

**RULES REVIEW COMMISSION MEETING
MINUTES
August 18, 2016**

The Rules Review Commission met on Thursday, August 18, 2016, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Bobby Bryan, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Jeff Poley, Paul Powell, and Stephanie Simpson.

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

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 July 21, 2016 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Property Tax Commission

17 NCAC 11 .0216 and .0217 – The rewritten rules were unanimously approved.

Board of Barber Examiners

21 NCAC 06F .0110 was unanimously approved.

21 NCAC 06B .0105, .0503, .0505; 06C .0202, .0203; 06F .0116; 06G .0106; 06I .0101, .0105; 06J .0101; 06K .0104; 06L .0118, .0119; 06N .0103, .0104, .0106, .0108; 06O .0120; 06Q .0101, .0103, and .0104 will be reviewed at a later meeting pursuant to G.S. 150B-21.12(b), following the Board's next regularly scheduled meeting.

LOG OF FILINGS (PERMANENT RULES)

Environmental Management Commission

15A NCAC 02H .0126, .0150, .0151, .0152, .0153, .0154, .1001, .1002, .1003, .1005, .1006, .1007, .1008, .1009, .1010, .1011, .1012, .1013, .1014, .1015, .1018, .1020, .1021, .1040, .1041, .1057, .1058, .1061, and .1062 were unanimously approved.

15A NCAC 02H .1019, .1042, .1043, .1044, .1045, .1050, .1051, .1052, .1053, .1054, .1055, .1056, .1059, and .1060 – The Commission objected to these rules in accordance with G.S. 150B-21.9. The Commission objected to these rules for the use of an ambiguous and unclear term. Specifically, the Commission found that the term “licensed professional” as defined in 15A NCAC 02H .1050(14) is unclear as to what licensed individuals within North Carolina could participate in the design of a stormwater system. The term “licensed professional” is repeated in Rules 15A NCAC 02H .1019, .1043, .1044, .1045, .1050, .1051, .1052, .1053, .1054, .1055, .1056, .1059, and .1060. Further, several rules reference the requirement for “sealed” documents. Related to the use of the unclear term of “licensed professional,” it is unclear if the person “sealing” documents has statutory authority to “seal” the required documents. The term “seal” is used in Rules .1042, .1043, .1044, and .1045.

Jennifer Everett, the rulemaking coordinator for the agency, addressed the Commission.

Coastal Resources Commission

All rules were unanimously approved.

Environmental Management Commission

All rules were 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 15A NCAC 13B .0207.

Hearing Aid Dealers and Fitters Board

All rules were unanimously approved.

Landscape Contractors' Licensing Board

All rules were unanimously approved.

Medical Board

All rules were unanimously approved.

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

Board of Examiners in Optometry

21 NCAC 42J .0101 was unanimously approved.

Board of Pharmacy

All rules were unanimously approved.

Board of Podiatry Examiners

All rules were unanimously approved.

Building Code Council

All rules were unanimously approved.

EXISTING RULES REVIEW**Credit Union Division**

04 NCAC 06 - The Commission unanimously approved the report as submitted by the agency.

DHHS/Social Services Commission

10A NCAC 06 - The Commission unanimously approved the report as submitted by the agency.

DHHS/Social Services Commission

10A NCAC 67 - The Commission unanimously approved the report as submitted by the agency.

DHHS/Social Services Commission

10A NCAC 68 - The Commission unanimously approved the report as submitted by the agency.

DHHS/Social Services Commission

10A NCAC 69 – The Commission unanimously approved the report as submitted by the agency.

DHHS/Social Services Commission

10A NCAC 72 - The Commission unanimously approved the report as submitted by the agency.

Hearing Aid Dealers and Fitters Board

21 NCAC 22 - The Commission unanimously approved the report as submitted by the agency.

DHHS/Medical Care Commission

10A NCAC 13J - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than January 31, 2018 pursuant to G.S. 150B-21.3A(d)(2).

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

DHHS/Services for the Blind Commission

10A NCAC 63 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than July 31, 2018 pursuant to G.S. 150B-21.3A(d)(2).

