

October 14, 2024

In Re: Temporary Waivers in response to the State of Emergency declared by Governor Cooper following Hurricane Helene.

On September 25, 2024, Governor Roy Cooper declared a state of emergency due to the impact of Hurricane Helene. Pursuant to the Governor’s Declared Statement Number FEMA-4827-DR, the following counties or territories in Western North Carolina have been identified:

Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Catawba, Clay, Cleveland, Gaston, Haywood, Henderson, Jackson, Lincoln, Macon, Madison, McDowell, Mecklenburg, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, Wilkes, and Yancey Counties, and the Eastern Band of Cherokee Indians.

On October 5, 2024, Governor Roy Cooper issued Executive Order No. 318 (2024) to increase the pool of professional healthcare workers and provide regulatory flexibility to expand the healthcare workforce.

The Board of Nursing and the Medical Board are granted authority under N.C. Gen. Stat. § 90-171.49 and N.C. Gen. Stat. § 90-12.5 respectively to take this action in order to permit the provision of emergency health services to the public for the benefit and protection of the people of North Carolina. The Nurse Practitioner Joint Subcommittee (the “Committee”) is composed of members of both the Board of Nursing and the Medical Board pursuant to the authority under N.C. Gen. Stat. § 90-171.23(b)(14) and N.C. Gen. Stat. § 90-8.2. The Committee regulates the practice of Nurse Practitioners in accordance with N.C. Gen. Stat. § 90-18.2. Pursuant to the authority granted to the Committee under Executive Order 318 (2024), the Committee hereby waives the following:

Emergency Temporary Approval to Practice as a Nurse Practitioner

21 NCAC 36 .0804 Process for Approval to Practice

- (a) Prior to the performance of any medical acts, a nurse practitioner shall:
 - (1) meet registration requirements as specified in 21 NCAC 36 .0803;
 - (2) submit an application for approval to practice;
 - (3) submit any additional information necessary to evaluate the application as requested; and
 - (4) have a collaborative practice agreement with a primary supervising physician.
- (b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than two years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification. A nurse practitioner refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.
- (c) The nurse practitioner shall not practice until notification of approval to practice is received from the Board of Nursing after both Boards have approved the application.
- (d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement or experiences an interruption in her or his registered nurse licensure status, and the nurse practitioner shall so notify the

- Board of Nursing in writing. The Boards shall extend the nurse practitioner's approval to practice in cases of emergency such as injury, sudden illness or death of the primary supervising physician.
- (e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:
 - (1) the Board of Nursing shall verify compliance with Rule .0803 and Paragraph (a) of this Rule; and
 - (2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Paragraph (a) of this Rule.
 - (f) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina shall be submitted by the applicant as follows:
 - (1) addition or change of primary supervising physician shall be submitted to the Board of Nursing and processed pursuant to protocols developed by both Boards; and
 - (2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.
 - (g) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:
 - (1) meet the nurse practitioner approval requirements as stipulated in Rule .0808(c) of this Section; and
 - (2) complete the appropriate application.
 - (h) Volunteer Approval to Practice. The North Carolina Board of Nursing shall grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.
 - (i) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0813 of this Section.
 - (j) A Nurse Practitioner approved under this Section shall keep proof of current licensure, registration and approval available for inspection at each practice site upon request by agents of either Board.

Waive the provisions in .0804(a)(4), (b), (d), (e)(2), (f)(1), (i), and (j) so that a nurse practitioner may apply for an approval to practice without a supervising physician in the above-named counties during the declared state of emergency. The refresher program is waived for Nurse Practitioners out of practice for less than 5 years. All other provisions and requirements shall apply. This waiver applies to Nurse Practitioners who hold an unencumbered approval to practice or registration. Nurse Practitioners holding an approval to practice which has been surrendered or suspended due to disciplinary action will not be considered. The emergency approval is temporary and shall expire on March 1, 2025, unless the waiver provisions are sooner amended or rescinded by the Committee or further Executive Order.

This waiver does not waive other statutory requirements or limitations. This waiver shall take effect on October 14, 2024, and shall remain in full force and effect until March 1, 2025, or unless sooner amended, or rescinded by the Committee or further Executive Order.

