



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

☐

Notice with a scheduled hearing

☒

Notice without a scheduled hearing

☐

Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.

Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: [Board of Licensed Clinical Mental Health Counselors](#)

2. Link to agency website pursuant to G.S. 150B-19.1(c): www.ncblcmhc.org

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

☒ ADOPTION: [21 NCAC 53 .1001-.1006](#)

☐ AMENDMENT:

☐ REPEAL:

☐ READOPTION with substantive changes:

☐ READOPTION without substantive changes:

☐ REPEAL through READOPTION:

4. Proposed effective date: [01/01/2026](#)

5. Is a public hearing planned? [No](#)

If yes:

Date

Time

Location

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

A request for public hearing may be requested within 15 days of publication of these rules in the Register by submitting a request in writing to: [Melonie Davis, PO Box 77819, Greensboro, NC 27417; \[ncfaq@ncblcmhc.org\]\(mailto:ncfaq@ncblcmhc.org\)](#).

7. Explain Reason For Proposed Rule(s):

All of these rules are proposed to establish requirements for an impaired professionals program.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: [Melonie Davis](#)
Address: [PO Box 77819](#)
[Greensboro, NC 27417](#)
Phone (optional):
Fax (optional):
EMail (optional) ncfaq@ncblcmhc.org

10. Comment Period Ends: [11/14/2025](#)**11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

[No fiscal note required](#)

12. Rule-making Coordinator:

Name: [Doug Bocker](#)
[919-415-2357](#)
doug@brockerlawfirm.com

Agency contact, if any:

Name:
Phone:
Email:

13. The Agency formally proposed the text of this rule(s) on

Date: [07/17/2025](#)

21 NCAC 53 .1001 is proposed for adoption as follows:

SECTION .1000—IMPAIRED PROFESSIONALS PROGRAMS

21 NCAC 53 .1001 DEFINITIONS

The following definitions apply to this Section:

- (1) "Applicant" means a person who has submitted an application to the Board, paid the application fee, and received confirmation of receipt of the application from the Board.
- (2) "Board" means the North Carolina Board of Licensed Mental Health Counselors as defined in G.S. 90-330(1a).
- (3) "Former Licensee" means a person who formerly held a license issued by the Board and whose license was not permanently surrendered, revoked, or suspended.
- (4) "Impairment" means a condition or disorder caused by substance use, burnout, compassion fatigue, or other mental health issue that hinders professional competence or the ability to provide or supervise clinical mental health counseling services, or may lead to conduct constituting grounds for discipline as set forth in G.S. 90-340.
- (5) "Imminent danger" means any condition, disorder, conduct, or practice that poses a risk of death or serious physical, mental, or emotional harm if not abated.
- (6) "Independent Provider" means a mental health or medical provider that the Program has recommended as a service provider to a Participant or a Potential Participant but is not employed by or affiliated with the Program.
- (7) "Licensee" means a person holding an active license issued by the Board.
- (8) "Monitoring" means oversight by Program staff, volunteers, and Independent Providers of Participant's compliance with a Recovery Plan, the purpose of which is to support the Participant's well-being, recovery from Impairment, and ability to practice clinical mental health counseling with reasonable skill and safety in accordance with G.S. 90-340.
- (9) "Participant" means a Licensee, Former Licensee, Potential Applicant, or an Applicant who has executed a Participation Agreement.
- (10) "Participation Agreement" means a written assessment, treatment, or monitoring contract or agreement between the Program and a Participant.
- (11) "Potential Applicant" means a person who has completed a qualifying graduate training program as defined in Rule .0701 of this Chapter and provides an attestation of their intention to apply for licensure by the Board within two years. The attestation form is available on the Board's website at <https://www.ncblcmhc.org/Licensure/Applying>.
- (12) "Potential Participant" means a Licensee, Former Licensee, Potential Applicant, or an Applicant about whom information concerning suspected impairment has been provided to the Board or the

1 Program, including an individual the Board has referred to the Program, or an individual who has
2 self-referred to the Program.

