

**RULES REVIEW COMMISSION MEETING
MINUTES
August 21, 2014**

The Rules Review Commission met on Thursday, August 21, 2014, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Anna Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Stephanie Simpson, and Ralph Walker.

Staff members present were: Commission counsels Abigail Hammond, Amber Cronk May, and Amanda Reeder; and Julie Brincefield, Alex Burgos, and Dana Vojtko.

The meeting was called to order at 10:00 a.m. with Chairman Currin presiding.

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

Chairman Currin introduced OAH Paralegal Alex Burgos.

APPROVAL OF MINUTES

Chairman Currin asked for any discussion, comments, or corrections concerning the minutes of the July 17, 2014 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

Commissioner of Agriculture – 02 NCAC 52K .0301, .0401, .0501. All rules were unanimously approved.

Department of Public Safety – 14B NCAC 07A .0116. The Office of State Budget and Management sent a response on August 20, 2014 to the Commission's request made pursuant to G.S. 150B-21.9, and stated that the rule change did not create a substantial economic impact. However, the agency did not respond in accordance with G.S. 150B-21.12. Therefore, there was no action for the Commission to take at the meeting.

Board of Dental Examiners – 21 NCAC 16B .0101, .0201, .0202, .0301, .0303, .0401, .0402, .0403, .0404, .0405, .0406, .0501, .0601, .0701, .0801, .0901, .1002, .1101; 16C .0101, .0202, .0301, .0303, .0311, .0401, .0402, .0403, .0404, .0405, .0501, .0601; 16Q .0303.

Prior to the review of the rules, Commissioner Choi recused herself, and did not participate in any discussion or vote concerning the rules. Commissioner Choi stated the law firm that she is employed with provides legal services for the above referenced Board; therefore, although her firm does not provide counsel on rulemaking for the above referenced Board, in the abundance of caution, she recused herself.

All rules were unanimously approved.

LOG OF FILINGS (PERMANENT RULES)

Pesticide Board

All rules were withdrawn by the agency. No action was required by the Commission.

Alcoholic Beverage Control Commission

All rules were unanimously approved.

Department of Labor

13 NCAC 13 .0401 was unanimously approved.

Environmental Management Commission

15A NCAC 02B .0306 was unanimously approved.

Dental Examiners, Board of

Prior to the review of the rules, Commissioner Choi recused herself, and did not participate in any discussion or vote concerning the rules. Commissioner Choi stated the law firm that she is employed with provides legal services for the above referenced Board; therefore, although her firm does not provide counsel on rulemaking for the above referenced Board, in the abundance of caution, she recused herself.

21 NCAC 16D .0103 was unanimously approved by the Commission.

The Commission objected to Rule 21 NCAC 16D .0106. The Commission found that the language was ambiguous as written, as it stated the Board will look into any information deemed proper as it relates to the applicants' qualifications or character; however, the rule gives no guidance as to what that will be. Further, the Commission found that the Board did have statutory authority to create a waiver of recovery of damages against the Board, its members or any person who answers a Board inquiry, as proposed in the rule.

In addition, the Commission extended to period of review pursuant to G.S. 150B-21.10 for Rules 16D .0104, 16E .0103 and .0104. The Commission did this in response to a request by the agency to extend the period of review.

Examiners of Electrical Contractors, Board of

All rules were unanimously approved.

Medical Board

Prior to the review of the rules, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning the rules because of a possible conflict with her husband's law firm.

All rules were unanimously approved.

Board of Pharmacy

Prior to the review of the rule, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning the rule because of a possible conflict with her husband's law firm.

Clint Pinyan, the Board's attorney, addressed the Commission.

21 NCAC 46 .2507 was unanimously approved.

Board of Podiatry Examiners

All rules were withdrawn by the agency. No action was required by the Commission.

Appraisal Board

The rule was unanimously approved.

Building Code Council

Prior to the review of the rules, Commissioner Walker recused himself and did not participate in any discussion or vote concerning the rules because his son is an engineer.

Barry Gupton with the agency addressed the Board.

All rules were unanimously approved.

G.S. 150B-19.1(h) RRC CERTIFICATION

Criminal Justice Training and Education Standards Commission

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed Rule 12 NCAC 09G .0412.

