

**RULES REVIEW COMMISSION MEETING
MINUTES
October 19, 2017**

The Rules Review Commission met on Thursday, October 19, 2017, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew P. Atkins, Bobby Bryan, Anna Baird Choi, Garth Dunklin, Jeff Hyde, Jeff Poley, and Paul Powell.

Staff members present were Commission Counsels Amanda Reeder, Abigail Hammond, Amber Cronk May, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 10:01 a.m. with Chairman Dunklin presiding.

Chairman Dunklin read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the September 21, 2017 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

10A NCAC 27H .0205 and .0206 - The agency is addressing the objections from the September meeting. No action was required by the Commission.

Social Services Commission

10A NCAC 97B .0401, .0402, .0403; 97C .0104, .0106, .0108, .0109, and .0111 - All rules were unanimously approved.

LOG OF FILINGS (PERMANENT RULES)

Pre-Reviewed Rules

Soil and Water Conservation Commission

All rules were unanimously approved.

Office of the Commissioner of Banks

All rules were unanimously approved.

Department of Revenue

All rules were unanimously approved.

Local Government Commission

All rules were unanimously approved.

Prior to the review of the rules from the Local Government Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because of law firm conflicts.

Board of Dental Examiners

21 NCAC 16Y .0104 was unanimously approved.

Non Pre-Reviewed Rules

Board of Agriculture

All rules were unanimously approved.

Industrial Commission

04 NCAC 10J .0103 was unanimously approved.

The Commission received over 10 letters of objection in accordance with G.S. 150B-21.3(b2), requesting a delayed effective date and legislative review of 04 NCAC 10J .0103.

Matt Wolfe, legal counsel for the North Carolina Ambulatory Surgical Center Association and Surgical Care Affiliates, addressed the Commission.

Sean Rambo with Compass Surgical Care Partners, on behalf of North Carolina Ambulatory Surgical Center Association, addressed the Commission.

Corey Hess, with Surgical Care Affiliates, addressed the Commission.

Andy Ellen, with the North Carolina Retail Merchants Association, addressed the Commission.

Meredith Henderson, Executive Secretary with the agency, addressed the Commission.

Prior to the review of the rule from the Industrial Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rule because of law firm conflicts.

Commissioner of Insurance

11 NCAC 06A .0802 was unanimously approved.

Sheriffs Education and Training Standards Commission

All rules were unanimously approved.

Private Protective Services Board

All rules were unanimously approved.

Wildlife Resources Commission

All rules were unanimously approved.

Capital Facilities Finance Agency

All rules were unanimously approved.

Prior to the review of the rules from the Capital Facilities Finance Agency, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because of law firm conflicts.

Board of Architecture

All rules were unanimously approved with the following exception:

21 NCAC 02 .0217 was withdrawn at the request of the agency.

Prior to the review of the rules from the Board of Architecture, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm provides legal representation to the Board on rulemaking.

EXISTING RULES REVIEW**Medical Care Commission**

10A NCAC 13C – The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Medical Care Commission, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the report because of a conflict.

Prior to the review of the report from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the report because of law firm conflicts.

Commission for Public Health

10A NCAC 42 – The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43D - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 44 - The Commission unanimously approved the report as submitted by the agency.

Environmental Management Commission

15A NCAC 02K – The Commission approved the report as submitted by the agency, with the exception that it reclassified Rule .0212 as “Necessary with Substantive Public Interest.”

Commissioner Choi voted against reclassifying Rule .0212.

Commissioner of Agriculture

02 NCAC 58 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than January 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Soil and Water Conservation Commission

02 NCAC 59D, H - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than January 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Medical Care Commission

10A NCAC 13B - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than January 31, 2023 pursuant to G.S. 150B-21.3A(d)(2).

Prior to the review of the proposed readoption date from the Medical Care Commission, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the report because of a conflict.

Prior to the review of the proposed readoption date from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the report because of law firm conflicts.

Alarm Systems Licensing Board

14B NCAC 17 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than April 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

North Carolina Appraisal Board

21 NCAC 57 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than December 31, 2018 pursuant to G.S. 150B-21.3A(d)(2).

Prior to the review of the proposed readoption date from the North Carolina Appraisal Board, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the proposed readoption because her law firm provides legal representation to the Board on rulemaking.

Department of Insurance

The Commission voted to extend the readoption deadline for Rules 11 NCAC 20 .0202 and .0204 from November 30, 2017 to no later than June 30, 2018 pursuant to G.S. 150B-21.3A(d)(2).