3 (13) "Program" means an impaired professionals program established by the Board or with whom the
4 Board has an agreement or otherwise made arrangements to provide Screening and Monitoring to
5 Potential Participants or Participants who have or may have an Impairment.

6 (14) "Recovery Plan" means a comprehensive strategy to address a Participant's Impairment, including
7 Monitoring and Recovery Services.

8 (15) "Recovery Services" mean services provided to Participants or Potential Participants from
9 Independent Providers, including assessment, substance testing, referrals, treatment, and follow-up
10 care.

11 (16) "Screening" means to meet with a Potential Participant, conduct an investigation of a Potential
12 Participant, gather pertinent personal, professional, physical, and mental health information, and
13 interview collateral sources, when necessary, to determine if a potential Impairment exists and, if
14 so, provide recommendations for a Recovery Plan.

15
16 History Note: Authority G.S. 90-334(l);

17 Eff.

21 NCAC 53 .1002 is proposed for adoption as follows:

21 NCAC 53 .1002 BOARD AGREEMENTS WITH PROGRAMS

(a) The Board may enter into agreements with Programs pursuant to G.S. 90-334.

(b) To meet the Board's requirements to enter into an agreement, a Program shall have staff, volunteers, policies, procedures, and other resources to provide the following services:

(1) Performing Screening of Potential Participants and Monitoring of Participants;

(2) Formulating and Implementing Recovery Plans for Participants;

(3) Conducting evaluations and recommendations of Independent Providers of Recovery Services;

(4) Maintaining the confidentiality of information, documentation, and records received concerning Potential Participants and Participants in accordance with .1005 of this Section;

(5) Submitting reports and information to the Board consistent with Rules .1004 and .1005 of this Section; and

(6) Providing a process by which Participants and Potential Participants may challenge or appeal a determination by the Program regarding the Participant or Potential Participant.

(c) The Board shall conduct an annual review of the operations of any Program under an agreement to receive referrals of Potential Participants and Participants to determine the Program's compliance with the requirements in Paragraph (b) of this Rule and the Program's agreement with the Board.

(d) In connection with the annual review, the Program shall provide the Board with a report of an annual financial audit for the preceding year.

History Note: Authority G.S. 90-334(l); 90-340

Eff.

21 NCAC 53 .1003 is proposed for adoption as follows:

21 NCAC 53 .1003 PROGRAM OPERATIONS AND PROCEDURES FOR ALL PARTICIPANTS

(a) The Program may receive information about suspected Impairment of a Potential Participant through any of the following sources:

(1) Referral by the Board, including as part of the application or disciplinary process;

(2) Self-referral by the Potential Participant; and

(3) Referral from physicians, counselors, other mental health professionals, family members, colleagues, co-workers, or other individuals or sources with direct or personal knowledge concerning a Potential Participant.

(b) Regardless of the source of the referral, the Program may investigate and conduct a Screening.

(c) The Program may consult with Independent Providers and treating mental health or medical providers in conducting a Screening.

(d) If the Program finds from the investigation or Screening that an Impairment likely exists, it may refer the Potential Participant for an assessment or treatment by an Independent Provider.

(e) If Monitoring is recommended by the Program or an Independent Provider, the Program shall develop a Recovery Plan and request the Potential Participant to become a Participant.

(f) As part of the Program's Monitoring, Participants shall submit urine or other bodily specimens to the Program, as requested, to test for the presence of any substances that could indicate Impairment.

(g) Participants shall submit to periodic interviews with the Program staff or volunteers. The Program shall determine the frequency of personal interviews necessary to evaluate the Participant's Impairment and ability to practice clinical mental health counseling.

(h) Upon signing a Participation Agreement, Participant shall sign releases to authorize the disclosure or exchange of information or documentation about Participant's compliance with the Participation Agreement and Recovery Plan:

(1) to the Board consistent with Rule .1005 of this Section;

(2) between the Program, Independent Providers, and treating mental health or medical professionals;
and

(3) from employers or other individuals assigned to monitor Participant in the workplace.