DHHS/Social Services Commission

10A NCAC 70 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than June 30, 2017 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

The Chair discussed the proposed e-filing rules by the OAH, which will come before the Commission at the September meeting. Commissioners Bryan and Currin will be reviewing the proposed rules.

The meeting adjourned at 10:33 a.m.

The next regularly scheduled meeting of the Commission is Thursday, September 15th 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

August 18, 2016

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Rose Lerner	Credit Union Division
BARRY GURTON	NCDOI/NCBCC
Judith Estevez	Department of Justice
TONY KNOX	NC Credit Union Division
John Scott	NCCLB
Jennifer Everett	DEQ
Emily Jantmore	CCU
Janet L. Shis	Property Tax Commission
CALVIN KIRVEN	NCCLB
Nadine Pfeiffer	NC DHHS/DHSC
Dennis Seavers	BBE
Bradley Bennett	NC DEMLR
Julie Ventaloro	NC DEMLR
Craig Bromby	NC DEQ
Charminique Pearson	at C-Sete
Penney DePas	NC Bd of Podiatry Examiners
ANNACHOI	Nichols Choi Lee
TRACY DAVIS	NC DEQ - DEMLR
Jessica Montie	NC DEQ DWM
Carrie Hollis	CSISM
Lynne BERRY	DAAS



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

August 18, 2016

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 13J**

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 August 18, 2016 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, 2018.

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

Sincerely,

A handwritten signature in cursive script that reads "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

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

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
April 21, 2016
APO Review: June 25, 2016**

**Medical Care Commission
Total: 8**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 13J .0901</u>	Necessary with substantive public interest
<u>10A NCAC 13J .1004</u>	Necessary with substantive public interest
<u>10A NCAC 13J .1007</u>	Necessary with substantive public interest
<u>10A NCAC 13J .1107</u>	Necessary with substantive public interest
<u>10A NCAC 13J .1110</u>	Necessary with substantive public interest
<u>10A NCAC 13J .1202</u>	Necessary with substantive public interest
<u>10A NCAC 13J .1402</u>	Necessary with substantive public interest
<u>10A NCAC 13J .1502</u>	Necessary with substantive public interest



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Street address:
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Raleigh, NC 27609-6285

August 18, 2016

Cynthia Speight, Rulemaking Coordinator
Department of Health and Human Services
Services for the Blind
2601 Mail Service Center
Raleigh, North Carolina 27699-2501

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 10A NCAC 63

Dear Ms. Speight:

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 August 18, 2016 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 July 31, 2018.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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
September 17, 2015
APO Review: November 23, 2015
DHHS - Services for the Blind
Total: 23**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 63A .0101</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0102</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0202</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0203</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0205</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0206</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0401</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0402</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0403</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0501</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0506</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0508</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0509</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0511</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0512</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0601</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0603</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0604</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0702</u>	Necessary with substantive public interest
<u>10A NCAC 63C .0704</u>	Necessary with substantive public interest
<u>10A NCAC 63F .0101</u>	Necessary with substantive public interest
<u>10A NCAC 63F .0102</u>	Necessary with substantive public interest
<u>10A NCAC 63F .0402</u>	Necessary with substantive public interest



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August 18, 2016

Carlotta Dixon, Rulemaking Coordinator
Department of Health and Human Services
Social Services Commission
2501 Mail Service Center
Raleigh, North Carolina 27699-2501

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **10A NCAC 70**

Dear Ms. Dixon:

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 August 18, 2016 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 June 30, 2017.

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

Sincerely,

A handwritten signature in cursive script that reads "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

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
March 17, 2016
APO Review: April 05, 2016
Social Services Commission
Total: 5

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 70J 0101</u>	Necessary with substantive public interest
<u>10A NCAC 70J 0201</u>	Necessary with substantive public interest
<u>10A NCAC 70J 0405</u>	Necessary with substantive public interest
<u>10A NCAC 70K 0101</u>	Necessary with substantive public interest
<u>10A NCAC 70K 0201</u>	Necessary with substantive public interest