Department of State Treasurer

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed Rules 20 NCAC 01G .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0201, .0202, .0203, .0204, .0207, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508; 01H .0101, .0102, .0104, .0201, .0202, .0203, .0204, .0205, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0401, .0402.

EXISTING RULES REVIEW

Division of Employment Security

Prior to the review of the report, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the report because she is employed at DES as Chair of the agency's Board of Review.

The Division requested a waiver of Rule 26 NCAC 05 .0203, as it submitted the report three days after the filing deadline.

The Commission unanimously approved the waiver request.

All agency final determinations were unanimously approved.

Certified Public Accountants

Prior to the review of the report, Commissioner Choi recused herself, and did not participate in any discussion or vote concerning the report. Commissioner Choi stated the law firm that she is employed with provides legal services for the above referenced Board; therefore, although her firm does not provide legal services on rulemaking for the above referenced Board, in the abundance of caution, she recused herself.

Bob Brooks, the agency's director, addressed the Commission.

The Commission unanimously approved the report as submitted by the agency.

Podiatry Examiners

The Commission unanimously approved the report as submitted by the agency.

Commissioner Doran was not present for the vote for this report.

Agricultural Finance Authority

The Board requested a waiver of Rules 26 NCAC 05 .0203 and .0211.

The Commission approved the waiver request, with Vice Chairman Dunklin, and Commissioners Doran and Hyde opposed.

Frank Bordeaux and Stephanie Oxley with the agency addressed the Commission.

The Commission rescheduled the date of review for the report pursuant to Rule 26 NCAC 05 .0204. The Commission will review the Board's report at its February 19, 2015 meeting.

State Human Resources Commission

Prior to the review of the reports, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the reports because she is a State employee.

25 NCAC Subchapter 01A - The Commission unanimously approved the report as submitted by the agency.

25 NCAC Subchapter 01B - The Commission unanimously approved the report as submitted by the agency.

25 NCAC Subchapter 01C - The Commission unanimously approved the report as submitted by the agency, with the following exceptions for rules that received public comment that were deemed to have merit as defined by G.S. 150B-21.3A (c)(2): 01C .0303, .0304, .0902 and .0903. The RRC designated those rules as "necessary with substantive public interest."

Office of Americans with Disabilities Act

The Commission unanimously approved the report as submitted by the agency.

Board of Optometry

As this report was not scheduled for review at the August meeting, it was reviewed at the end of the regularly scheduled business.

The Board requested a waiver of Rules 26 NCAC 05 .0203 and .0211.

The Commission approved the waiver.

Johnny M. Loper, the Board's attorney, addressed the Commission.

The Commission rescheduled the date of review for the report pursuant to Rule 26 NCAC 05 .0204. The Commission will review the Board's report at its March 19, 2015 meeting.

The Commission discussed waivers for the periodic review and expiration of existing rules. Vice Chairman Dunklin voiced concerns about requests to extend deadlines after the filing deadline, and stated that extensions of deadlines should be requested prior to the deadline.

COMMISSION BUSINESS

Staff gave the Commission a brief legislative update.

The meeting adjourned at 1:20 p.m.

The next regularly scheduled meeting of the Commission is Thursday, September 18th at 10:00 a.m.

There is a digital recording of the entire meeting available from the Office of Administrative Hearings /Rules Division.

Respectfully Submitted,

Alexander Burgos
Paralegal II

Minutes approved by the Rules Review Commission:

Margaret Currin, Chair

Rules Review Commission
Meeting
Please **Print** Legibly

Name	Agency
BARRY GUSTON	NCDDI - NCBCC
STEWAN WEBB	NCHBA
Bob Hamilton	ABC Commission
Nick Terrett	aH
Tim Norman	NCBEEC
KAREN BECK	NCBHC
June Gilchrist	NCIDOL
Chris Evers	BCBSC
Stephanus Dyley	Ag Finance Auth.
Frank Bordeaux	"
Kira Hudgins	"
Shari Howard	OSHR
Kenny P... ..	OSHR
Cliff Dautrich	NCDEL/BSB
Don Kinney	NCDA/BSB
Wanda Long	NC MEDICAL BD
Jay Cooke	NC Medical Bnd
Curt RYAN	BOARD OF PHARMACY
Roberta Ouellette	NC Appraisal Board
Patrick Saletrier	NC Medical Bd.
Britne Becker	NC DOL

