

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 46 – BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to adopt the rule cited as 21 NCAC 46 .2516.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncbop.org/rulemakings.htm

Proposed Effective Date: June 1, 2024

Public Hearing:

Date: March 12, 2024

Time: 9:30 a.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, North Carolina 27517

Reason for Proposed Action: *North Carolina law requires pharmacies both to post the hours that they are open and to ensure that adequate staffing is available to render services to the public safely during those hours. The Board is aware of a number of times that pharmacies have been forced to close temporarily due to emergencies, including unanticipated staffing shortages. While pharmacies should be able to close temporarily in order to ensure that their practice is consistent with the public health, safety and welfare, patients may be delayed in receiving needed medications. The proposed rule would ensure that permit holders may appropriately manage their pharmacies while providing an avenue for patients to be informed of temporary closings and to receive their prescriptions elsewhere, if needed.*

Comments may be submitted to: Jay Campbell, 6015 Farrington Rd Ste 201, Chapel Hill, NC 27517; email ncboprulemaking@ncbop.org

Comment period ends: April 1, 2024

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 a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

SECTION .2500 - MISCELLANEOUS PROVISIONS

21 NCAC 46 .2516 EMERGENCY CLOSURE

(a) The pharmacist-manager of a pharmacy has the responsibility and authority to cease some or all of the pharmacy operations when doing so is necessary to fill the pharmacist-manager's responsibility (a) for the safe, lawful and secure receipt of prescription orders and delivery of prescription drugs under Rule .1804(a) of this Chapter, or (b) to ensure that adequate qualified personnel are in place to properly render pharmaceutical service in compliance with state and federal law under Rule .1601(a)(1) of this Chapter.

(b) In the event that a permit is closed either to receive prescription orders or to dispense prescription drugs during the regular hours that it has posted that it is open under Rule .1601(a)(2) of this Chapter, the pharmacist-manager shall take the following actions before closing:

- (1) Post a notice in a location conspicuous to the public of (a) which services the pharmacy has ceased providing, and (b) the date and time that the pharmacist-manager anticipates that the pharmacy will resume providing those services. The pharmacist-manager shall change the posted notice in the event that the pharmacist-manager determines that it is no longer accurate.
- (2) Send an e-mail to emergencyclosure@ncbop.org with the information provided in Paragraph (b)(1) of this Rule, including any changes to the required notice.
- (3) Arrange for the transfer of any prescriptions at the patient's request during any time when the pharmacy is not dispensing prescription drugs, and post a notice in a location conspicuous to the public of the pharmacy to which prescriptions will be transferred and the process for having those prescriptions transferred. This includes prescriptions that have been filled but not delivered before the pharmacy is closed.

(c) In the event that the pharmacist-manager is unavailable, a pharmacist who is on duty at the pharmacy has the responsibility and authority set out in Paragraph (a) of this Rule if the pharmacist follows the procedures set out in Paragraph (b) of this Rule.

(d) This Rule does not apply to permanent closures or to temporary closures lasting more than 14 consecutive days, which are instead governed by the provisions of Rule .2502(h) and (i) of this Section. This Rule further does not apply to pharmacies located outside the State of North Carolina, which should follow any closure rules of their home states.

(e) In the event that the either (a) the pharmacist-manager suffers an emergency that renders the pharmacist-manager unable to exercise the responsibilities in Paragraph (b) of this Rule, or (b) the pharmacist-manager is unavailable and the only pharmacist(s) on duty suffers an emergency that renders the pharmacist unable to exercise the responsibilities in Paragraph (b) of this Rule, the exercise of the responsibilities in Paragraph (b) of this Rule shall be excused until such time as an employee authorized by the pharmacist-manager or permit holder can exercise those responsibilities.

History Note: Authority G.S. 90-85.6; 90-85.15A; 90-85.21; 90-85.25; 90-85.32;
Eff. June 1, 2024.