



NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS

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SPECIAL CALLED MEETING – JUNE 6, 2010

Purpose of Meeting: To review public comments both oral and written at the Public Hearing together with written statements received prior to comment period ending April 30th. Final review and vote on Rules to be submitted to the Office of Administrative Hearings (OAH), Rules Review Commission (RRC). This meeting is being held to replace the meeting that was call off May 16th, due the Margaret's sudden illness.

Members Present: Gary B. Slaughter, MD, Cheryl Delaney, LE, RN and Margaret S. Wingate, LE, Rules Coordinator.

Guest Sign in Sheet: Myrtle Hamrick, Alice Saintsing, Dorenda Stilwell

Meeting convened: 1:30 pm, Dr. Slaughter, presiding in the absence of Chairman Doyle.

Conflict of Interest Statement: No conflict stated by three board members present.

Dr. Slaughter welcomed the newly appointed member to the Board, Cheryl Delaney. Minutes of April 27 2010, Public Hearing. Motion made by Dr. Slaughter to approve the minutes as written, after discussion, *all in favor*.

Margaret Wingate will act as secretary for meeting.

Margaret Wingate gave background of her appointment as Rules Coordinator. Chairman Doyle asked that she take responsibility as Rules Coordinator as of March 12, 2010. From that point, she has attended Office of Administrating Hearings (OAH)—Rules Review Commission (RRC) for more information. First OAH/RRC regular meeting to observe the process. 8 hour Rules 101 Class and a 5 hour consultation with Bobby Bryan, Attorney. Susan Magas, Administrative Assistant was cleared by Chairman Doyle to assist in this process. She was in attendance on Rules 101 and Consultation with attorney.

The Proposed Rules development has been in process since September 2007. The Proposed Rules were published March 1, 2010 in the North Carolina Register (NCR) pages 1539-1559. The publication was made without final approval from the Board or the RRC. The omission of these steps made the final document to be submitted for approval to RRC very difficult and complicated. Countless hours have been spent on comparison between what was published, what was proposed and what was approved as set in the minutes. Before a formal review for approval to submit is complete, a great deal editing and rewriting was recommended. All this had to be done without making substantial changes from the publication. Substantial changes would cause negation of the rule and the process would have to start all over.

The purpose of this meeting today is to approve as many of the Rules as possible to be submitted to a 10 panel group known as the Rules Review Commission.(RRC) A representative of the Board will be present for any question they may have. The Rules that are approved at the meeting will become effective within 30 days.

Before a Rule for a Fee change is made a Request for Consultation must be made to the Joint Legislative Commission on Governmental Operations. This step was previously omitted. A Request for Consultation was made on April 30, 2010. The published rules reflect typographical errors and amounts exceeding the statutory requirement, which is covered in the Request.

A table chart was distributed showing Issues with March 1, 2010 Published Rules. Each defined Section, Name and Number is broken down by Published Rules which states, Background, date, source prior discussion, conclusion and next recommended step to take. Cheryl Delaney made motion that we follow the rule map to address the inconsistencies, seconded by Dr. Slaughter, *all in favor*.

21NCAC 19 .0101 ADDRESS--Approved as published

21NCAC 19 .0103 (4) DEFINITIONS *Published rules state:* In this Chapter, “continuing education unit” or “CEU” means 10 contact hours of participation in an organized continuing education that is:

(4) submitted to and approved by the board 30 days prior to the event.

1. The Board never voted on the published language and,
2. The published language constitutes a substantial change from the prior Board vote.
Minutes 06.07.08-approved 08.23.08—08.23.08 approved 10.18.08. Motion:
3. Remove [~~submitted to and~~] *Motion by M. Wingate, second, Dr. Slaughter, all in favor*

21 NCAC 19.0104 ADVERTISING—Approved as published

21NCAC 19.0201 (19) FEES—*Published rules state:* “Renewal of certification as Board approved school of laser hair removal (in-state)...\$150.00”.

