

September 15, 2005

VIA HAND DELIVERY AND EMAIL

Senator Marc Basnight
2007 Legislative Building
Raleigh, NC 27601-2808

Representative James B. Black
2304 Legislative Building
Raleigh, NC 27601-3451

Re: Request for Consultation with the Joint Legislative Commission on
Governmental Operations Regarding Fees Proposed by the North Carolina
Board of Pharmacy

Dear Senator Basnight and Representative Black:

As counsel and rulemaking coordinator for the North Carolina Board of Pharmacy (Board), I am writing on behalf of the Board, to make a request for consultation, pursuant to G.S. §12-3.1, regarding Board rules to be published in the September 15, 2005 North Carolina Register, Volume 20, Issue 6. These rule citations are 21 NCAC 46.1605, 21 NCAC 46.1611, 21 NCAC 46.2511, and 21 NCAC 46.2601. A copy of these rules is attached.

21 NCAC 46.1605

This rule changes the charge for verification for reinstatement of a pharmacy license or permit or device and medical equipment permit. The current fee is \$15.00. The proposed rule change is to increase this fee to \$25.00. The statutory authority for this rule is cited as G.S. §§90-85.6, 90-85.17, 90-85.21, 90-85.22, and 150B-19(5)(e). This fee is to cover the Board's increased data processing costs and costs to mail the verification. In addition, the Board anticipates U.S. Postal Service price increases in 2006 and beyond due to rising fuel costs.

21 NCAC 46.1611

The purpose of this rule change is to increase the fee for submittal of a dishonored and returned check. The Board currently charges \$20.00 per returned check. The proposed rule change is to increase this fee to \$25.00 per check. The statutory authority for this charge is G.S. §§25-3-506 and 150B-19(5)e. This increase is necessary to cover the increased cost in processing the check.

21 NCAC 46.2511

The purpose of this rule change is to establish a charge for a status of licensure affidavit. The fee will be \$25.00 per affidavit. The Board may furnish copies of such affidavits free of charge to governmental entities. The statutory authority for this rule is G.S. §150B-19(5). This charge is necessary to cover costs in processing this request, printing such a request, and mailing the affidavit.

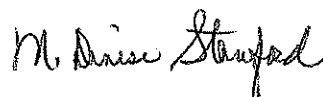
21 NCAC 46.2601

The purpose of this rule change is to establish an additional fee of \$5.00 for online renewals of registration to cover the increased cost of renewing online and by credit card. The statutory authority for this rule is G.S. §§90-85.3(e), (11), and (r), 90-85.6, and 90-85.22.

My understanding is that if the Commission does not hold a meeting regarding this request for consultation within ninety days after September 15, 2005, the date the notice of text for these rules is published in the NC Register, the consultation requirement of G.S. §12-3.1 will be satisfied. Please notify me if such a meeting is scheduled.

Sincerely,

BAILEY & DIXON, L.L.P.



M. Denise Stanford

MDS:db

Attachment

cc: Committee Clerk

Michele Nelson, Fiscal Research

David R. Work

Molly Masich

Kathy Davis

Senator Charles Albertson

Senator Thomas Apodaca

Senator Daniel Clodfelter

Senator Linda Garrou

Senator Kay Hagan

Senator Fletcher Hartsell, Jr.

Senator David Hoyle

Senator John Kerr, III

Senator Eleanor Kinnaird

Representative Martha Alexander

Representative Harold Brubaker

Representative Nelson Cole

Representative Jim Crawford

Representative Bill Culpepper

Representative Pete Cunningham

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Representative Julia Howard

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Senator Richard Stevens
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Representative Drew Saunders
Representative Joe Tolson
Representative Edith Warren
Representative Douglas Yongue
Representative Joe Hackney
Representative Richard Morgan

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21 NCAC 46.1605 is proposed as follows:

21 NCAC 46.1605 CHARGE FOR VERIFICATION FOR REINSTATEMENT

The Board shall charge persons requesting verification for reinstatement of a pharmacy license or permit or a device and medical equipment permit a fee of ~~fifteen dollars (\$15.00)~~ twenty-five dollars (\$25.00) per verification.