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The Board of Nursing and the Medical Board are granted authority under N.C. Gen. Stat. § 90-171.49 and N.C. Gen. Stat. § 90-12.5 respectively to take this action in order to permit the provision of emergency health services to the public for the benefit and protection of the people of North Carolina. The Nurse Practitioner Joint Subcommittee (the "Committee") is composed of members of both the Board of Nursing and the Medical Board pursuant to the authority under N.C. Gen. Stat. § 90-171.23(b)(14) and N.C. Gen. Stat. § 90-8.2. The Committee regulates the practice of Nurse Practitioners in accordance with N.C. Gen. Stat. § 90-18.2. Pursuant to the authority granted to the Committee under Executive Order 318 (2024), the Committee hereby waives the following:

Emergency Temporary Reinstatement of Nurse Practitioner Approval to Practice

21 NCAC 36 .0808. Inactive Status

- (a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the Board in writing.
- (b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.
- (c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice in Rules .0803(a)(1), .0804(a) and (b), .0807, and .0810 of this Section and receive notification from the Board of approval prior to beginning practice after the application is approved.
- (d) A nurse practitioner who has not practiced as a nurse practitioner in more than two years shall complete a nurse practitioner refresher course approved by the Board in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and management of these conditions directly related to the nurse practitioner's area of academic education and national certification. A nurse practitioner refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

Waive the provisions of .0808(c) and (d) so that a nurse practitioner may apply for an approval to practice without a supervising physician in the above-named counties during the declared state of emergency. The refresher program is waived for Nurse Practitioners out of practice for less than 5 years. All other provisions and requirements shall apply. This waiver applies to those applicants holding an inactive approval to practice who have maintained their current, national certification as a nurse practitioner. Applicants must also hold an active, unencumbered Registered Nurse license to be eligible. Applicants with approvals to practice surrendered or suspended due to disciplinary action will not be considered. The emergency approval is temporary and shall expire on March 1, 2025, unless the waiver provisions are sooner amended, or rescinded by the Committee or further Executive Order.

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Emergency Temporary Waiver of Prescribing Requirements pursuant to a Collaborative Practice Agreement

21 NCAC 36 .0809 Prescribing Authority

- (a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.
- (b) Prescribing and dispensing stipulations are as follows:
 - (1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0810(2) of this Section.
 - (2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed, or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:
 - (A) the nurse practitioner has an assigned DEA number that is entered on each prescription for a controlled substance;
 - (B) refills may be issued consistent with Controlled Substance laws and regulations; and
 - (C) the primary supervising physician(s) shall possess a schedule(s) of controlled substances equal to or greater than the nurse practitioner's DEA registration.
 - (3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:

- (A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and
 - (B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and signed by the nurse practitioner and the physician.
- (4) Each prescription shall be noted on the patient's chart and include the following information:
- (A) medication and dosage;
 - (B) amount prescribed;
 - (C) directions for use;
 - (D) number of refills; and
 - (E) signature of nurse practitioner.
- (5) Prescription Format:
- (A) all prescriptions issued by the nurse practitioner shall contain the name of the patient and the nurse practitioner's name and telephone number;
 - (B) the nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.
- (6) A nurse practitioner shall not prescribe controlled substances, as defined by the State and Federal Controlled Substances Acts, for the following:
- (A) nurse practitioner's own use;
 - (B) nurse practitioner's supervising physician;
 - (C) member of the nurse practitioner's immediate family, which shall mean a: (i) spouse; (ii) parent; (iii) child; (iv) sibling; (v) parent-in-law; (vi) son or daughter-in-law; (vii) brother or sister-in-law; (viii) step-parent; (ix) step-child; or (x) step-siblings;
 - (D) any other person living in the same residence as the licensee; or
 - (E) anyone with whom the nurse practitioner is having a physical, sexual, or emotionally intimate relationship.
- (c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 46 .1703 that is hereby incorporated by reference including subsequent amendments.

Waive the provisions in .0809 (b)(1), portions of (b)(2), (b)(2)(C), (b)(3), and a portion of (c) during the declared state of emergency such that a nurse practitioner practicing in the above-named counties may write prescriptions without collaborative practice agreement with a supervising physician. All other provisions and requirements shall apply. The emergency provisions are temporary and shall expire on March 1, 2025, unless the waiver provisions are sooner amended, or rescinded by the Committee or further Executive Order.

This waiver does not waive other statutory requirements or limitations. This waiver shall take effect on October 14, 2024, and shall remain in full force and effect until March 1, 2025, or unless sooner amended, or rescinded by the Committee or further Executive Order.

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On October 5, 2024, Governor Roy Cooper issued Executive Order No. 318 (2024) to increase the pool of professional healthcare workers and provide regulatory flexibility to expand the healthcare workforce.