The submission which was published contains two typographical errors.

1. Published Rule for (19) was supposed to cover out-of-state laser school renewal, The in-state renewal of certification for laser schools has already been correctly proposed and reflect in proposed 21 NCAC 1201(17). Statute [GS88A-9(b) (5f)] allows up to \$400 for in-state laser school renewal.
2. 21NCAC 19.201(19) was supposed to reflect an *amount of \$100*, which is the statutory limits for out-of-state laser school certification renewal in [GS88A-9(b)(6b)] *Minutes 10.18.18 approved meeting 01.24.09*

Need to correct the labeling and amount for the published rule to reflect out-of-state renewal fee of \$100.00.

Reorganization was made to the published document and a new table was made organizing and restructuring contents of fees. *Motion made by M. Wingate, seconded by Dr. Slaughter to remove published version and included corrected-organized version, ayes by all.*

21NCAC 19.0202 APPLICATION FOR LICENSURE

Recommendation by Bobby Bryan, attorney was made to change wording and rewrite to read better and to format accordingly. *Dr. Slaughter made motion to follow suggestions of attorney as illustrated on page 4 and 5 of worksheet revision 5 draft 06.04.10 to accept changes, seconded by M. Wingate, ayes by all.*

Current Rule 204 will be renumbered to .0205

21NCAC 19.0204 APPLICATION FOR RENEWAL, REINSTATEMENT, OR REACTIVATION OF LASER HAIR PRACTITIONER LICENSE

21NCAC 19.0204 (c) removed per attorney. Repetitious language *Motion by M. Wingate, seconded by C. Delaney, all in favor.*

21NCAC 19.0303 CONTESTED CASES –

Revisit after conferring with attorney, *Motion by Dr. Slaughter, seconded, Cheryl Delaney, all in favor*

21NCAC 19 0404 DEFINITION [Overview]

Bobby Bryan recommended a consolidation and paring down if this section. Changes have been made but still may need more rewording. *Dr. Slaughter made motion to allow legal council to make suggestions to edit, per page 11 through 17 stopping at 21NCAC 19.0405, seconded by M. Wingate, all in favor*

21NCAC 19.0405 HAND HYGIENE

21NCAC 19.0406 USE OF GLOVES

21NCAC 19.0407 CLEANING AND STERILIZATION OF INSTRUMENTS AND OTHER SAFETY PRECAUTIONS

Repetitious language used...legal council suggested a consolidation and paring down of sections giving specific unambiguous directives. *Dr. Slaughter made motion that we accept the reworded-reformatted language presented unless the attorney suggest otherwise. The objective is better understanding, seconded by M. Wingate, all in favor.*

21NCAC 19 0408 ENVIROMENTAL CONTROL AND HOUSEKEEPING

Published Rules makes reference to having a sink in each treatment room. 04.27.10 Public Hearing input: In practice, every treatment room does not have a sink but rather have access to a sink on the same floor. This was taken into consideration and included in 21NCAC 0413. Legal council recommends a consolidation and paring down of this section to remove duplicative language. *Motion by Dr. Slaughter to accept attorney's recommendation, seconded by C. Delaney, all in favor.*

21NCAC 19 0409 CLIENT [~~CONSIDERATION~~] EVALUATION

Published Rules makes reference to cleansing the treatment area with soap and water. 04.27.10 Public Hearing input: In practice, every treatment room does not have a sink, but rather has access to a sink on the same floor, Further, due to the skin allergies, soap and water would not necessarily be used on each client. Legal council recommends a consolidation and paring down of this section to remove duplications. The Board can accomplish its desire to require proper procedures by deleting the entire published section and substitute the suggestion rework--rewrite.