History Note: Authority G.S. 90-85.6; 90-85.17; 90-85.21; 90-85.22; 150B-19(5)(e);
Eff. September 1, 1993;
Amended Eff. September 1, 1995.

21 NCAC 46.1611 is proposed as follows:

21 NCAC 46.1611 PENALTY FEE FOR SUBMITTAL OF DISHONORED AND RETURNED CHECK

(a) Any person, firm or corporation submitting to the Board a check which is subsequently returned to the Board because of insufficient funds or because there is no account open at the bank shall be charged a penalty fee of twenty twenty-five dollars ~~(\$20.00)~~ (\$25.00) for processing the check.

(b) Until such time as the payor of the returned check pays the amount of the check and pays the prescribed penalty fee, the payor shall not be eligible to take an examination, review an examination, obtain a license or permit or have his license or permit renewed.

(c) Any license or permit which has been issued based on the payment of a check which is subsequently returned to the Board for reasons stated in Paragraph (a) of this Rule shall be declared invalid until such time as the payor pays the amount of the check and pays the prescribed penalty fee.

(d) Payment to the Board of the amount of the returned check and the prescribed penalty fee shall be made in the form of cash, a cashier's check, or money order.

(e) All examination, license and permit, and license and permit renewal applications provided by the Board shall contain information in a conspicuous place thereon clearly advising the applicant of the applicable penalty fee for returned checks.

*History Note: Authority G.S. 25-3-506; 150B-19(5)e;
 Eff. September 1, 1995.*

21 NCAC 46.2511 is proposed as follows:

21 NCAC 46.2511 CHARGE FOR STATUS AFFIDAVIT

The Board shall charge persons requesting an affidavit as to the status of any license or permit a fee of twenty-five dollars (\$25.00) per affidavit. The Board may furnish such affidavits free of charge to governmental entities.

History Note: Authority G.S. 150B-19(5);
Eff.

21 NCAC 46.2601 is proposed as follows:

21 NCAC 46.2601 DISPENSING AND DELIVERY

(a) Devices, as defined in G.S. 90-85.3(e), shall be dispensed only in a pharmacy as defined in G.S. 90-85.3(q) or other place registered with the Board pursuant to G.S. 90-85.22. Medical equipment, as defined in G.S. 90-85.3(11) shall be delivered only by a pharmacy as defined in G.S. 90-85.3(q) or other place registered with the Board pursuant to G.S. 90-85.22. Devices dispensed in hospitals and medical equipment delivered by hospitals are presumed to be the responsibility of the hospital pharmacy unless otherwise registered. This Rule shall apply only to entities engaged in the regular activity of delivering medical equipment.

(b) A pharmacy dispensing and delivering devices and medical equipment and not holding a device and medical equipment permit shall operate its device and medical equipment business at the same physical location as the pharmacy and through the same legal entity that holds the pharmacy permit. The pharmacist-manager shall be responsible for the dispensing and delivery of devices and medical equipment.

(c) Device and medical equipment permits will not be issued to applicants located on residential property.

(d) An additional fee of \$5.00 will apply to online renewal of registration.

*History Note: Authority G.S. 90-85.3(e), (11), (r); 90-85.6; 90-85.22;
 Eff. October 1, 1990;
 Amended Eff. March 1, 2004; October 1, 1995.*

September 15, 2005

VIA HAND DELIVERY AND EMAIL

Senator Marc Basnight
2007 Legislative Building
Raleigh, NC 27601-2808

Representative James B. Black
2304 Legislative Building
Raleigh, NC 27601-3451

Re: Request for Consultation with the Joint Legislative Commission on
Governmental Operations Regarding Fee Changes Proposed by the North
Carolina Licensing Board for General Contractors

Dear Senator Basnight and Representative Black:

As counsel and rulemaking coordinator for the North Carolina Licensing Board for General Contractors (Board), I am writing on behalf of the Board, to make a request for consultation, pursuant to G.S. §12-3.1, regarding Board rules to be published in the September 15, 2005 North Carolina Register, Volume 20, Issue 6. These rule citations are 21 NCAC 12.0302 and 21 NCAC 12.0506. A copy of these rules is attached. I had previously made this request for these same rules on September 1, 2005; however, the rules will actually be published in the September 15, 2005 North Carolina Register. Therefore, I am renewing a request for consultation on behalf of the Board.

