



**EMERGENCY RULE-MAKING
FINDINGS OF NEED
[G.S. 150B-21.1A]**

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Board of Barber Examiners	
2. Rule citation(s): 21 NCAC 06F .0128 and 06N .0111	
3. Adoption by agency on: March 18, 2020	4. Date agency requests entry of emergency rule in the Code: March 27, 2020
5. What is the need for an emergency rule? A serious and unforeseen threat to the public health, safety or welfare has arisen with the coronavirus outbreak in North Carolina. The governor declared a state of emergency on March 10, 2020. Several barber schools have given the board notice that they have closed or will be closing their facilities due to the outbreak. To allow students to continue to receive education, the board proposes to eliminate rules that would prevent schools from being able to offer online classes. In addition, the board proposed to extend the timeframes for reporting requirements so that schools with absent staff members can still fulfill their obligations.	
6. Has the agency provided the public with abbreviated notice? If so, describe. The board has shared draft rules with barber schools and our rules email list, and the board posted the rules on its website. By sharing the rules, the board encouraged comments from the regulated community. The board also held an open meeting to adopt these rules and consider any public comments.	
7. Why is adherence to notice and hearing requirements contrary to the public interest and that the immediate adoption of the rule required by a serious and unforeseen threat to the public health or safety? Without this approach, some schools may go out of business because they cannot offer classes and receive income. This approach will also discourage schools from remaining open simply to avoid the financial consequences of closure, even when remaining open might pose a public-health risk. Additionally, since some schools have indicated that they may need to reduce staff temporarily in order to remain financially solvent, the proposed rules would reduce administrative requirements that these schools would have trouble fulfilling during a state of emergency. Finally, some schools (especially community colleges) operate on semester schedules and need flexibility in the number of instruction hours per day if a state of emergency has been declared in order to remain on a semester-based schedule.	

[Emergency Rule-making Findings of Need Continued]

8. Does the agency have specific statutory authority for the adoption of an emergency rule? If so, has the agency met the statutory criteria for adoption? (attach copy of statutory authority)

The board has general rulemaking authority but no statutes that specifically establish criteria for emergency rules.

9. Has the agency submitted the proposed temporary rule for publication on the Internet in accordance with G.S. 150B-21.1(a3)?

- [X] Yes
[] No

10. Rule establishes or increases a fee? (See G.S. 12-3.1)

- [] Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:
[X] No

11. Rule-making Coordinator:

Dennis Seavers

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12. Signature of Agency Head*:

DocuSigned by:

Don Beal

* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Don Beal

Title: Chairperson

E-Mail: donbeal49@yahoo.com

Agency contact, if any:

Phone:

E-Mail:

REVIEW BY THE CODIFIER OF RULES

Approved. Entered into the North Carolina Administrative Code on: _____

Reviewed By: _____

Date: _____

Comments:

Statement does not meet the criteria.

Reviewed By: _____

Date: _____

Comments:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 *Eff. May 1, 1989;*

24 *Readopted Eff. July 1, ~~2016.~~ 2016;*

25 *Emergency Adoption Eff. March 27, 2020.*