Published: Health History Card (no explanation) changed to Health History Assessment with explanation for unambiguous understanding. Published: 21NCAC 21.0409 CLIENT CONSIDERATION. Recommend changing to CLIENT EVALUATION. The attorney has not seen the changes. *Dr. Slaughter made motion to get legal sanction before Board's final approval, seconded by M. Wingate, all in favor.*

21NCAC 19.0410(b) (1) and (2) HEPATITIS B VIRUS (HBV) VACCINATION

Published Rules states: (b)“Control Measures for HPV vaccination – (1) The CDC states that health care workers may be a risk for hepatitis B (HBV) exposure if their task involves contact with blood or blood-contaminated body fluids; therefore, such workers shall be vaccinated. (2) Risks among health care professionals vary during the training and working career but are often highest during the professional training period. For this reason, the student’s vaccination for HBV shall be completed before Electrology training begins.”

04.27.10 Public Hearing: One person expressed opposition to a requirement for the vaccine. Legal Council recommended that it is the obligation of the Board to provide education and information to every electrologist in the state. He suggested the following link be provided and the following language be adopted.

“Electrologist shall comply with the Needle stick Safety and Prevention Act published January 18, 2001 to amend United States Occupational Safety & Health Administration (OAHA) Regulations 26CFR 1910.1030. Copies may be obtained at no cost at <http://www.osha.gov/SLTC/bloodborne/pathogens/>”

21NCAC 19.0411 FOLLOWUP PROCEDURES FOR EXPOSURES TO HEPATITIS, HIV AND OTHER BLOODBORNE PATHOGENS

Published Rules list standards and control measures for health care workers exposed to body fluids and blood borne pathogens.

All the provisions are contained in the Needlestick Safety and Prevention Act published January 18, 2001 to amend United States Occupational Safety & Health Administration (OSHA) Regulations CFR 1910.1030.

The Board can accomplish its desire to require proper procedures by deleting the entire published section and substitute the following language:

“Electrologist shall comply with the Needle stick Safety and Prevention Act published January 18, 2001 to amend United States Occupational Safety & Health Administration (OAHA) Regulations 26CFR 1910.1030. Copies may be obtained at no cost at <http://www.osha.gov/SLTC/bloodborne/pathogens/>”

21NCAC 19.0412 STANDARD PRECAUTIONS AS RECOMMENDED BY CENTERS FOR DISEASE CONTROL AND PREVENTION

Published Rules list standard precautions and control measures appropriate to the practice of Electrology.

Legal council stated that federal law supersedes state law unless it is greater than, therefore it would be in the best interest of licensees to follow OSHA guidelines. Margaret pointed out that in meeting 02.24.10 minutes approved 01.26.10 reflects, “after discussion, the Board approved a motion by Doyle (seconded by Combopiano) to add the following language. “Every electrologist is required to wear a lab coat, scrubs or coveralls”. This was left out of the published proposed rules. Suggested it be revisited at another time and made a rule

21NCAC 19.0413 ELECTROLOGIST AND LASER HAIR PRACTITIONER OFFICES

Motion by Dr. Slaughter to accept legal advice and approve NCAC 19.0410,.0411,.0412, and 0.413; to revisit the unpublished motion by Chairman Doyle, seconded by Combopiano and make the motion a rule seconded by M. Wingate all in favor.

21NCAC 19.0501 SUPERVISING PHYSICIAN

Motion by Slaughter to accept as recommended, seconded by M. Wingate, all in favor.

21 NCAC 06.01 CURRICULUM

Margaret relayed question asked of Molly Masich if we could format a new table chart to clean up the existing chart table. She said it would be OK as long as it was compatible with Microsoft "Word". *Motion made by Dr. Slaughter to accept the new table format, seconded by M. Wingate, Discussion:* Cheryl asked who Molly was and what role did she play in the procedure. Margaret explained that she was the Codifier of Rules for OAH. Dr. Slaughter wanted to know why she was asked instead of the attorney. It was explained that she was senior in her division and approved all formatting before formal review was given. *Vote: all in favor.*

21NCAC 0601(b) Published Rules states: "The course of study for laser hair removal shall consist of at least 40 clock hours of instruction in theory and clinical practice, with a minimum of 25 hours in practical hands on instruction and a least 15 hours of basic science/Didactic instruction in the use of laser and light based hair removal or reduction devices in the following topics... (13) Photo documentation"

04.27.10 Public Hearing input: One person asked that the topic of photo documentation be deleted but provided no rationale or documentation for the request.

