

**RULES REVIEW COMMISSION MEETING
MINUTES
February 16, 2017**

The Rules Review Commission met on Thursday, February 16, 2017, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Bobby Bryan, Jeanette Doran, Garth Dunklin, Jeff Hyde, Jeff Poley, Paul Powell, and Stephanie Simpson.

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

The meeting was called to order at 9:59 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 January 19, 2017 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

10A NCAC 27G .6702; 27H .0201, .0202, .0203, .0204, .0205, .0206, and .0207 - The review of these Rules will occur at the March meeting in accordance with G.S. 150B-21.10. No action was required by the Commission.

Social Services Commission

10A NCAC 70A .0103; 70B .0102; 70M .0402, .0603; 70P .0101, .0102, .0103, .0104, and .0105 – The rewritten rules were unanimously approved.

Department of Insurance

11 NCAC 05A .0105, .0201, .0301, .0501, .0505, .0508, .0511, .0603, .0703, and .0704 - There has been no response by the agency on these Rules pursuant to G.S. 150B-21.12. No action was required by the Commission.

Manufactured Housing Board

11 NCAC 08 .0904 – The agency is addressing the objection from the November meeting. No action was required by the Commission.

State Human Resources Commission

25 NCAC 01C .0402, .1004; 01D .0101, .0102, .0105, .0112, .0114, .0201, .0301, .0401, .0608, .0901, .1001, .2701, .2702; and 01O .0108 - The review of these Rules will occur at the March meeting in accordance with G.S. 150B-21.10. No action was required by the Commission.

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

LOG OF FILINGS (PERMANENT RULES)

Board of Agriculture

The rules were unanimously approved with the following exceptions:

02 NCAC 09C .0507, .0703; 09G .2005, .2008; 09J .0101, .0102; 09K .0101, .0103, .0105, .0106, .0107, .0108, .0109, .0113, .0114, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211,

.0212, .0213, .0214; 09O .0101 and .0107 – The Commission extended the period of review for the rules in accordance with G.S. 150B-21.10. They did so in response to a request from the rulemaking coordinator to extend the period of review in order to allow the agency additional time to make technical changes.

The agency requested an extension of the schedule for readoption until August 31, 2017 for Rule 02 NCAC 09G .0210.

The extension request was approved, with Commissioners Doran, Dunklin, and Hyde voting against.

The Commission rescheduled the date of readoption for 02 NCAC 09G .0210. The agency will readopt this Rule no later than August 31, 2017 pursuant to G.S. 150B-21.3A(d)(2).

Christina Waggett, the rulemaking coordinator with the agency, addressed the Commission.

Historical Commission and Department of Natural Cultural Resources

All rules were unanimously approved.

Radiation Protection Commission

All rules were unanimously approved.

Department of Labor

All rules were unanimously approved.

Environmental Management Commission

15A NCAC 02L .0507 was unanimously approved.

Department of Revenue

All rules were unanimously approved.

Pursuant to SL 2016-94, s. 38.4(b), the approved rules will not be effective unless and until the General Assembly directs the Codifier to enter the rules into the Code.

Medical Board

All rules were unanimously approved.

Midwifery Joint Committee

All rules were unanimously approved.

Board of Nursing

All rules were unanimously approved.

Board of Pharmacy

21 NCAC 46 .2201 was unanimously approved.

Veterinary Medical Board

21 NCAC 66 .0106 was unanimously approved.

Building Code Council

All rules were unanimously approved.

LOG OF RULES (TEMPORARY RULES)

Industrial Hemp Commission

The Commission granted a waiver of the 210-day submission requirement upon the request of the agency.

All rules were unanimously approved.

John Lanier, General Counsel with the Department of Agriculture, addressed the Commission.

EXISTING RULES REVIEW

Department of Health and Human Services

10A NCAC 01 - The Commission unanimously approved the report as submitted by the agency.

Department of Environmental Quality

15A NCAC 01D - The Commission unanimously approved the report as submitted by the agency.

Department of Environmental Quality

15A NCAC 01E - The Commission unanimously approved the report as submitted by the agency.

