

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Board of Podiatry Examiners

RULE CITATION: 21 NCAC 52 .0213 and 21 NCAC .52 .0611

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
- ☒ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

The Board published these Rules in the May 15, 2014 Register indicating that the comment period would end on July 14, 2014 in their Notice of Text. G.S. 150B-21.2(f) states that an agency must accept comments for a period of at least 60 days. July 14, 2014 would have been the required 60 days; however, the Board adopted these rules at its July 12, 2014 meeting, 2 days before their comment period ended. G.S. 150B-21.2(g) states, "An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed[.]"

Staff recommends the Commission object to these Rules, as they were not adopted in compliance with the Administrative Procedure Act as they were adopted by the agency prior to the close of the comment period.