Board of Dental Examiners

The agency requested a waiver of Rule 26 NCAC 05 .0211 for the report for 21 NCAC 16.

The waiver request was approved. The Commission rescheduled the date of review for the report, and amended 26 NCAC 05 .0211.

The Commission will review the Board's report at its November 16, 2017 meeting.

Veterinary Medical Board

The agency requested a waiver of Rule 26 NCAC 05 .0211 for the report for 21 NCAC 66.

The waiver request was approved. The Commission rescheduled the date of review for the report, and amended 26 NCAC 05 .0211.

The Commission will review the Board's report at its November 16, 2017 meeting.

State Human Resources Commission

25 NCAC 01J – The Commission denied the agency's request to reschedule the January 31, 2018 readoption deadline, with Commissioners Atkins and Poley voting against the denial.

Jessica Middlebrooks, the rulemaking coordinator with the agency, addressed the Commission.

COMMISSION BUSINESS

The Commission amended Rule 26 NCAC 05 .0211 to reflect changes in the periodic review schedule.

Commissioner Dunklin gave the Commission a brief update on the status of the lawsuit by the State Board of Education against the Rules Review Commission.

The meeting adjourned at 12:05 p.m.

The next regularly scheduled meeting of the Commission is Thursday, November 16th at 10:00 a.m

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Garth Dunklin, Chair

October 19, 2017

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Meredith Henderson	NC Industrial Commission
Mike Carpenter	NCHSA
Charlton Allen	NC Industrial Comm.
Andy Siler	NCRMA
Kendall McBeard	NC Industrial Commission
S. M. Henderson	DNCR
John Polcastro	NCIC
John Polcastro	NC Automobile Dealers Association
Yolanda K. Smith	NCIC
Came Hollis	OSBM
Tommy Clark	NCCOB
Sean Ranko	NC ASC Assoc.
Laura Hansford	NCDOR
Laura Rowe	DST
Cindy Aiken	DST
Anita MacMullan	NC Dept. of Agriculture
Catherine / Julie Platch	NC Bd of Architecture
Matt Wolfe	Parker Poe
Nancy Dunn-Harrison	NCDOT
Nadine Pfeiffer	DHHS - DH5R
Tien Cheng	NC DACS
Bob Martin	NC DPM

October 19, 2017

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Azzra Conley	DHSR
Diane Konopka	DOT - Sheriff's Stds.
Nadgie Craven	PPSB/ASLB
Cory Hess	SCA
Vernon Cox	NCDATCS
Whitney Walderberg	Dental Board
Colleen Hughes-White	NCDATCS
Kerree Montgomery	SCA/Curae.
Brian Rattledge	NCIC
Bayd D'Anna	NCDEQ
Toby Vinson	NCDEQ
Jessica Middlebrooks	SHRE/OSHR
John Itoamani	NCDaI

October 19, 2017

Rules Review Commission
Meeting
Please Print Legibly

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STATE OF NORTH CAROLINA
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6714 Mail Service Center
Raleigh, NC 27699-6700

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1711 New Hope Church Rd
Raleigh, NC 27609-6285

October 19, 2017

Christina L. Waggett
Department of Agriculture & Consumer Services
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 02 NCAC 58

Dear Ms. Waggett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the October 19, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than January 31, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

Administration
919/431-3000
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Rules Division
919/431-3000
fax: 919/431-3104

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
July 20, 2017
APO Review: September 23, 2017
Agriculture, Commissioner of
Total: 4**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>02</u> <u>NCAC 58</u> <u>.0105</u>	Necessary with substantive public interest
<u>02</u> <u>NCAC 58</u> <u>.0106</u>	Necessary with substantive public interest
<u>02</u> <u>NCAC 58</u> <u>.0107</u>	Necessary with substantive public interest
<u>02</u> <u>NCAC 58</u> <u>.0108</u>	Necessary with substantive public interest



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October 19, 2017

Christina L. Waggett
Department of Agriculture & Consumer Services
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **02 NCAC 59D, H**

Dear Ms. Waggett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the October 19, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than January 31, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
January 19, 2017
APO Review: March 26, 2017**

