

**RULES REVIEW COMMISSION MEETING  
MINUTES  
May 21, 2015**

The Rules Review Commission met on Thursday, May 21, 2015, 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, Ralph Walker, and Faylene Whitaker.

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

The meeting was called to order at 10:04 a.m. with Chairman Dunklin presiding.

Chairman Dunklin introduced OAH Extern Phillip Thomas.

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.

**APPROVAL OF MINUTES**

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the April 16, 2015 meeting. There were none and the minutes were approved as distributed.

**FOLLOW UP MATTERS**

**Child Care Commission**

10A NCAC 09 .0302, .0604, .0607, .0707, .1701, .1705, .1720, .1721, .2318, and .2829 - All rewritten rules were unanimously approved.

**Acupuncture Licensing Board**

21 NCAC 01 .0108, .0109, .0110, .0111, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0608, and .0609 - All rules were withdrawn at the request of the agency pursuant to 26 NCAC 05 .0107. No action was required by the Commission.

**Irrigation Contractors Licensing Board**

21 NCAC 23 .0105 - The review of this Rule will occur at the June meeting. No action was required by the Commission.

**Board of Physical Therapy Examiners**

21 NCAC 48C .0104 - This Rule has been returned at the request of the agency pursuant to 150B-21.12(d). No action was required by the Commission.

**Building Code Council**

2012 NC Residential Code, Sections R101.2, R202, and R324; 2012 Building Code, Chapter 36; and 2012 Fire Code, 4504.1. - The review of these rules will occur at a later meeting. No action was required by the Commission.

**LOG OF FILINGS (PERMANENT RULES)**

**Social Services Commission**

All rules were unanimously approved with the following exceptions:

The Commission objected to Rule 10A NCAC 73A .0107, finding that the language in Paragraph (b) relating to drug testing is unclear and ambiguous. The Rule references a twelve day period that is not set by statute. The remainder of the sentence provides no guidance to the "individual who fail[ed] the drug test" as to what type of documentation is considered or to whom the documentation needs to be

provided for review. Line 8 uses the term “may” to indicate that the allowance of additional time is permissive, but provides no guidance as to how a determination is reached regarding the allowance of additional time.

The Commission objected to Rule 10A NCAC 73A .0108, finding that the language in Paragraph (c) does not provide reporting requirements and that the terms “successful completion” and “satisfactory participation” are unclear and ambiguous. The second sentence of Paragraph (c) provides no guidance to the qualified professional in substance abuse as to how to timely report completion of or participation in the substance abuse treatment program. There is no guidance as to what qualifies as timely and there is no direction on how to provide the treatment information.

Carlotta Dixon from the agency addressed the Commission.

Sharon D. Moore from the agency addressed the Commission.

**Justice Academy**

12 NCAC 06A .0603 was unanimously approved.

**Environmental Management Commission**

All rules were unanimously approved.

**Board of Chiropractic Examiners**

All rules were unanimously approved.

**Board of Dental Examiners**

The Commission extended the period of review on all rules. In accordance with G.S. 150B-21.10 and G.S. 150B-21.13, the Commission extended the period of review to allow the Board of Dental Examiners additional time to revise the rules in response to technical change requests.

**Board of Dietetics/Nutrition**

All rules were unanimously approved.

**Board of Refrigeration Examiners**

21 NCAC 60 .0102 was unanimously approved.

Prior to the review of the rules from the Board of Refrigeration Examiners, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm assists the board with rulemaking.

**Building Code Council**

All rules were unanimously approved.

**EXISTING RULES REVIEW**

**Historical Commission**

07 NCAC 04 - The Commission unanimously approved the report as submitted by the agency.

**Water Pollution Systems Operators Certification Commission**

15A NCAC 08 – The Commission unanimously approved the report as submitted by the agency.

**Water Treatment Facility Operators Certification Board**

15A NCAC 18D - The Commission unanimously approved the report as submitted by the agency.

**Department of Revenue**

17 NCAC 03 - The Commission unanimously approved the report as submitted by the agency.  
17 NCAC 06 – The Commission unanimously approved the report as submitted by the agency.

**Medical Care Commission**

10A NCAC 13D – As reflected in the attached letter, the Commission voted for readoption of these rules pursuant to G.S. 150B-21.3A(c)(2) no later than November 30, 2016.

**COMMISSION BUSINESS**

Staff gave the Commission a brief legislative update.

At 10:46 a.m., Chairman Dunklin ended the public meeting of the Rules Review Commission and called the meeting into closed session pursuant to G.S. 143-318.11(a)(3) to discuss the lawsuit filed by the State Board of Education against the Rules Review Commission.

The Commission came out of closed session and reconvened at 11:54 a.m.

The meeting adjourned at 11:55 a.m.

The next regularly scheduled meeting of the Commission is Tuesday, June 16<sup>th</sup> 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

Minutes approved by the Rules Review Commission:

\_\_\_\_\_  
Garth Dunklin, Chair

May 2015

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
BARRY SUTTON	NCDOJ - NCBCC
Mark Strickland	NCDOJ - NC Justice Academy
Marion Williams	NCDOJ - NC Justice Academy
Janice Davidson	NC Dept of Revenue
Rhonda R. Smith	NC Dept of Revenue
Lenny Maracci	NC Dept of Revenue
Greg Reed	NC DOR
Charla Buri II	NEBDN
Ruth Strauss	NC DENR
Jay Frick	NC DENR
STEVE REED	NC DENR
Debra Allen	NC DHHS
Laura Hewitt	DCDEE "
Kris Horton	DHHS
Shawn Maier	NC DOJ
Andria Merritt	NC DENR
McKella Anthony	DHHS
Johnice Tabron	DHHS - OSJ
Sharon D Moore	"
LINDA RAYNOR	NC DENR
Dana Phillip	NC Justice Academy

May 2015

Rules Review Commission  
Meeting  
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Name	Agency
Matt Sawchak	Ellis & Winters LLP
FRANCES McDONALD	NC Lic Bd for General Contractors
Carlotta Dixon	MDHHS DSS
Josh Davis	DCR
Kevin Clergy	DCR
Kenn Howell	DCR



STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:  
6714 Mail Service Center  
Raleigh, NC 27699-6714

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1711 New Hope Church Rd  
Raleigh, NC 27609-6285

May 21, 2015

Nadine Pfeiffer, Rulemaking Coordinator  
N.C. Medical Care Commission  
2701 Mail Service Center  
Raleigh, NC 27699-2701

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

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 February 19, 2015 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 November 30, 2016.**

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

Sincerely,

A handwritten signature in blue ink that reads "Abigail M. Hammond".

Abigail M. Hammond  
Commission Counsel

Enclosure

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Assistants  
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**RRC DETERMINATION  
PERIODIC RULE REVIEW  
July 01, 2014 through June 30, 2015  
Medical Care Commission  
Total: 6**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>	<b>APO Review Date</b>
<u>10A NCAC 13D .2001</u>	Necessary with substantive public interest	March 22, 2015
<u>10A NCAC 13D .2210</u>	Necessary with substantive public interest	March 22, 2015
<u>10A NCAC 13D .2303</u>	Necessary with substantive public interest	March 22, 2015
<u>10A NCAC 13D .2402</u>	Necessary with substantive public interest	March 22, 2015
<u>10A NCAC 13D .2503</u>	Necessary with substantive public interest	March 22, 2015
<u>10A NCAC 13D .3201</u>	Necessary with substantive public interest	March 22, 2015