The Board has discussed the proposed curriculum at least 5 times over the past two years with participants and two medical doctors Board members. The request made at the Public Hearing is not compelling and the Rules should stand as proposed. Attention was brought to the (f) in Fitzpatrick should be capitalized.

Motion made by Dr. Slaughter to accept Rules as corrected with the exception of (F) in Fitzpatrick skin typing, seconded by M. Wingate, all in favor.

21 NCAC 19.0603 through 21NCAC 19.0622

Motion made by Dr. Slaughter to approved as approved with corrections by legal council, seconded by M. Wingate, all in favor.

21NCAC 19.0700 CONTINUING ED REQ/LICENSE RENEWAL, REINSTATEMENT REACTIVATION

21NCAC 19.0701(a) Published Rule States: "Each electrologist licensed in this State shall complete at least one CEU (10) hours of continuing education for each renewal period as a requirement for renewal of the electrologist's license."

The published Rules differs substantially from language actually voted on by the board and should can not be adopted. The issue will gain scrutiny because the board totally reversed its position from June 2008 to July 2009 and the failed to publish correctly. Due to the ambiguity, this substantial change necessitates the board revisit in a future submission.

21NCAC 19 .0701 (d) "No more than 10 (10 CEU) over a five year period may be approved through correspondence, on-line or distance learning courses."

Written comments received from March 1 – April 30, 2010: This Rule had more comments than any other proposed Rule. Record reflects 5 e-mails and one letter, all in opposition to limiting home study courses, stating: personal and/or family hardship, health issues associated with travel to seminars vs. internet/correspondence course, financial hardship to incur travel expenses, only

two seminars for entire year held too close together, other professions (nurse, cosmetologist, etc.) offer opportunities other than seminars for update licensure, and learning preferences.

According to the 2010 Renewal records 30 out of 82 electrologist (27%) of our licensee secured CEU via home study for current renewal.

21NCAC 190701(e) “Not more than one 10 hours may be carried over per renewal period”

Margaret stated it has been the policy this Rule is only applied to on-site education that CEUs are gained from home studies which can not be a carry over. She suggested that a revisit to this rule be reconsidered for a future rule making.

Motion made by Dr. Slaughter that 21 NCAC 19.0701 be tabled until a later date, seconded by M. Wingate, all in favor.

21NCAC 19.0702 BOARD APPROVAL OF COURSES

21NCAC 19.0702(f) Publish Rules states: “The Board shall notify the electrologist by mail of the Board’s findings and decision. A change in subject matter, length, or instructor of a course requires re-approval by the Board. The entity offering the program or course shall either provide to the electrologist or provide directly to the Board certification of the electrologist’s actual hours of attendance after the program or course is completed.”

04.27.10 Public Hearing input: One person suggested a timeline.

This is a good suggestion but would require some thought and consideration of impact on both the submitting electrologist and the Board. There is also a problem with the published definition for submission/approval timeframe previously discussed in 21NCAC 19 .0103. This should be considered in a new Rule proposal submission at a later date.

Motion made by Dr. Slaughter to approved corrections and consider suggestion in the future, seconded M. Wingate. all in favor.

Next Meeting scheduled Sunday, July 25 @ 1:00p.m. *Dr. Slaughter made Motion to adjourn meeting at 3:14, all in favor.*

Respectfully submitted by:

Margaret Wingate
Acting Secretary

Approved _____

Gary B. Slaughter, MD, Vice-Chairman