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**Cc:** [admsec@ncoptometry.org](mailto:admsec@ncoptometry.org); [Ray, Amanda](#); [Goodwin, Michele](#); [exdir@ncoptometry.org](mailto:exdir@ncoptometry.org); ["Loper, Johnny"](#)  
**Subject:** Letter for extension of Periodic Review for North Carolina State Board of Examiners in Optometry  
**Date:** Wednesday, August 27, 2014 3:45:00 PM  
**Attachments:** [21 NCAC 42 - Existing Rules Review extension of time letter.pdf](#)

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Good afternoon Dr. Herring,

Please see the attached letter confirming the action taken by the Commission last Thursday. This matter will remain on the agenda for the September 2014 meeting, as 26 NCAC 05 .0211 reflects 21 NCAC 42 as being reviewed at that time. However, this letter will be before the Commission as a reminder of the extension. There will be no need for anyone to attend the RRC September meeting on behalf of the agency.

Please do not hesitate to contact us with any questions or concerns over the next few months. We look forward to seeing the final report filed by February 15, 2015, and reviewed by the Commission in March of 2015.

Sincerely,  
Abby Hammond

*Abigail M. Hammond  
Counsel to the Rules Review Commission  
Office of Administrative Hearings  
Direct Dial: (919) 431-3076*

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STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

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August 27, 2014

Dr. Hal Herring, O.D., President  
North Carolina Board of Examiners in Optometry  
109 North Graham Street  
Wallace, North Carolina 28466

Re: Extension of time for Periodic Review and Expiration of Existing Rules  
report for **21 NCAC 42**

Dear President Herring:

At its meeting on August 21, 2014, the Rules Review Commission (RRC) reviewed the North Carolina Board of Examiners in Optometry's written request for an extension of time to complete the Periodic Review and Expiration of Existing Rules report filed on August 19, 2014. The RRC considered the written request and statements of the rulemaking coordinator for the agency, and granted the extension of time.

Pursuant to the extension of time, the Periodic Review and Expiration of Existing Rules report for the Board of Examiners in Optometry should be completed and filed with the Office of Administrative Hearings by February 15, 2015. The report will be reviewed by the RRC at the **March 2015** meeting.

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

Sincerely,

Abigail M. Hammond  
Commission Counsel

cc: Johnny M. Loper, Rulemaking Coordinator

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NORTH CAROLINA STATE BOARD OF  
EXAMINERS IN OPTOMETRY

August 19, 2014

**VIA ELECTRONIC MAIL**

Margaret Currin, Chair  
North Carolina Rules Review Commission  
N.C. Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, North Carolina 27699-6714

Re: *North Carolina Board of Examiners in Optometry's Periodic Review of Existing Rules Pursuant to N.C. Gen. Stat. § 150B-21.3A and 26 NCAC 05 .0211*

Dear Professor Currin:

I write pursuant to 26 NCAC 05 .0204 and on behalf of the North Carolina Board of Examiners in Optometry (the "Board") to request an extension of time for the Board to file the Report required by the Periodic Review of Existing Rules Review Report pursuant to N.C. Gen. Stat. § 150B-21.3A and 26 NCAC 05 .0211 (the "Report").

The Board received the Report along with instructions on the process required to complete it from the Office of Administrative Hearings ("OAH") on March 12, 2014. The Board's Executive Director, Dr. John D. Robinson, then reviewed the Report with counsel for the Board, and on March 26, 2014 confirmed with Julie Brincefield at OAH that the Report contained all of the Board's active administrative rules that should be in the Administrative Code and that it did not include any rules that had been repealed or otherwise should not appear in the Code. On April 8, 2014, counsel for the Board attended the Rules Review Roundtable information session held at OAH and updated the Board's Executive Director on the information received in that session. Counsel for the Board also communicated with counsel for the Rules Review Commission (the "Commission") several times to ensure that both Board counsel and the Board understood the rules review process. Counsel then synthesized this information into a detailed timeline and a flowchart of the tasks and deadlines necessary to timely complete the Report, and provided that timeline and flowchart to the Board's Executive Director.

Dr. Robinson, with the assistance of his staff, planned to manage and meet these deadlines. However, both prior to and after the issuance of the Periodic Review of Existing Rules Review Report, Dr. Robinson has suffered significant health problems. These issues include:

- Chronic lymphocytic leukemia (requires periodic sessions with oncologist in Wilmington, North Carolina).

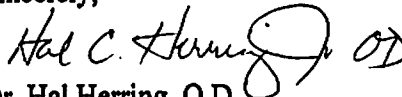
- Congestive heart failure (requires visits to cardiologist in Wilmington and regular blood work performed locally).
- Atrial Fibrillation -- required implantation of defibrillator/pacemaker which must have a "system check" regularly and periodic adjustment by Dr. Robinson's cardiologist.
- Chronic venous insufficiency/venous stasis ulcer -- required surgery in Wilmington, and has required periodic check-ups and daily wound care/dressing changes for over three months.
- Visits to a pain management clinic for pain in the back and legs.
- In addition, Dr. Robinson's wife Judy has end-stage amyotrophic lateral sclerosis (ALS - "Lou Gehrig's Disease"). Judy requires round-the-clock assistance from caregivers, the supervision for which falls on Dr. Robinson's shoulders.

The Board's office and staff are located in Wallace, North Carolina. The Board has a staff of three: the Executive Director and two administrative assistants. The combination of the various afflictions identified above caused Dr. Robinson to spend significant time out of the office, and in all honesty these illnesses/conditions and such absences caused him to lose sight of the need to complete the Report. The Board administrative staff were not made aware of the deadlines or the need to complete the Report. Board counsel, having provided the timeline and task list, did not confirm that those tasks were being addressed as counsel had instructed and intended.

All concerned are now aware of the failure to file the Report and will take care to meet any and all requirements going forward that the Commission may direct or suggest. The Board therefore asks that the Commission grant it additional time to complete the rules review process and submit the Report. After speaking with counsel for the Commission, we respectfully request that the Board be allowed to submit the Report on or before February 15, 2015 for consideration by the Commission at its March 2015 meeting.

The Board sincerely regrets any inconvenience that it may have caused the Commission, and we sincerely appreciate your time and consideration.

Sincerely,



Dr. Hal Herring, O.D.  
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