The Board of Nursing and the Medical Board are granted authority under N.C. Gen. Stat. § 90-171.49 and N.C. Gen. Stat. § 90-12.5 respectively to take this action in order to permit the provision of emergency health services to the public for the benefit and protection of the people of North Carolina. The Nurse Practitioner Joint Subcommittee (the “Committee”) is composed of members of both the Board of Nursing and the Medical Board pursuant to the authority under N.C. Gen. Stat. § 90-171.23(b)(14) and N.C. Gen. Stat. § 90-8.2. The Committee regulates the practice of Nurse Practitioners in accordance with N.C. Gen. Stat. § 90-18.2. Pursuant to the authority granted to the Committee under Executive Order 318 (2024), the Committee hereby waives the following:

Emergency Temporary Waiver of Quality Assurance Standards for a Collaborative Practice Agreement

21 NCAC 36 .0810 Quality Assurance Standards for a Collaborative Practice Agreement.

The following are the quality assurance standards for a collaborative practice agreement:

- (1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.
- (2) Collaborative Practice Agreement:
 - (a) shall be agreed upon and signed by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;
 - (b) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice agreement and available for inspection by members or agents of either Board;
 - (c) shall include the drugs, devices, medical treatments, tests and procedures that may be prescribed, ordered and performed by the nurse practitioner consistent with Rule .0809 of this Section; and
 - (d) shall include a pre-determined plan for emergency services.
- (3) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.
- (4) Quality Improvement Process.

- (a) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.
 - (b) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified timeframe.
 - (c) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:
 - (i) identify clinical problems discussed, including progress toward improving outcomes as stated in Sub-item (4)(b) of this Rule, and recommendations, if any, for changes in treatment plan(s);
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.
- (5) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner and primary supervising physician(s):
- (a) During the first six months of a collaborative practice agreement between a nurse practitioner and the primary supervising physician, there shall be monthly meetings for the first six months to discuss practice relevant clinical issues and quality improvement measures.
 - (b) Documentation of the meetings shall:
 - (i) identify clinical issues discussed and actions taken;
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

Waive Rule .0810 requiring quality improvement processes pursuant to a collaborative practice agreement between the nurse practitioner practicing in the above-named counties during the declared state of emergency and a supervising physician. The emergency provisions are temporary and shall expire on March 1, 2025, unless the waiver provisions are sooner amended, or rescinded by the Committee or further Executive Order.

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Emergency Temporary Waiver of Application Fee for an Initial Approval to Practice and Volunteer Approval

21 NCAC 36 .0813 Fees.

- (a) An application fee of one hundred dollars (\$100.00) shall be paid at the time of initial application for approval to practice and each subsequent application for approval to practice. The application fee shall be twenty dollars (\$20.00) for volunteer approval.
- (b) The fee for annual renewal of approval shall be fifty dollars (\$50.00).
- (c) The fee for annual renewal of volunteer approval shall be ten dollars (\$10.00).
- (d) No portion of any fee in this Rule is refundable.

Waive the provisions in .0813(a) regarding the application fee for an emergency approval to practice allowing a nurse practitioner the ability to practice in the above-named counties without paying an application fee during the declared state of emergency. All other provisions and requirements shall apply. Nurse Practitioners holding an approval to practice which has been surrendered or suspended due to disciplinary action will not be considered. The emergency approval is temporary and shall expire on March 1, 2025, unless the waiver provisions are sooner amended or rescinded by the Committee or further Executive Order.

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Emergency Temporary Nurse Practitioner Practice During a Disaster

21 NCAC 36 .0814 Practicing During a Disaster.

- (a) A nurse practitioner approved to practice in this State or another state may perform medical acts, as a nurse practitioner under the supervision of a physician licensed to practice medicine in North Carolina during a disaster in a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared.
- (b) The nurse practitioner shall notify the Board of Nursing in writing of the names, practice locations and telephone numbers for the nurse practitioner and each primary supervising physician within 15 days of the first performance of medical acts, as a nurse practitioner during the disaster, and the Board of Nursing shall notify the Medical Board.
- (c) Teams of physician(s) and nurse practitioner(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements and plans for prescriptive authority as otherwise required pursuant to Rules .0809 and .0810 of this Section.

Waive the provisions requiring a supervising physician in a portion of .0814(a), (b), and (c) for nurse practitioners practicing in the above-named counties during the declared state of emergency. Nurse practitioners seeking to practice in the above-named counties without a supervising physician must submit an application to the Board of Nursing. The emergency

provisions are temporary and shall expire on December 31, 2024, unless the waiver provisions are sooner amended, or rescinded by the Committee or further Executive Order.

This waiver does not waive other statutory requirements or limitations. This waiver shall take effect on October 14, 2024, and shall remain in full force and effect until March 1, 2025, or unless sooner amended, or rescinded by the Committee or further Executive Order.