21 NCAC 12.0302

This rule changes the charge for an application package for licensure from the Board. The current fee is \$6.00, if the application package is mailed. The proposed rule change is to increase this fee to \$15.00. The current fee, if an application is not mailed, is \$5.00. The proposed rule change increases this fee to \$13.00 per application package. The current version of the rule provides that should the total cost of development, mailing and publication be less than \$6.00, the Board shall adjust the fees accordingly. The proposed rule change provides that should the total cost of development, mailing and publication be less than \$9.00, the Board shall adjust the fees accordingly. The statutory authority for this rule is cited as G.S. §87-1, 87-10, and 150B-19(5). This fee is to cover the Board's increased costs in developing, publishing, and mailing the application package for licensure over the past ten years. In addition, the Board anticipates

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further cost increases in printing and anticipated U.S. Postal Service price increases as well in 2006 and beyond due to rising fuel costs.

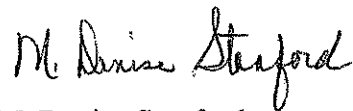
21 NCAC 12.0506

The purpose of this rule change is to increase the charge for a status of licensure affidavit. The Board currently charges persons requesting an affidavit as to the status of licensure a fee of \$20.00 per affidavit. The proposed rule change is to increase this fee to \$25.00 per affidavit. The Board may furnish copies of such affidavits free of charge to governmental entities. The statutory authority for this charge is G.S. §§87-8, 87-13, and 150B-19(5). The purpose of this rule change is to cover the increased cost in processing this request, printing such a request, and mailing the affidavit. The Board is adding a 20% cost increase to cover staff time and postage that has increased in actual terms over the past ten years.

My understanding is that if the Commission does not hold a meeting regarding this request for consultation within ninety days after September 15, 2005, the date the notice of text for these rules is published in the NC Register, the consultation requirement of G.S. §12-3.1 will be satisfied. Please notify me if such a meeting is scheduled.

Sincerely,

BAILEY & DIXON, L.L.P.



M. Denise Stanford

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Representative Joe Tolson
Representative Edith Warren
Representative Douglas Yongue
Representative Joe Hackney
Representative Richard Morgan

21 NCAC 12.0302 is proposed as follows:

21 NCAC 12 .0302 REQUEST

(a) A request for the required application form may be made at the address in Rule .0101 of this Chapter.

(b) The Board shall charge a fee of ~~six~~ fifteen dollars ~~(\$6.00)~~ (\$15.00) per application package if the package is mailed, and charge a fee of five thirteen dollars ~~(\$5.00)~~ (\$13.00) per application package if the package need not be mailed. The Board shall not charge more than the cost of publication and mailing of the application package. Should the total cost of development, mailing and publication be less than ~~six~~ nine dollars ~~(\$6.00)~~ (\$9.00), the Board shall adjust the fees accordingly.

*History Note: Authority G.S. 87-1; 87-10; 150B-19(5);
Eff. February 1, 1976;
Amended Eff. June 23, 1977;
Readopted Eff. September 26, 1977;
Amended Eff. December 1, 1995; June 1, 1992.*

21 NCAC 12.0506 is proposed as follows:

21 NCAC 12 .0506 CHARGE FOR STATUS OF LICENSURE AFFIDAVIT

The Board shall charge persons requesting an affidavit as to status of licensure a fee of ~~twenty~~ twenty-five dollars ~~(\$20.00)~~ (\$25.00) per affidavit. The Board may furnish copies of such affidavits free of charge to governmental entities.

History Note: Authority G.S. 87-8; 87-13; 150B-19(5);
Eff. June 1, 1992;
Amended Eff. May 1, 1995.