**Soil and Water Conservation Commission
Total: 16**

RRC Determination: Necessary with substantive public interest

Rule	Determination
02 <u>NCAC 59D .0101</u>	Necessary with substantive public interest
02 <u>NCAC 59D .0102</u>	Necessary with substantive public interest
02 <u>NCAC 59D .0103</u>	Necessary with substantive public interest
02 <u>NCAC 59D .0104</u>	Necessary with substantive public interest
02 <u>NCAC 59D .0105</u>	Necessary with substantive public interest
02 <u>NCAC 59D .0106</u>	Necessary with substantive public interest
02 <u>NCAC 59D .0107</u>	Necessary with substantive public interest
02 <u>NCAC 59D .0108</u>	Necessary with substantive public interest
02 <u>NCAC 59H .0101</u>	Necessary with substantive public interest
02 <u>NCAC 59H .0102</u>	Necessary with substantive public interest
02 <u>NCAC 59H .0103</u>	Necessary with substantive public interest
02 <u>NCAC 59H .0104</u>	Necessary with substantive public interest
02 <u>NCAC 59H .0105</u>	Necessary with substantive public interest
02 <u>NCAC 59H .0106</u>	Necessary with substantive public interest
02 <u>NCAC 59H .0107</u>	Necessary with substantive public interest
02 <u>NCAC 59H .0108</u>	Necessary with substantive public interest



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October 19, 2017

Nadine Pfeiffer, Rulemaking Coordinator
Department of Health and Human Services
Medical Care Commission
2701 Mail Service Center
Raleigh, North Carolina 27699-2701

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **10A NCAC 13B**

Dear Ms. Pfeiffer:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the October 19, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than January 31, 2023.

Please note that certain rules are not subject to the readoption process pursuant to Session Law 2017-174, as Section 1.(b) directs the agency to repeal the rules "within 120 days after this act becomes law." Those rules have been struck through on the attached printout and shall not be scheduled for a readoption deadline.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
May 18, 2017
APO Review: July 22, 2017
Medical Care Commission
Total: 69**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 13B .1902</u>	Necessary with substantive public interest
<u>10A NCAC 13B .1915</u>	Necessary with substantive public interest
<u>10A NCAC 13B .1918</u>	Necessary with substantive public interest
<u>10A NCAC 13B .1925</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3001</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3101</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3102</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3110</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3204</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3205</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3302</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3303</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3502</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3503</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3701</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3702</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3704</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3705</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3706</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3707</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3801</u>	Necessary with substantive public interest
<u>10A NCAC 13B .3903</u>	Necessary with substantive public interest
<u>10A NCAC 13B .4103</u>	Necessary with substantive public interest
<u>10A NCAC 13B .4104</u>	Necessary with substantive public interest
<u>10A NCAC 13B .4106</u>	Necessary with substantive public interest
<u>10A NCAC 13B .4305</u>	Necessary with substantive public interest
<u>10A NCAC 13B .4603</u>	Necessary with substantive public interest
<u>10A NCAC 13B .4801</u>	Necessary with substantive public interest
<u>10A NCAC 13B .4805</u>	Necessary with substantive public interest
<u>10A NCAC 13B .5102</u>	Necessary with substantive public interest
<u>10A NCAC 13B .5105</u>	Necessary with substantive public interest
<u>10A NCAC 13B .5406</u>	Necessary with substantive public interest
<u>10A NCAC 13B .5408</u>	Necessary with substantive public interest



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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October 19, 2017

Jeff Gray, Rulemaking Coordinator
Alarm Systems Licensing Board
Post Office Box 1351
Raleigh, North Carolina 27602

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **14B NCAC 17**

Dear Mr. Gray:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the October 19, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than April 30, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

cc: Margaret Craven

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
August 17, 2017
APO Review: October 03, 2017
Alarm Systems Licensing Board
Total: 34**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>14B NCAC 17 .0101</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0102</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0103</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0104</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0105</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0106</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0107</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0108</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0201</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0202</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0203</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0204</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0205</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0206</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0207</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0208</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0209</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0210</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0301</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0302</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0303</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0304</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0305</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0306</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0307</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0401</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0402</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0403</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0501</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0502</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0503</u>	Necessary with substantive public interest
<u>14B NCAC 17 .0504</u>	Necessary with substantive public interest

14B NCAC 17 .0505

Necessary with substantive public interest

14B NCAC 17 .0506

Necessary with substantive public interest

DRAFT



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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October 19, 2017

Roberta Ouellette, Rulemaking Coordinator
North Carolina Appraisal Board
5830 Six Forks Road
Raleigh, North Carolina 27606

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 57**

Dear Ms. Ouellette:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the October 19, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than December 31, 2018.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
August 17, 2017
APO Review: October 03, 2017
Appraisal Board
Total: 3**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>21</u> <u>NCAC 57C .0101</u>	Necessary with substantive public interest
<u>21</u> <u>NCAC 57D .0303</u>	Necessary with substantive public interest
<u>21</u> <u>NCAC 57D .0311</u>	Necessary with substantive public interest