



# 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**

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The North Carolina Department of Adult Corrections (“NCDAC”) submitted the attached waiver request.<sup>1</sup> 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.

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<sup>1</sup> 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

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**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.*