HHS/Division of Health Service Regulation

10A NCAC 14F - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than August 31, 2018 pursuant to G.S. 150B-21.3A(d)(2).

Commission for Public Health

10A NCAC 43G - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than September 30, 2017 pursuant to G.S. 150B-21.3A(d)(2).

Department of Commerce

The agency requested a waiver of 26 NCAC 05 .0211 for the report for 04 NCAC 22.

The waiver request was unanimously approved. The Commission rescheduled the date of review for the report, and amended 26 NCAC 05 .0211. The Commission will review the agency's report at its August 24, 2017 meeting.

Prior to the review of the report from the Department of Commerce, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the reports because she is an employee of the Department of Employment Security under the Department of Commerce.

Tryon Palace Commission

The agency requested an extension of the filing deadline pursuant to 26 NCAC 05 .0204 for the report 07 NCAC 06.

The Commission unanimously approved the request.

Board of Funeral Service

The agency requested a waiver of 26 NCAC 05 .0211 for the report for 21 NCAC 34.

The waiver request was unanimously approved. The Commission rescheduled the date of review for the report, and amended 26 NCAC 05 .0211. The Commission will review the agency's report at its June 15, 2017 meeting.

COMMISSION BUSINESS

The Commission amended Rule 26 NCAC 05 .0211 to reflect changes in the periodic review schedule.

Commissioners Bryan and Currin were appointed to review the OAH rules coming before the Commission at the March meeting.

The Chair discussed the status of Senate Bill 16.

The meeting adjourned at 10:55 a.m.

The next regularly scheduled meeting of the Commission is Thursday, March 16th 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

DRAFT

February 16, 2017

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Scott Bullock	DWM/UST
Linda L. Smith	"
BARRY GILPSON	NC DOI/NCBCC
LINDA BURHANS	NC BON
Nadine Pfeiffer	NC DHSR
Bobby Lowery	NCBON
Jennifer Everett	DED
CLINT PIVAN	NCBOP
Sandy Stewart	NCDA
Shawn Middlebrooks	DNCR
Brian Puckett	NCOR
Christina Cress	NCBFS
James Albright	NC DHSR/Reg. Protection
Charan Graves	NCBON
Angela Ellis	NCBON
Meredith Davis	NCBON
Jane Gilchrist	NC DOL
Carla Rose	NC DOL
Chrissy Waggett	NCDA 3CS
Jon Lanier	NCDA 3CS
LOKI FRISTER	NCDA FSD



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

February 16, 2017

Nadine Pfeiffer, Rulemaking Coordinator
Department of Health and Human Services
Division of Health Service Regulation
2701 Mail Service Center
Raleigh, North Carolina 27699-2701

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **10A NCAC 14F**

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 16, 2017 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 August 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

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Assistants
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919/431-3036
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
November 17, 2016
APO Review: December 06, 2016**

**HHS - Health Service Regulation, Division of
Total: 6**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 14F .1203</u>	Necessary with substantive public interest
<u>10A NCAC 14F .1301</u>	Necessary with substantive public interest
<u>10A NCAC 14F .1802</u>	Necessary with substantive public interest
<u>10A NCAC 14F .1901</u>	Necessary with substantive public interest
<u>10A NCAC 14F .1903</u>	Necessary with substantive public interest
<u>10A NCAC 14F .2101</u>	Necessary with substantive public interest



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February 16, 2017

Chris Hoke, Rulemaking Coordinator
Department of Health and Human Services
Commission for Public Health
1931 Mail Service Center
Raleigh, North Carolina 27699-1931

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **10A NCAC 43G**

Dear Mr. Hoke:

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 16, 2017 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 September 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

cc: Bob Martin

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
October 20, 2016
APO Review: December 06, 2016
Public Health, Commission for
Total: 3**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 43G .0108</u>	Necessary with substantive public interest
<u>10A NCAC 43G .0110</u>	Necessary with substantive public interest
<u>10A NCAC 43G .0111</u>	Necessary with substantive public interest