(i) A Participant shall comply with the Participation Agreement. A Participant's failure to comply with the Participation Agreement shall be deemed a failure to cooperate with the Board and shall subject the Participant to disciplinary action or denial of licensure by the Board pursuant to G.S. 90-340(7) and (15).

History Note: Authority G.S. 90-334(l); G.S. 90-340(f)

Eff.

21 NCAC 53.1004 is proposed for adoption as follows:

21 NCAC 53 .1004 PROGRAM OPERATIONS AND PROCEDURES FOR BOARD REFERRALS

The following shall apply to Board referrals to the Program of Potential Participants who consent to the referral:

- (1) The Board may refer a Potential Participant to the Program if it receives, or obtains through an investigation or review, evidence or information of potential Impairment. The decision to refer a Potential Participant to the Program shall be made on a case-by-case basis based on the evidence or information received, and within the discretion of the Board.
- (2) Potential Participants shall cooperate with the Program, including:
 - (a) executing all required releases or authorizations to exchange information about the Potential Participant between the Board, the Program, Independent Providers, and treating mental health or medical professionals; and
 - (b) submitting to a Screening to determine if evidence exists to substantiate the potential Impairment.
- (3) The Program shall advise the Potential Participant and Board of the findings and recommendations from the Screening and the Potential Participant's cooperation with the Program or lack thereof.
- (4) The Program shall advise the Board as to the results and recommendations from assessments or treatment, including a recommendation for Monitoring.
- (5) In addition to Monitoring, the Board may require other conditions or stipulations from the Potential Participant to be included in the Participation Agreement.
- (6) The Program shall report to the Board if the Potential Participant fails to cooperate with the Program, including failing to sign a Participation Agreement, if requested by the Program.

History Note: Authority G.S. 90-334(l); 90-340

Eff.

21 NCAC 53 .1005 is proposed for adoption as follows:

21 NCAC 53 .1005 CONFIDENTIALITY

(a) The Program shall maintain records on all Potential Participants and Participants, and the records, including those obtained from Independent Providers, treating professionals, and other third parties concerning Potential Participants or Participants, shall remain confidential in accordance with G.S. 90-340(f).

(b) Information and documentation received by the Program regarding a Potential Participant or Participant shall remain confidential and shall not be released to the Board, except as set forth in Rule .1004 of this Section, unless the Program determines that the Potential Participant or Participant:

(1) constitutes an Imminent Danger to client care, the public, or himself or herself for any reason;

(2) is unable to practice clinical mental health counseling with reasonable skill and safety consistent with G.S. 90-340(a)(11); or

(3) refuses to cooperate with the Program, including failing to submit to assessment or treatment recommended by the Program or failing to comply with the terms of a Participation Agreement.

(c) Information and documentation about a Participant who meets any of the criteria of Subparagraphs (b)(1) through (b)(3) of this Rule shall be provided without delay to the Board along with evidence of the events leading to the report.

(d) Becoming a Participant or consenting to Screening by the Program shall not create a clinical or treatment relationship between the Program and Participants or Potential Participants.

History Note: Authority G.S. 90-334(l); G.S. 90-340(a)(11)

Eff.

21 NCAC 53 .1006 is proposed for adoption as follows:

21 NCAC 53. 1006 PERIODIC REPORTING OF ANONYMIZED INFORMATION TO THE BOARD

(a) On a quarterly and annual basis, and upon request by the Board, the Program shall provide to the Board reports of statistical, demographic, and other information collected through Program operations, which reports shall not identify Potential Participants or Participants.

(b) The Program shall meet with the Board or a representative of the Board on a quarterly basis to discuss the report and the Program's operations over the quarter reported upon.

History Note: Authority G.S. 90-334(l);

Eff.