for restoration of an expired apprentice certificate after the first year after expiration but  
14 within three years of first issuance of the certificate as set forth in 21 NCAC 06N .0101(a)(9);

15 (5) if the individual serving in the Armed Forces is the barbershop manager or owner, the late fee for  
16 restoration of an expired barber shop certificate as set forth in 21 NCAC 06N .0101(a)(10);

17 (6) if the individual serving in the Armed Forces is the barber school manager or owner, the late fee for  
18 restoration of an expired barber school certificate as set forth in 21 NCAC 06N .0101(a)(15);

19 (7) the late fee for restoration of an expired barber school instructor certificate within the first year after  
20 expiration as set forth in 21 NCAC 06N .0101(a)(17); and

21 (8) the late fee for restoration of an expired barber school instructor certificate after the first year after  
22 expiration but within three years after expiration as set forth in 21 NCAC 06N .0101(a)(18).

23 (b) To receive any extension as set forth in Paragraph (a) of this Rule, the individual must submit the following to the  
24 Board at the address in 21 NCAC 06A .0102:

25 (1) a written request that indicates what extension he or she is seeking; and

26 (2) a copy of the documentation from the North Carolina Department of Revenue granting the extension  
27 under G.S. 105-249.2.

28

29 *Authority G.S. 93B-15*

1 21 NCAC 06P .0103 is proposed for amendment as follows:

2

3 **21 NCAC 06P .0103 GENERAL DEFINITIONS**

4 For purposes of the rules in this Chapter, the following definitions shall apply:

5 (1) "Barber" means any person who engages in or attempts to engage in the practice of barbering or  
6 provide barbering services.

7 (2) "Barber instructor" means any person who engages in or attempts to engage in the teaching of the  
8 practice of barbering.

9 (3) "Barber pole" means an actual or representation of a cylinder or pole with alternating stripes of any  
10 combination including red and white, and red, white, and blue that run diagonally along the length  
11 of the cylinder or pole.

12 (4) "Barber school" means any establishment that engages in or attempts to engage in the teaching of  
13 the practice of barbering.

14 (5) "Barber student" means any person who is enrolled in barber school, including those taking classes  
15 beyond the 1528 required hours.

16 (6) "Board" means the State Board of Barber Examiners.

17 (7) "License" or "permit" or "certificate of registration" means the actual license or permit issued by the  
18 Board and current government issued photo identification depicting the licensee's or permittee's  
19 photograph and legal name.

20 (8) "Military service record" means veteran service records, such as the U.S. Department of Defense  
21 Form 214 (DD-214), or other military service records from the military or National Archives.

22 ~~(8)(9)~~ "Pick-up order" means an order issued by the Board and signed by the Executive Director  
23 authorizing an inspector to physically retrieve a permit or license.

24 ~~(9)(10)~~ "Practice of barbering" and "barber services" means all activities set forth in G.S. 86A-2, and the  
25 sanitary requirements of Chapter 86A and the sanitary rules adopted by the Board.

26 ~~(10)(11)~~ "Sanitary" means free of infectious agents, diseases, or infestation by insects or vermin and free of  
27 soil, dust, or dirt.

28

29 *Authority G.S. 86A-2; 86A-5; 86A-13; 86A-15; 86A-22; 86A-23; 93B-15.1*



# NORTH CAROLINA BOARD OF BARBER EXAMINERS

## Memo

TO: Board members

FROM: Dennis Seavers

DATE: October 14, 2016

**SUBJECT: Online classes for barber schools**

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At its August 23, 2016 meeting, the board asked the staff to research and report back to the board on whether barber schools should be able to offer theory classes online. The board will be reviewing this information at its October 24, 2016 meeting.

This memo does not make a recommendation to the board on whether it should allow schools to offer online classes. Instead, it outlines some of the regulatory considerations and consequences if the board were to allow them.

### **Portion of training that would be covered**

One of the board's rules, 21 NCAC 06F .0120, establishes the curriculum requirements for barber schools. The curriculum has three categories, only one of which ("Classroom Lecture and Study Periods") is considered "theory" that the board would consider for online classes. The other two categories ("Supervised Practice in Barbering" and "Lectures and Demonstrations on Practical Work") generally require hands-on training and likely would not be appropriate for online classes. The theory category constitutes 380 of the required 1,528 hours of training, or just under 25%.

### **Practices in other states and accreditation**

Most online classes in other states appear to be related to continuing education (in those states that require it) rather than initial barber training.

The National Accrediting Commission of Career Arts & Sciences (NACCAS), which is an independent commission recognized by the U.S. Department of Education for institutional accreditation, publishes guidelines and regulations for schools requiring accreditation. NACCAS regards a change in the way a program is delivered (including conversion to an online modality) as a substantive change that would be prohibited

under its rules, unless the program is reviewed. There are fees for schools to apply for review, currently ranging from \$350 to \$1,730, depending on whether the schools is undergoing accreditation renewal.

### **Current regulations**

The board's current regulations presume on-site training for the entire curriculum. If the board were to change this approach, it would need to rewrite many of its rules. Although I couldn't see any statutes that would definitely require change, any changes to rules might identify the need to change underlying statutes. In addition, the board may need to consider statute changes to address the licensure issue described under "Policy considerations" below.

### **Policy considerations**

The board should consider the following factors when deciding whether to allow schools to offer theory classes online. I raise these points so that the board is aware of some of the challenges and issues that might arise and not to suggest that the board shouldn't pursue these changes.

#### *Current demand*

Are there schools that want to offer classes online? Given the amount of work for the board and its staff to make substantial regulatory change, the board should only consider this change if there is demand from schools.

#### *Unforeseen circumstances*

When an agency makes substantial regulatory changes, unforeseen consequences can arise. The agency may only want to make substantial change when there is a compelling policy need.

#### *Oversight*

Several of the board's rules establish requirement for schools to ensure in-person student attendance. The board would be relinquishing some of that oversight and would instead need to focus on whether testing standards adequately assess student knowledge.

#### *Licensure*

Currently, individuals who provide instruction in schools must have an instructor's license. The board would need to think about issues related to licensure if the individuals preparing online materials are not all instructors.

## Cost

There are several possible cost areas to the board, such as redesigning tests or outside consultation on the quality of instructional material. Any regulatory change would require involvement by the Office of State Budget and Management, and the board will need to be able to fit these costs within its spending priorities.